

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 298**

[Docket No. R-154]

RIN 2133-AB14

**Obligation Guarantees: Program Administration****AGENCY:** Maritime Administration, Department of Transportation.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Maritime Administration ("MARAD") is issuing this notice of proposed rulemaking which proposes modifications to certain provisions of the existing regulations implementing Title XI of the Merchant Marine Act, 1936, as amended ("Act"), in order to improve administration of the Title XI program. MARAD administers financial assistance under Title XI of the Act in the form of obligation guarantees for all types of vessel construction and shipyard modernization and improvement, except for fishing vessels. On March 31, 1994, MARAD published in the **Federal Register** an interim final rule which amended its regulations implementing Title XI in order to carry out the provisions of Subtitle D of Public Law 103-160, expanding the authorization for obligation guarantees to finance the construction, reconstruction, and reconditioning of eligible export vessels and shipyard modernization and improvement. A final rule was published on September 16, 1994. The final rule stated that MARAD would publish at a later date a separate notice of proposed rulemaking to improve administration of the entire Title XI program. That is the subject of this rulemaking.

MARAD initiated a review of the administration of its Title XI obligation guarantees program regulations with the objective of implementing President Clinton's ongoing regulatory reform initiative and to reaffirm and implement the principles of Executive Order 12866—Regulatory Planning and Review (September 30, 1993). This rulemaking would significantly shorten the time for processing applications for guarantees and reduce the economic burden on applicants in complying with MARAD requirements for the submission of information. Accordingly, it is expected to encourage the construction of vessels in United States shipyards.

**DATES:** Written comments are requested and must be received on or before May 26, 1995. A 30 day comment period has

been chosen in order to improve the efficiency of the administration of the Title XI program.

**ADDRESSES:** Comments may be mailed or otherwise delivered to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** David A. Lippold, Examiner, Division of Capital Assets Management, Office of Ship Financing, Maritime Administration, Room 8122, 400 Seventh Street SW., Washington, D.C. 20590. Telephone 202-366-1907.

**SUPPLEMENTARY INFORMATION:** Title XI of the Act, 46 App. U.S.C. 1271 *et seq.*, authorizes the Secretary of Transportation (Secretary) to provide guarantees of debt ("obligation guarantees") issued for the purpose of financing or refinancing the construction, reconstruction or reconditioning of vessels built in United States shipyards. On November 30, 1993, Public Law 103-160, cited as the "National Defense Authorization Act for Fiscal Year 1994" ("Authorization Act"), was enacted. Subtitle D of Title XIII of the Authorization Act, cited as the "National Shipbuilding and Shipyard Conversion Act of 1993" ("Shipbuilding Act"), expanded the Title XI program by authorizing the Secretary to guarantee obligations issued to finance the construction, reconstruction, or reconditioning of eligible export vessels and for shipyard modernization and improvement. The Shipbuilding Act establishes "a National Shipbuilding Initiative (NSI) program to be carried out to support the industrial base for national security objectives by assisting in the reestablishment of the United States shipbuilding industry as a self-sufficient internationally competitive industry."

Applications for obligation guarantees are made to MARAD acting under authority delegated by the Secretary to the Maritime Administrator ("Administrator"). Prior to execution of a guarantee, MARAD must, among other things, make determinations of economic soundness of the project, and the financial and operating capability of the applicant. Prior to amendment by Public Law 103-160, guarantees could be issued only for debt issued by United States citizens.

The Title XI program enables applicants to obtain long-term financing on terms and conditions and at interest rates comparable to those available to large corporations. Funds secured by the obligation guarantees are borrowed in the private sector.

As noted, the provisions of the Shipbuilding Act that required changes in MARAD's regulations became effective on November 30, 1993. MARAD concluded that it was imperative to publish amendments to its Title XI regulations, as an interim final rule. The interim final rule became effective on publication in the **Federal Register** on March 31, 1994 (59 FR 15123), in order to permit implementation of the NSI program without delay.

That interim final rule stated that MARAD would publish, at a later date, a separate notice of proposed rulemaking which would propose modifications to the Title XI regulations to improve administration of the overall Title XI program. Such modifications were not addressed in the interim rule because they were not required to implement the Shipbuilding Act. This notice of proposed rulemaking solicits public comments on a number of proposals to improve the current Title XI program.

In addition to soliciting comments on the amendments to the Title XI regulations set forth in this notice of proposed rulemaking, MARAD is hereby soliciting industry and other public comments on three additional areas. The first issue on which MARAD is soliciting public comments deals with the retention in section 298.13 of the waiver requirement specifically granted for foreign components and services to be included in Actual Cost. MARAD is concerned about the potential adverse effect on the U.S. supplier base, which we recognize as critical to the national defense and economy. We are attempting to create an environment where both the shipbuilding and ship supply industries have the opportunity to be competitive based on fair pricing, quality, and timeliness.

The second issue on which MARAD is soliciting public comments deals with construction period financing. The Title XI regulations currently provide authority for MARAD to do construction period financing. As the Secretary may approve Guarantees with respect to obligations to be issued to finance the construction, reconstruction, or reconditioning of vessels or construction of advanced or modern shipbuilding technology during the applicable period of construction, reconstruction, or reconditioning, we