Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
At downstream county boundary	*587
Approximately 800 feet upstream of Interstate Route 75	*589
Saginaw Bay:	
Areas west of Grand Trunk Western and north of Kochville Road	*586
Maps available for inspection at the Township Supervisor's Home Office, 7600 Melbourne Road, Saginaw, Michigan.	
NEW JERSEY	
Roselle Park (Borough), Union County (FEMA Docket No. 7199)	
Morses Creek:	
Approximately 220 feet downstream of West Westfield Avenue	*68
At upstream corporate limits (Sumner Street)	*87
Maps available for inspection at the Borough of Roselle Park Engineer's Office, 110 East Westfield Avenue, Roselle Park, New Jersey.	
NEW YORK	
Fort Ann (Town), Washington County (FEMA Docket No. 7211)	
Copeland Pond:	
Entire shoreline within community	*453
Hadlock Pond:	
Entire shoreline within community	*458
Lakes Pond:	
Entire shoreline within community	*864
Lake Nebo:	
Entire shoreline within community	*843
Lake George:	
Entire shoreline within community	*321
Maps available for inspection at the Fort Ann Town Clerk's office, Route 4 in the Village of Fort Ann, Fort Ann, New York.	
VIRGINIA	
Smyth County (Unincorporated Areas) (FEMA Docket No. 7149)	
Middle Fork Holston River:	
North of Interstate 81 and southwest of the Town of Chilhowie corporate limits	*1,944
Maps available for inspection at the Smyth County Courthouse, Building Inspector's Department, 109 West Main, Marion, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance".)

Dated: June 19, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–18537 Filed 7–14–97; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 295

[Docket No. R–163]

RIN 2133-AB24

Maritime Security Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is issuing this final rule to provide procedures to implement the provisions of the Maritime Security Act of 1996 (MSA). The MSA establishes a new Maritime Security Program (MSP), which authorizes payments through FY 2005. The MSP supports the operations of U.S.-flag vessels in the foreign commerce of the United States through assistance payments. Participating vessel operators are required to make their ships and other commercial transportation resources available to the Government during times of war or national emergency.

DATES: This final rule is effective July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support, Telephone 202–366–2323.

SUPPLEMENTARY INFORMATION:

Background

Section 2 of the MSA amended Title VI of the Merchant Marine Act, 1936, as amended, 46 App. U.S.C. 1171 *et seq.* (Act), by adding a new Subtitle B, which authorizes MSP to provide assistance for operators of U.S.-flag vessels that meet certain qualifications. It requires the Secretary of Transportation (Secretary) to establish a fleet of active, militarily useful, privately owned vessels to meet national defense and other security requirements, while also maintaining an American presence in international commercial shipping. Section 655 of the MSA authorized $100 million annually through fiscal year 2005 to support the operation of up to 47 U.S.-flag vessels in the foreign commerce of the United States. Payments to participating operators are $2.1 million per ship, per year. Participating operators are required to make their ships available upon request by the Secretary of Defense during times of war or national emergency. Unlike the operating-differential subsidy (ODS) program, the MSP has few restrictions on vessels operating in the U.S.-foreign commerce and eligible vessels may be built in foreign shipyards.

Interim Final Rule

As authorized by section 8 of the MSA, MARAD issued an interim final rule on October 16, 1996, (61 FR 53861), which added a new 46 CFR Part 295. That rule provides procedures to implement the MSA with respect to the application for, and award of, MSP operating agreements that provide financial assistance to operators of vessels enrolled in the program. The program will be administered on the basis of one-year renewable contracts, provided funding is available in subsequent years. The rule provides that participating operators will be required to operate eligible vessels in the foreign commerce of the United States, and certain specified mixed foreign and domestic areas, with a minimum of operating restrictions, for at least 320 days in any fiscal year. It provides that payments will be made on a prorated basis for vessels operated less than 320 days in any year, exclusive of days a MSP vessel is being drydocked, surveyed or repaired. In addition, no payments will be made for each day any vessel carries civilian bulk preference cargoes of 7,500 tons or more.

