

Subpart RR—Tennessee

■ 2. Section 52.2235 is amended by adding paragraph (c) to read as follows:

§ 52.2235 Control strategy: Ozone.

* * * * *

(c) Determination of Attaining Data. EPA has determined, as of October 12, 2010 the Knoxville, Tennessee nonattainment area has attaining data for the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.918, suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standards for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

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DEPARTMENT OF TRANSPORTATION**Maritime Administration****46 CFR Part 389**

[Docket No. MARAD-2008-0045]

RIN 2133-AB67

Determination of Availability of Coastwise-Qualified Vessels for the Transportation of Platform Jackets

AGENCY: Maritime Administration, DOT.
ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is publishing this final rule to establish regulations governing administrative determinations of availability of coastwise-qualified vessels to be used in the transportation and, if needed, launch or installation of offshore oil drilling or production platform jackets in specified projects only. MARAD views this as a special, technical adjustment that does not indicate a change in MARAD's full support for other requirements of the coastwise laws.

Specifically, this final rulemaking implements provisions of Public Law 108-293 (2004) (the Act) which requires the Secretary of Transportation, acting through the Maritime Administrator, to adopt procedures to maximize use of coastwise-qualified vessels, but would permit the use of non-coastwise-qualified (foreign) launch barges if it is determined that coastwise-qualified vessels are not available.

DATES: This final rule will be effective November 12, 2010.

ADDRESSES: For access to the docket to read background documents, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Murray A. Bloom, Chief, Division of Maritime Programs, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Ave., SE., Washington, DC 20590; Ph. (202) 366-5320, fax: (202) 366-3511; or e-mail murray.bloom@dot.gov.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published on August 15, 2005 (70 FR 47771). Three years later an interim final rule was published on May 29, 2008 (73 FR 30783).

Public Comments Discussion

In the Interim Final Rule published on May 29, 2008, MARAD offered the public the opportunity to submit comments, which were due by July 28, 2008. Based on consideration of comments received, MARAD made changes incorporated into this final rule.

MARAD received three sets of comments on the Interim Final Rule from three entities. A summary of the comments received and MARAD's responses follows:

Item #1: Two commenters noted that the enabling legislation provided that launch barge work can be conducted by any coastwise-qualified vessel, not exclusively coastwise-qualified launch barges.

Maritime Administration: MARAD changed the final rule to reflect that a coastwise-qualified vessel may meet the definition of a launch barge even if it is not capable of launching a platform jacket or needs the assistance of other coastwise-qualified vessels in the installation of a platform jacket.

Item #2: Two commenters pointed out that the Interim Final Rule contained no incentive for a project owner to search in good faith for available coastwise-qualified services.

Maritime Administration: The rule has been amended to require a good faith search for a coastwise-qualified vessel. Refusal to attempt to obtain coastwise-qualified vessel services will result in an application being disapproved.

Item #3: One commenter noted that the Interim Final Rule contained no transition period to implement the 21-month application process and recommended an interim transition period that would require companies with offshore projects to make their intentions known at an early time.

Maritime Administration: MARAD did not amend the regulation to

specifically provide for a transition period to implement the 21-month application process or provide an interim transition period. MARAD does not believe a change to the regulation with regard to a transition period is required, as the Interim Final Rule already provides the agency with the flexibility to adjust due dates on a case-by-case basis. *Please see* Section 389.4 Application and fee, paragraph (2), specifically, "(2) MARAD reserves the right to waive or reduce or extend the time requirements based upon its evaluation of any national emergency or other situation."

Item #4: MARAD also received comments requesting that: (a) The 21-month advance-notice period be ruled unrealistic, (b) offshore contractors and foreign vessel owners, in addition to platform owners and operators, should be allowed to apply for waivers, (c) the time period for which a waiver is valid should be extended to project completion instead of being limited to 120 days, and (d) that it be clarified that MARAD has the authority to approve an incomplete application for "good cause" in certain circumstances.

