

Maritime Administration, DOT

§ 298.27

annual amount necessary to redeem the outstanding Obligations at maturity; or

(3) With regard to Eligible Export Vessels, in accordance with such other terms as we determine to be more favorable and to be compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

[65 FR 45152, July 20, 2000, as amended at 67 FR 61282, Sept. 30, 2002]

§ 298.23 Refinancing.

(a) We may approve guarantees of Obligations to be secured by one or more Vessels or a Shipyard Project issued to refinance existing Title XI debt for either Vessels or for Shipyard Project and existing non-Title XI debt, so long as the existing debt has been previously issued for one of the purposes set forth in sections 1104(a)(1) through (4) of the Act. Section 1104 (a) (1) of the Act requires that, if the existing indebtedness was incurred more than one year after the delivery or redelivery of the related Vessel or Shipyard Project, the proceeds of such Obligations will be applied to the construction, reconstruction or reconditioning of other Vessels or Shipyard Project or as provided in § 298.24.

(b) We shall require any security lien on the Vessel(s) or Shipyard Project to be discharged immediately before we place a Mortgage or other security interest on any of the above assets. You must satisfy all necessary eligibility requirements as set forth in subpart B of this part, including economic soundness.

§ 298.24 Financing a Vessel more than a year after delivery.

(a) We may approve Guarantees for a Vessel which has been delivered (or redelivered in the case of reconstruction or reconditioning of a Vessel) more than one year prior to the issuance of the Guarantees only if:

(1) The issuance of the Guarantees would otherwise satisfy the requirements of the Act and the regulations in this part, and

(2) The proceeds of the Obligation financing such existing Vessel are used to finance:

(i) The construction, reconstruction, or reconditioning of a different Vessel within one year of that Vessel's delivery or redelivery, as the case may be, or

(ii) Facilities or equipment pertaining to marine operations. Such facilities or equipment must be of a specialized nature, used principally for servicing vessels and in handling waterborne cargo in the close proximity of the berthing area, excluding over-the-road equipment (other than chassis and containers), permanent or semipermanent structures and real estate, as well as new or less than one year old.

(b) At the Closing of Guarantees covered by this section, you must deposit the proceeds of the Obligation into an Escrow Fund established to pay for the cost unless you demonstrate to our satisfaction that all such costs have been paid.

§ 298.25 Excess interest or other consideration.

We shall not execute Guarantees if any agreement in the Documentation directly or indirectly provides for:

(a) The payment to an Obligee of interest, or other compensation for services which have not been performed, in a manner that such compensation or payment is being provided as interest in excess of the rate approved by us; or

(b) Grants of security to an Obligee in addition to the Guarantees.

§ 298.26 Lease payments.

You must obtain our approval of the amount and conditions of lease or charter hire payments if the payment of principal and interest on Obligations would be dependent, in any way, upon the lease or charter hire payments for a Vessel or Shipyard Project.

§ 298.27 Advances.

(a) *In general.* (1) In accordance with section 207 and Title XI of the Act, we have the discretion to make or commit to make an advance or payment of funds to, or on behalf of the owner, or operator or directly to any other person or entity for items, including, but not limited to:

- (i) Principal,
- (ii) Interest,

(iii) Insurance, and
(iv) Other vessel-related expenses or fees.

(2) We will make advances or payments only to protect, preserve or improve the collateral held as our security for Title XI debt.

(3) When requesting an advance, you must demonstrate that:

(i) Your problems are short term (less than two years) by using market and cash flow analysis and other projections.

(ii) An advance(s), would assist you over temporary difficulties; and

(iii) There is adequate collateral for the advance.

(b) *Filing requirements.* (1) You shall apply for an advance or other payment as early as is reasonably possible.

(2) *Principal and interest payments.* We must receive a request for an advance for principal and interest payments at least 30 days before the initial payment date.

(3) *Insurance payments.* We must receive a request for an advance of insurance payments at least 30 days before a renewal or termination date.

(4) *Extenuating circumstances.* We may consider requests for assistance with less notice, upon written documentation of extenuating circumstances.

(5) *Supporting data.* Any requests for assistance must be accompanied by supporting data regarding:

(i) Need for the advance,
(ii) Financial assistance you sought from other sources,

(iii) The measures that you are taking and have taken to alleviate the situation,

(iv) Financial projections,

(v) Proposed term of the repayment,

(vi) Current and projected market conditions,

(vii) Information on other available collateral,

(viii) Liens and other creditor information, and

(ix) Any other information which we may request.

Subpart D—Documentation

§ 298.30 Nature and content of Obligations.

(a) *Single page.* An Obligation, in the form of a note, bond of any type, or

other debt instrument, when engraved, printed or lithographed on a single sheet of paper must include on its face the:

(1) Name of the Obligor,

(2) Principal sum,

(3) Rate of interest,

(4) Date of maturity, and

(5) Guarantee of the United States, authenticated by the Indenture Trustee, if any.

(b) *Several pages.* If the Obligation is typewritten, printed or reproduced by other means on several pages of paper, the Guarantee of the United States and the authentication certificate of the Indenture Trustee, if any, may appear at the end of the typewritten Obligation.

(c) *Rights and responsibilities.* The instrument which is evidence of indebtedness shall also contain all information necessary to apprise the Obligees of their rights and responsibilities including, but not limited to:

(1) Time and manner for payment of principal and interest,

(2) Redemptions,

(3) Default procedure, and

(4) Notification (in case of registered Obligations) of sale or other transfer of the instruments.

§ 298.31 Mortgage.

(a) *In general.* Under normal circumstances, a Guarantee shall not be endorsed on any Obligation until we receive satisfactory evidence that we hold a Mortgage in one or more Vessels or a Mortgage or other security interest in the Shipyard Project. During construction of a new Vessel or any Shipyard Project, a security interest may be perfected by a filing under the Uniform Commercial Code.

(b) *Ensuring validity of security interest.* In order to ensure that our Mortgages or other security interests are valid and enforceable, we shall require that the Obligor obtain legal opinions, in form and substance satisfactory to us, from independent, outside legal counsel satisfactory to us, including foreign independent outside legal Counsel for Eligible Export Vessels, which opinions shall state, among other things, that the Mortgage or other security interest(s) are valid and enforceable: