

except as provided in paragraph (e) of this section, the applicant and any other Person (including, but not limited to shipowners and, if applicable, owner trustees, equity participants and bareboat charterers) shall establish their United States citizenship within the meaning of Section 2 of the Shipping Act, 1916, as amended ("1916 Act") (46 App. U.S.C. 802) and MARAD's regulation at 46 CFR 221.3(c). All persons holding a Preferred Mortgage on the Vessel who do not qualify as citizens of the United States shall submit on the date of the closing evidence that they qualify for the MARAD approval granted pursuant to 46 CFR 221.23, or that they have received approval pursuant to 46 CFR 221.25. The Secretary will not approve an application providing for ownership of such Vessel by, or bareboat chartering of such Vessel to, a non-U.S. citizen. Citizenship may also be required of any Person who is deemed by the Secretary to be an operator of the Vessel or who has authority to direct the operation of the Vessel on behalf of the shipowner. Certain chartering arrangements, including time chartering and contracts of affreightment, have been given general approval by the Secretary pursuant to Sections 9, 37, and 41 of the 1916 Act. See Part 221 of Title 46 for more details on these approvals and other approvals granted concerning chartering and mortgaging of U.S. documented vessels.

6. Section 298.11 is amended as follows:

a. By amending paragraph (c) by adding in the first sentence after the word "registered", before the parenthesis, the words "or otherwise recognized by the Secretary as meeting acceptable classification standards for such a society, which shall include recognition that the society meets the requirements of IMO Resolution A.739(18) and delegation by the United States Coast Guard of inspection/certification authority".

b. By revising paragraph (a) and adding a new paragraph (e) to read as follows:

§ 298.11 Vessel requirements.

* * * * *

(a) *United States Construction.*

(1) *Coastwise Trade, U.S.-Flag Vessels.* A vessel financed by Obligation Guarantees is considered to be of United States construction and qualified for use in coastwise trade operation (46 App. U.S.C. 883) if:

(i) All components of the hull and superstructure are fabricated in the United States; and

(ii) The Vessel is assembled entirely in the United States and has U.S. or foreign source machinery, equipment or hull and superstructure material which has been manufactured in a foreign facility, to the extent permitted by the U.S. Coast Guard.

(2) *Non-Coastwise Trade, U.S.-Flag Vessels.* A Vessel financed by Obligation Guarantees is considered to be of United States construction if the vessel is assembled entirely in the United States but not qualified for use in the coastwise trade because it has foreign material which has been manufactured in a foreign facility.

(3) *Eligible Export Vessels.* With respect to Eligible Export Vessels, the Vessel is considered to be of U.S. construction if assembled in a United States shipyard.

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(e) *Metric Usage.* The preferred system of measurement and weights for Vessels and Advanced and Modern Shipbuilding Technology shall be the metric system.

7. Section 298.12 is amended by revising paragraphs (b)(1)(i) and (b)(2)(i) to read as follows:

§ 298.12 Applicant and operator's qualifications.

* * * * *

(b) *Identity and ownership of applicant.* * * *

(1) *Incorporated companies.* * * *

(i) Exact name of applicant and tax identification number of a U.S. corporation, or if appropriate, international identification number of the applicant.

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(2) *Partnerships, joint-ventures, associations, unincorporated companies.* * * *

(i) Name of partnership, association, or unincorporated company, and tax identification number, or if appropriate, international identification number of applicant.

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§ 298.12 [Amended]

7a. Section 298.12 is further amended by:

a. By removing paragraphs (b)(1)(iv) through (b)(1)(vii), (b)(2)(v) through (b)(2)(vii), (b)(2)(ix), and (b)(3), and redesignating paragraph (b)(2)(viii) as (b)(2)(v) and paragraph (b)(4) as paragraph (b)(3).

b. By amending paragraph (c)(3) by adding after the word "proceedings", the first time it occurs, before the comma, the words "under either domestic or foreign statutes".

c. By amending paragraph (f)(1) by removing the words "by all", each time

they appear, and inserting in their place the words "by all senior supervisory personnel".

8. Section 298.13 is amended as follows:

a. By adding the following sentence to the end of paragraph (a)(3), *Financing*: "If the applicant uses co-financing (involving a blend of Title XI and private financing for the debt portion of the project), the ability of the co-financiers to exercise their rights against collateral shared with the Secretary for any transaction shall be subject to the approval of the Secretary."

b. By removing paragraph (b)(7), *Deferred Lease Hire*.

c. By revising paragraphs (a)(2)(i), (a)(4), (b)(2), (b)(3), (b)(4) and (e)(2)(i) to read as follows:

§ 298.13 Financial requirements.

(a) * * *

(2) *Cost of the project.* * * *

(i) In the case of an applicant for Vessel Financing Guarantees, a detailed statement of the estimated Actual Cost of construction, reconstruction or reconditioning of the Vessel(s) including those items which would normally be capitalized as Vessel construction costs. Net interest during construction is the total estimated construction period interest on non-equity funds less estimated earnings from the escrow fund, if such fund is to be established prior to Vessel(s) delivery. Each item of foreign components and services shall be excluded from Actual Cost, unless a waiver is specifically granted for the item, which waiver shall not be granted for foreign components of the hull and superstructure. Although excluded from Actual Cost, foreign components of the hull and superstructure can be regarded as owner-furnished equipment that may be used in satisfying the applicant's equity requirements imposed by paragraph (a)(3) of this section. An illustration of how the cost of foreign components of the hull and superstructure may be used to satisfy an applicant's equity requirements is outlined in this paragraph. If any of the costs have been incurred by written contracts such as the shipyard contract, management or operating agreement, signed copies should be forwarded with the application. The applicant may be required to have the contracting shipyard submit back-up cost details and technical data. This information shall be submitted in the format as prescribed by the Title XI application procedures.