Maritime Administration: The issues addressed in items (a) and (b) have been discussed and reviewed in previous comment periods. In response to item (c), the Interim Final Rule already allows MARAD to extend a waiver granted for good cause, which the agency finds satisfactory. Regarding item (d), because the Interim Final Rule allows for flexibility in the application of deadlines and waiver time periods, and because MARAD may give the applicant an opportunity to redress any deficiencies in its application, there is enough flexibility to effectively administer the application process under the public law. Therefore, no rule changes were made based on the comments noted above.

Section 27 of the Merchant Marine Act of 1920, commonly known as the Jones Act (46 U.S.C. 55102), requires, with a few exceptions, that all cargo transported in the coastwise trade be carried on ships that are U.S.-owned and U.S.-built. In 1988 the Jones Act was amended to allow for the use of foreign-built platform jacket launch barges in the coastwise trade if no U.S.-built vessels were found to be available. Subsequently, Section 417 of the Coast Guard and Maritime Transportation Act of 2004, Public Law 108-293 (the Act), codified at 46 U.S.C. 55108, directed the Secretary of Transportation to establish procedures to issue determinations as to whether suitable U.S.-built vessels are available for use in transportation and, if needed, launch or installation of

offshore oil drilling or production structures (platform jackets), and to maximize use of U.S.-built coastwise-qualified vessels for such activities. The Act provides that if the Secretary determines that a suitable coastwise-qualified vessel is not available for use in specified platform jacket transportation or a launch or installation project, a foreign launch barge may be used. An Interim Final Rule (73 FR 30783) implementing this Act was published on May 29, 2008, which MARAD is now making final.

Program Description

In this rulemaking, MARAD is establishing procedures to determine if coastwise-qualified vessels are available for transportation of platform jackets and if coastwise-qualified vessels are not available, the procedures by which MARAD will make a determination allowing a foreign launch barge to transport and, if needed, launch or install a platform jacket under certain conditions.

MARAD will request coastwise-qualified launch barge owners, operators, and other potentially interested parties, to register with MARAD on an annual basis with their full contact information.

The registration process for platform owners/operators begins with notification to MARAD of a proposed offshore platform jacket project to be submitted at the same time an owner/operator files with the Bureau of Ocean Energy Management, Regulation and Enforcement for Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD) approval. Registration must be at least 21 months before projected use of a foreign launch barge. The notification information provided to MARAD must include the projected summary specifications of the platform jacket to be transported and, if needed, launched or installed, the approximate date of the operation, and contact information for the platform owner/operator representatives having decision-making responsibility with respect to the transportation and installation of the platform jacket. This information will be made available to the public in order to "provide timely information to ensure maximum use of coastwise qualified vessels" as is required by the Act. At the same time, MARAD will provide the current list of potentially interested registered vessel owner/operators to the platform owner/operator so it can begin canvassing the market and entering into discussions for service.

If a platform owner/operator is unable to find a potential coastwise-qualified vessel, it may apply for a determination of non-availability of a coastwise-qualified vessel once MARAD determines that the prior notice requirement has been met. Applications must include the complete engineering specifications for the platform jacket to be transported, operational details for the loading, transport, launching or installation, timing requirements, and the foreign launch barge proposed to be used.

Upon receipt of a complete application, including deposit fee, MARAD will publish a notice in the **Federal Register** requesting that comments and information on the availability of coastwise-qualified vessels be submitted within 30 days. MARAD will provide a final determination within 90 days thereafter. MARAD may also canvas the market. If, after the comment period, the agency determines that a suitable coastwise-qualified vessel is not available for the project, upon receipt of final payment for all associated costs, MARAD will issue a determination of non-availability, allowing the transportation, launch or installation to proceed by means of the foreign-built launch barge.

MARAD will not act on incomplete applications. For example, without evidence of early notification, or if fees are not paid, or if an application is otherwise incomplete, MARAD will not act on the application. However, the agency will request the applicant's rectification of application errors and omissions. MARAD may reject a request for a determination if the application remains incomplete.

Applicants are encouraged to provide MARAD and the public with as much notice as possible in advance of projects requiring platform transportation services because vessels capable of transporting platform jackets have long lead times for construction. Early notification will help ensure maximum utilization of coastwise-qualified vessels and assist MARAD in its review process.

