

Consistent with Congress' view of ACS status as a jurisdictional issue, the use of nautical miles to determine ACS status allows for an extension of the State's jurisdiction to be measured consistently with the measures of jurisdiction required by law. Absent this interpretation, a State's jurisdiction that is measured in nautical miles would then subsequently be extended by Congress under a different unit of measurement.

In addition to the legislative history, the regulatory history of the Deepwater Ports program provides additional support for interpreting the DWPA to apply nautical miles to ACS designations. The original Final Rule in 33 CFR part 148 published on November 10, 1975, defined mile for the purposes of the regulations as a nautical mile.<sup>22</sup> Though the definition for "mile" was subsequently removed in a May 20, 2003, Notice of Proposed Rulemaking and does not appear in the Final Rule published on September 29, 2006, 33 CFR part 2 indicates that nautical miles are the appropriate units of measurement to be employed for determining United States Coast Guard jurisdictional definitions where such jurisdictional definitions are not otherwise provided.<sup>23</sup>

As a result of its interpretation of the DWPA, its legislative history, and implementing regulations, MarAd proposes to apply nautical miles when designating ACS in future Notices of Application under 33 U.S.C. 1508(a)(1).

#### Request for Comments

MarAd is seeking comment on the proposed policy clarification and invites interested parties to visit its Web site for background information. MarAd will consider comments in formulating a final notice of policy clarification.

Dated: February 28, 2013.

By Order of the Maritime Administrator.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2013-05007 Filed 3-4-13; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2013 0019]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LUCKY DUCK; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 4, 2013.

**ADDRESSES:** Comments should refer to docket number MARAD-2013-0019. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-0903, Email [Linda.Williams@dot.gov](mailto:Linda.Williams@dot.gov).

#### SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel LUCKY DUCK is:

*Intended Commercial Use Of Vessel:* "The vessel is to be operated as a sailing instruction vessel with a licensed captain and no more than six passengers in San Francisco Bay and outside the Golden Gate. The course will be three days long, with the students living

aboard and sailing to different areas of the Bay each day. There will be no more than ten courses offered in a calendar year. This program is being offered to local residents in Orange County, Calif."

*Geographic Region:* "California".

The complete application is given in DOT docket MARAD-2013-0019 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

By Order of the Maritime Administrator.

Dated: February 26, 2013.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2013-05061 Filed 3-4-13; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2013 0018]

#### Requested Administrative Waiver of the Coastwise Trade Laws: Vessel LILYANNA; Invitation for Public Comments

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Notice.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build

<sup>22</sup> 40 FR 52401 (Nov. 10, 1975).

<sup>23</sup> See 33 CFR 2.1(a) ("The purpose of this part is to define terms the U. S. Coast Guard uses in regulations, policies, and procedures, to determine whether it has jurisdiction on certain waters where specific jurisdictional definitions are not otherwise provided.").

requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before April 4, 2013.

**ADDRESSES:** Comments should refer to docket number MARAD-2013-0018. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-0903, Email [Linda.Williams@dot.gov](mailto:Linda.Williams@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LILYANNA is:

*Intended Commercial Use of Vessel:* 2 Hour Sunset Sails, and 3 Hour Day Sails at Little Palm Island Resort.

*Geographic Region:* Florida.

The complete application is given in DOT docket MARAD-2013-0018 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

By Order of the Maritime Administrator.

Dated: February 26, 2013.

**Julie P. Agarwal,**

*Secretary, Maritime Administration.*

[FR Doc. 2013-05038 Filed 3-4-13; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Docket No. AB 290 (Sub-No. 335X; Docket No. AB 290 (Sub-No. 340X)]

#### **The Alabama Great Southern Railroad Company—Abandonment Exemption—in Gadsden, Etowah County, Ala.; Tennessee, Alabama, and Georgia Railway Company—Abandonment Exemption—in Gadsden, Etowah County, AL**

The Alabama Great Southern Railroad Company (AGS) and Tennessee, Alabama, and Georgia Railway Company (TAG) (collectively, applicants)<sup>1</sup> have jointly filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* for AGS and TAG to abandon service over approximately 4.25 miles of interconnected rail line in Gadsden, Etowah County, Ala. Specifically, AGS proposes to: (1) Abandon 3.10 miles of rail line (the AGS segment) between milepost 2.40 AG (near Cabot Ave.) and milepost 5.50 AG (near the intersection of River and Coosa Streets); and (2) TAG proposes to abandon approximately 1.15 miles of rail line (the TAG segment) between milepost TA 90.30 (located between the north end of Brookside Drive and Owls Hollow Road) and milepost TA 91.45 (at TAG Segment's connection with the AGS Segment west of N 5th Street) (the Line). The Line traverses United States Postal Service Zip Codes 35901 and 35904.

Applicants have certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and overhead traffic, if there were

<sup>1</sup> Both applicants are wholly-owned subsidiaries of the Norfolk Southern Railway Company.

any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on April 4, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by March 15, 2013. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 25, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemptions are void *ab initio*.

Applicants have filed a combined environmental and historic report that

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. See *Exemption of Out-of-Serv. Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which is currently set at \$1,600. See 49 CFR 1002.2(f)(25).