

lenders to be subject to MARAD review where a mortgage trustee is being utilized; therefore, we have specifically excluded such review in other parts of the regulations. We have also amended paragraph 356.11(a)(7) to clarify that loan and mortgage documents will not be subject to review where a mortgage trustee is holding a preferred mortgage for the benefit of a commercial lender or lender syndicate.

Section 356.13 Information Required To Be Submitted by Vessel Owners

The NPRM proposed an amendment to § 356.13(a) by clarifying in paragraph (5) that financing documents will only be required from entities that have not been approved to hold a preferred mortgage on fishing industry vessels or that have not received general approval for their loan documents pursuant to § 356.21. Several commenters noted that this section implies that review of loan documents may be required from commercial lenders or lender syndicates that are using an approved mortgage trustee. Again, we did not intend to include a review of financing documents where a mortgage trustee is holding a preferred mortgage for the benefit of a commercial lender or lender syndicate. Accordingly, we have added language to paragraph 356.13(a)(5) to specify that financing documents are not required to be submitted if the transaction is specifically exempted under paragraph 356.19(d), which specifically sets forth those preferred mortgage transactions for which no review of the loan or mortgage documents is required.

A new element has also been added to the list of material that vessel owners are required to submit with their affidavit of U.S. citizenship. For vessels that exceed 165 feet in registered length, 750 gross registered tons (as measured under 46 U.S.C. chapter 145) or 1900 gross registered tons (as measured under the International Tonnage Convention, 46 U.S.C. chapter 143) or that have engines capable of producing more than 3,000 horsepower, the vessel owner is required to provide a statement indicating whether the vessel meets certain requirements set forth in § 356.47 in order to be eligible for documentation with a fishery endorsement. While this information can be obtained by researching Coast Guard files on specific vessels, it was determined that we would not be able to research the information in a timely manner for all of the vessels that are subject to these new restrictions.

Section 356.15 Filing of Affidavit of U.S. Citizenship

Section 356.15 has been amended by deleting paragraphs 356.15(a), (b), and (c) that dealt with filing requirements prior to October 1, 2001. It is no longer necessary to maintain these requirements in the regulations now that the October 1, 2001, date has passed. The remaining paragraphs have been reordered in order to present the requirements for filing an affidavit of U.S. citizenship in a logical order.

A more significant amendment to § 356.15 is the addition of a new paragraph (d) that allows vessel owners or prospective vessel owners to request a letter ruling to determine whether a proposed ownership structure will meet the requirements of the regulations and allow the owner to document a vessel with a fishery endorsement. In the preamble to the final regulations (65 FR 44860, 44865–66 (July 19, 2000)), we stated that we would issue letter rulings for vessel owners prior to June 1, 2001, but that we did not plan to issue letter rulings after October 1, 2001, because letter rulings necessarily involve hypothetical transactions and can absorb an inordinate amount of time and resources. While we continue to be concerned about the burden on limited resources that may be presented by requests for letter rulings, we recognize that the ability to obtain a letter ruling before a transaction is finalized is extremely useful to vessel owners and other parties that are required to qualify as U.S. citizens. Therefore, we have amended the regulations to indicate that we will continue to issue letter rulings after October 1, 2001, to vessel owners and other entities that are required to qualify as U.S. citizens under these regulations. If the process of issuing letter rulings becomes too burdensome, it may be necessary to reconsider this position in the future.

Section 356.17 Annual Requirements for Vessel Owners

The NPRM included a proposed amendment to § 356.17 that would delete the requirement for owners of multiple fishing industry vessels to file a certification prior to the renewal date for the certificate of documentation for each vessel. Therefore, a vessel owner would be allowed to file one consolidated affidavit of U.S. citizenship on an annual basis for all of its fishing industry vessels. One commenter supported this amendment, but suggested that we broaden the language to clarify that if vessel owners have the same ultimate common ownership they may file a consolidated

affidavit. The commenter noted that such an amendment would better address the common practice in the maritime industry where companies set up separate subsidiaries to own individual vessels. We agree with the commenter and have amended paragraph 356.17(b) to clarify that one affidavit may be filed for multiple vessels that have the same owner or where the owners ultimately have the same common ownership.

Section 356.19 Requirements To Hold a Preferred Mortgage

Section 2202(b) of the Supplemental Appropriations Act, 2001, amended 46 U.S.C. 31322(a)(4) by deleting from the definition of a preferred mortgage for fishing industry vessels of 100 feet or greater a mortgage that is held by a mortgagee that is a State or Federally chartered financial institution that meets the controlling interest requirement of the 1916 Act. Section 2202(b) of the Supplemental Appropriations Act also expanded the definition of preferred mortgage for fishing industry vessels by increasing the universe of entities that can act as the mortgagee. Accordingly, § 356.19 has been amended by deleting the requirements to hold a preferred mortgage in §§ 356.19(a)(2) through (d) and by adding new language to incorporate the new entities that will qualify to hold a preferred mortgage. The list of entities that will now qualify to hold a preferred mortgage includes: (1) Citizens of the United States who are eligible under 46 U.S.C. 12102(c) to own a vessel with a fishery endorsement; (2) State or Federally chartered financial institutions that are insured by the Federal Deposit Insurance Corporation; (3) farm credit lenders established under title 12, chapter 23, of the United States Code (12 U.S.C. 2001 *et seq.*); (4) commercial fishing and agriculture banks established pursuant to State law; (5) commercial lenders organized under the laws of the United States or of a State and eligible to own a vessel under 46 U.S.C. 12102(a); and (6) mortgage trustees that comply with the requirements of 46 U.S.C. 31322(f) and 46 CFR 356.27–356.31.

A new paragraph (b) has been added to the section to describe the information that the various entities must submit to the Citizenship Approval Officer so that a determination can be made as to whether the entities are qualified to hold a preferred mortgage on a fishing industry vessel. Several commenters suggested that the proposed paragraph (b)(5) be amended to clarify that there are different requirements for a commercial lender to