Application Fee

Title V of the Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 9701) authorizes Federal agencies to establish and collect user fees. The statute provides that each service or thing of value provided by an agency should be self-sustaining to the extent possible, and that each charge shall be fair and based on the costs to the Government, the value of the service or thing to the recipient, the policy or interest served, and other relevant factors. 31 U.S.C. 9701.

The primary guidance for implementation of the IOAA is the Office of Management and Budget (OMB) Circular No. A-25 ("User Charges," July 8, 1993). Circular A-25, section 6, directs agencies to charge identifiable recipients for special benefits derived from Federal activities beyond those received by the general public. Circular A-25 further directs agencies, with limited exceptions, to recover the full cost of providing a Government service from the direct recipients of special benefits. "Full cost" is defined as including "all direct and indirect costs to any part of the Federal Government of providing a good, resource, or service."

Because determinations of availability under Part 389 represent special benefits to identifiable recipients (i.e., platform owners/operators) that are beyond the benefits and services normally received by the general public, the IOAA and Circular A-25 direct MARAD to assess user fees for providing this service.

The main cost components of the determination process include direct and indirect personnel costs and **Federal Register** publication costs. MARAD will charge for the actual number of hours at the relevant hourly rates, plus associated overhead and administrative costs. MARAD will also charge the applicant for the cost of publishing notices of application in the **Federal Register**. As of October 1, 2010, the **Federal Register** publication cost will be \$159 per column and the average length of a public notice published for this program is estimated to be three columns. Thus, the total average publication cost currently is estimated to be about \$477.00. The total of personnel costs and **Federal Register** publication costs is estimated to range from \$500 to \$20,000 or more, depending upon the extent of the required review. Each application will require a \$500 deposit and payment of any additional costs prior to final determination.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking is not significant under section 3(f) of Executive Order 12866, and as a consequence, the Office of Management and Budget did not review the rule. This rulemaking is also not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979). It is also not considered a major rule for purposes of Congressional review under Public Law

104–121. MARAD believes that the economic impact of this rulemaking is so minimal as to not warrant the preparation of a full regulatory evaluation because it establishes procedures to determine if a coastwise-qualified vessel is available for use in a project and, if not, to allow the use of a foreign launch barge.

Executive Order 13132

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (Federalism) and determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations herein have no substantial effects on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, MARAD did not consult with State and local officials because it was not necessary.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires MARAD to assess the impact that regulations will have on small entities. After analysis of this final rule, the Maritime Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities. MARAD anticipates that few, if any, small entities will participate in this process due to the nature of the shipping industry and the capital costs associated with vessels to be considered within this rule.

Environmental Assessment

MARAD has analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has concluded that this rule is not expected to have a significant effect on the human and natural environment, individually or cumulatively, and is categorically excluded from further documentation requirements under the NEPA by Maritime Administrative Order 600–1, “Procedures for Considering Environmental Impacts,” 50 FR 11606 (March 22, 1985), Categorical Exclusion No. 3. In pertinent part, Categorical Exclusion No. 3 applies to promulgation of rules, regulations, directives, and amendments thereto which do not require a regulatory impact analysis under section 3 of Executive Order 12291 or do not have a potential to cause a significant effect on the environment.

Accordingly, neither the preparation of an Environmental Assessment, an

Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required. This rulemaking will not result, either individually or cumulatively, in a significant impact on the environment. This rulemaking only relates to the determination of whether a coastwise-qualified vessel is available for a project, and, if not, allows for use of a foreign launch barge.

Paperwork Reduction Act

The rulemaking does not require Paperwork Reduction Act clearance by the Office of Management and Budget (OMB) because the collection is limited in scope to fewer than ten respondents.

Unfunded Mandates Reform Act

This rulemaking does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves this objective of U.S. policy.

Executive Order 13175

MARAD believes that this regulation will have no significant or unique effect on the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all comments received in any of MARAD’s dockets by the name of the individual submitting the comment, or signing the comment, if submitted on behalf of an association, business, labor union, etc. DOT’s complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) and at www.regulations.gov.

List of Subjects in 46 CFR Part 389

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 46 CFR part 389 which was published at 73 FR 30783 on May 29, 2008, is adopted as a final rule with the following changes. The Maritime Administration revises part 389 to read as follows:

PART 389—DETERMINATION OF AVAILABILITY OF COASTWISE-QUALIFIED VESSELS FOR TRANSPORTATION OF PLATFORM JACKETS

Sec.

- 389.1 Purpose.
- 389.2 Definitions.
- 389.3 Registration.
- 389.4 Application and fee.
- 389.5 Review; issuance of determinations.

Authority: 49 U.S.C. 322(a); 46 U.S.C. 55102; 46 U.S.C. 55108; Public Law 108–293, 118 Stat 1028; and 49 CFR 1.66.

§ 389.1 Purpose.

This part prescribes regulations implementing the provisions of section 417 of Public Law 108–293, which grants the Secretary of Transportation, acting through the Maritime Administrator, the authority to review and approve applications for determination of availability of coastwise-qualified vessels. Owners or operators of proposed platform jackets may submit information regarding a specific platform jacket transport, placement and/or launch project, following the procedures set forth in this regulation, in order for the Maritime Administration to determine whether a suitable coastwise-qualified vessel is available for the project. If the agency determines that a project owner has registered as required herein and sought in good faith to meet its transportation needs using U.S. flag vessels in compliance with the Jones Act, and that a suitable coastwise qualified vessel is not available, then a foreign launch barge may be used.

§ 389.2 Definitions.

For the purposes of this Part: *Administrator* means the Maritime Administrator.

Applicant means the offshore development person, entity, or company as identified to the Bureau of Ocean Energy Management, Regulation and Enforcement in its Development Production Plan (DPP) or Development Operations Coordination Document (DOCD), which has applied to the Maritime Administration for a waiver.

Classed as a launch barge by a recognized classification Society means that the vessel holds a current classification document to be used as a launch barge by at least one of the following classification societies: American Bureau of Shipping (ABS), Bureau Veritas (BV), Lloyd's Register (LR), Germanischer Lloyd (GL), Det Norske Veritas (DNV) or Registro Italiano Navale (RINA).

Coastwise-qualified vessel means a vessel that has been issued a certificate of documentation with a coastwise endorsement under 46 U.S.C. 12112.

Coastwise Trade Laws include:

- (1) The Coastwise Endorsement Provision of the Vessel Documentation Laws (46 U.S.C. 12112);
- (2) The Passenger Vessel Services Act, section 8 of the Act of June 19, 1886 (46 U.S.C. 55103);
- (3) The Jones Act, section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 55102); and
- (4) Section 2(c) of the Shipping Act of 1916 (46 U.S.C. 50501).

Foreign launch barge, for the purpose of this part, means a non-coastwise-qualified launch barge that was built before December 31, 2000, and has a launch capacity of 12,000 long tons or more.

Launch barge means a vessel that is technically capable of transporting and, if needed, launching or installing an offshore drilling or production platform jacket, provided that a coastwise-qualified vessel may meet this definition even if it is not capable of launching such a platform jacket, and even if it requires the involvement of one or more other vessels in connection with the installation of such a platform jacket.

A long ton equals 2,240 pounds.

Platform jacket refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including platform jackets, tension leg, or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure), hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as "topsides").

Secretary means the Secretary of the Maritime Administration.

§ 389.3 Registration.

In order to provide timely notification and to identify potential participants to each other so they may examine how they can best work together to maximize use of coastwise-qualified vessels, the

Maritime Administration will require early notification as outlined in this section.

(a) *Registration of coastwise-qualified vessel for platform jacket transportation.* In January of each calendar year, the Maritime Administration will publish a notice in the **Federal Register** requesting that owners or operators or potential owners or operators of coastwise-qualified launch barges, or other interested parties notify the agency of:

- (1) Their interest in participating in the transportation and, if needed, the launching or installation of offshore platform jackets;
- (2) Provide the agency with their contact information; and,
- (3) Provide specifications of any currently owned or operated coastwise-qualified launch barges or plans to construct same.

(b) *Registration requirement for transportation of platform jackets when non-coastwise-qualified vessels may be required.* When a current or potential owner or operator of any type of offshore exploration, development, or production structure expects to require the use of a non-coastwise-qualified vessel in the transportation of a platform jacket it must notify the Maritime Administration. Such notification must be on the earlier of either:

- (1) The date of filing of the Development and Production Plan (DPP) or Development Operations Coordination Document (DOCD) with the Bureau of Ocean Energy Management, Regulation and Enforcement as required by 30 CFR 250.201; or
- (2) A date not later than twenty-one (21) months before the proposed date of using a non-coastwise qualified vessel for transportation of a platform jacket.

(c) The early notification information to be provided to the Maritime Administration by a platform owner or operator shall include:

- (1) A summary of technical details of the platform jacket to be transported and, if needed, launched or installed;
- (2) The projected physical specification of a suitable vessel to be used in the project;
- (3) The projected time period, and load and destination sites, for the platform jacket transportation; and
- (4) Full contact information for the applicant and its representatives having decision-making authority with respect to the utilization of vessels for transportation and, if needed, the launching or installation of a platform jacket.

(d) The information in paragraphs (a), (b), and (c) of this section must be

submitted either electronically to cargo.MARAD@dot.gov or delivered to the Secretary, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Any information that is business confidential must be so identified and accompanied by a justification for that characterization.

(e) The Maritime Administration will publish a list of potential coastwise-qualified launch barge owners/operators on the agency's Web site at <http://MARAD.dot.gov>. The Maritime Administration will publish a summary of early notification information delineated by paragraph (c) of this section on its Web site and also disseminate it to registered potential coastwise-qualified launch barge owners/operators and other interested parties.

§ 389.4 Application and fee.

(a) When, after surveying the market and discussing the platform project with potential coastwise-qualified vessel owners/operators, it appears that coastwise-qualified vessels will not be available for a project, the platform jacket owner/operator may apply to the Maritime Administration for a determination of non-availability and request authority to use a foreign launch barge.

(b) A complete application must be submitted to the Secretary, Maritime Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590 at least 120 days prior to the proposed platform jacket transportation date.

(1) The Maritime Administration reserves the right to waive, reduce, or extend the time requirements based upon its evaluation of any national emergency or other relevant consideration.

(c) Applications must contain the information set forth in paragraphs (c) and (d) of this section and be accompanied by a statement signed by an officer of the applicant containing the following language:

"This application is made for the purpose of inducing the United States of America to grant a determination of non-availability of a coastwise-qualified vessel as set forth in 46 U.S.C. 55108. I have carefully examined the application and all documents submitted and, to the best of my knowledge, information and belief, the statements and representations contained in said application and related documents are full, complete, accurate and true. Further, I agree to pay any fees that result from the work required by this application.

Signature: _____

Name (typed): _____

Title: _____

Date: _____

(d) The applicant must submit a non-refundable check in the amount of \$500 (Five Hundred Dollars) made payable to the Maritime Administration, which is a minimum fee and represents a deposit against any cost to the Government for processing the application. The applicant must also submit a signed statement (see paragraph (c) of this section) that it agrees to pay all such additional costs that will be invoiced by the Government. Government costs will be billed for actual staff hours spent at applicable hourly rates plus overhead, administrative and other associated costs.

(e) *Required platform jacket transportation project information.*

(1) Applications must include a general description of the transport, placement and/or launch project, including:

(i) A description of the platform jacket structure with launching weight, center of gravity, major dimensions, and a general arrangement plan,

(ii) The projected loading date and site,

(iii) The projected transportation date and destination site,

(iv) The names of potential coastwise-qualified vessel owners/operators contacted and their responses regarding suitability and availability of transportation vessels, and

(v) The technical merits and availability studies of coastwise-qualified vessels considered.

(2) Characteristics of the applicant's desired foreign launch barge, including, at a minimum, the following information:

(i) Name of the vessel,

(ii) Registered owner of the vessel,

(iii) Physical dimensions, deadweight capacity in long tons, ballasting capacities and arrangements, and launch capacity in long tons and arrangements,

(iv) Documentation showing classification as a launch barge by one of the following classification societies: American Bureau of Shipping (ABS), Bureau Veritas (BV), Lloyd's Register (LR), Germanischer Lloyd (GL), Det Norske Veritas (DNV) or Registro Italiano Navale (RINA).

(v) Date and place of construction of the foreign launch barge and (if applicable) rebuilding. If the applicant is unable to document the origin of the vessel, foreign construction will be assumed.

(vi) Name, address, e-mail address and telephone number of the foreign launch vessel owner.

(3) A signed statement that the applicant represents that the foregoing information is true to the best of the applicant's knowledge and belief, as required by paragraph (b) of this section.

(f) The Maritime Administration may require additional information from an applicant as part of the review process. The application will not be considered complete until the agency has received all required information.

§ 389.5 Review; issuance of determinations.

(a) The Maritime Administration will review each application for completeness, including evidence of prior notification and payment of the application fee. Applications will not be processed until deemed complete. The Maritime Administration will notify an applicant if additional information is necessary. The agency encourages submission of applications well in advance of project dates in order to allow sufficient time for review under this part.

(b) The Maritime Administration will review the information required by Section 389.4. When the application is deemed complete, the agency will publish a notice in the **Federal Register** describing the project and platform jacket involved, advising that all relevant information reasonably necessary to assess the transportation requirements will be made available to interested parties upon request. The notice will request that information on the availability of coastwise-qualified vessels be submitted within thirty (30) days after the publication date. The Maritime Administration will also notify coastwise-qualified owners/operators who have registered with per § 389.3.

(c) The Maritime Administration will review any submissions whereby an offeror owner or operator of a coastwise-qualified vessel asserts it is available and will facilitate discussions between the offeror and a platform jacket owner/operator who requires transportation services. If the parties are unable to reach agreement, the Maritime Administration will make a determination regarding vessel availability.

(d) If needed, the Maritime Administration's technical personnel will review data required by § 389.4. The data must be complete and current. Any data submitted will not be returned to an applicant and will be retained by the agency on file further to applicable record retention directives. Maritime Administration review will not substitute for the review or approval by a major classification society (ABS, BV,

LR, GL, DNV, RINA). Maritime Administration review will not verify the accuracy or correctness of an applicant's engineering proposal; rather, it will only pertain to the general reasonableness and soundness of the technical approach.

(e) The Maritime Administration will disapprove the application if:

(1) The agency finds the applicant does not comply with requirements set forth by § 389.3 or § 389.4; or

(2) The agency finds that the applicant refused to attempt to obtain transportation services that comply with the Jones Act; or

(3) The agency determines a suitable coastwise-qualified vessel is reasonably available.

(f) The Maritime Administration will issue a determination of non-availability if it is determined that no suitable coastwise-qualified vessel is reasonably available.

(g) A determination will be issued within ninety (90) days from the date the application notice was published in the **Federal Register**.

(h) A determination of non-availability will expire one-hundred and twenty (120) days after the date of issuance, unless the agency provides an extension for good cause shown.

(i) Maritime Administration determinations in this regard should not be interpreted as a change setting new Federal maritime precedents. The Maritime Administration fully supports the Jones Act, the Passenger Vessel Services Act, and other Federal U.S.-flag requirements.

Dated: September 30, 2010.

By order of the Maritime Administrator.

Christine S. Gurland,

Secretary, Maritime Administration.

[FR Doc. 2010-25229 Filed 10-8-10; 8:45 am]

BILLING CODE 4910-81-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 98-153 and 04-352; FCC 10-151]

Ultra-Wideband Transmission Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reaffirms certain rules and procedures for ultra-wideband ("UWB") devices that operate on an unlicensed basis of the Commission's rules. This action terminates the Ultra-Wideband