The interim final rule issued on October 16, 1996, allowed an initial comment period ending November 15, 1996. This comment period was later extended to December 2, 1996 by notice published in the **Federal Register** (61 FR 58663; November 18, 1996). MARAD received 13 comments from persons or entities with an interest in the MSP, including vessel operators, labor unions, representatives of U.S. shipyards, and U.S. insurers providing U.S. marine hull insurance. In addition, on October 11, 1996, MARAD invited applications for participation in the MSP by

advertisement in the **Federal Register** (61 FR 53483) using the application approved under OMB Approval No. 2133–0525. Based on these applications MARAD awarded 47 contracts for annual payment of $98.7 million. Accordingly, the application process has been closed until such time as additional funding may become available.

Editorial and Clarifying Comments Adopted

The commentors submitted many helpful, editorial and clarifying comments which MARAD is incorporating in the final rule. In general, the final rule drops all references to FY 1996. The term Eligible Contractor is being deleted as it is confusing and now holds no relevance. The reference in § 295.10(b)(3) will read "applicant," not "contractor" and reference will be made to the Maritime Security Fleet Program instead of Maritime Security Program in § 295.1 "Purpose." With respect to the hull insurance comments affecting the marine insurance industry, MARAD will encourage use of the American market for marine hull insurance to the maximum extent possible when rates, terms and conditions offered by American underwriters are competitive with those offered by foreign underwriters. In order to satisfy the Congressional intent of providing a less restrictive program, this requirement will not be mandatory.

Summary of Substantive Comments by Section

Definition of Militarily Useful

§ 295.2(q)

Comment: MARAD received three comments, two that requested clarification of the term "militarily useful" and one that requested that the term be deleted entirely. According to that commentor, the Department of Defense (DOD) is the expert in the area of military utility and, as written, the definition exceeds the authority of the MSA.

Response: MARAD disagrees with the comment that a definition of "militarily useful" exceeds the MSA. Under the MSA, responsibility for the determination of military utility belongs to MARAD in conjunction with DOD, pursuant to authority contained in section 651(b)(1)(c) of the Act. MARAD agrees that DOD criteria should be considered and therefore will use the Joint Strategic Capabilities Plan (JSCAP) definition of "militarily useful" in the final rule to define the type of vessel utility that would qualify a vessel as being eligible for the MSP. MARAD agrees with the comments that requested clarification and will include the applicable JSCAP definition describing vessel types deemed acceptable for MSP use. The regulation at § 295.2(q) will be amended accordingly.

Definition of "Related Party"

§ 295.2(x)(New)

Comment: MARAD received five comments from carriers on the issue of clarifying the term "related party" used in numerous provisions of the Interim Final Rule. Three commentors requested clarification of the definition of the term and two commentors requested that the reference be deleted from § 295.12(a)(1).

Response: The term "related party" is defined in the MSA in section 656(h), which specifies that the definition is for the purposes of section 656 only. At the time the Interim Final Rule was published, many questions concerning the interpretation of section 656 had not been resolved and references to the non-contiguous domestic trades were not finalized. As a result, no definition of this term was contemplated. However, in view of the comments received and the use of the term in section 652(i) of the Act and its reflective language in § 295.12 of the regulations, MARAD agrees that a general definition is required. Accordingly, MARAD believes consistency requires that the definition used in section 656(h) of the Act be used in general in the regulations. That definition will be added to the definitions section of the regulations with a new § 295.2(x) "Related Party."

With regard to the reference to related parties in § 295.12(a)(1), that section was intended to mirror the language of section 652(i)(1)(A)(i) of the Act relating to the ordering of priorities in the granting of MSP awards. However, while the pertinent language of that section of the Act reserves the highest first priority eligibility to citizens of the United States, the language of § 295.12(a)(1) of the interim final rule extended that priority to include related parties. Commentors requested that the term "related party" be deleted from § 295.12(a)(1), "U.S. Citizen Ownership." MARAD agrees and this reference will be deleted.

Applications

§ 295.11(a)(2) (Revised)

Since MSP is authorized only through fiscal year 2005 and since it has been fully implemented with annual renewable contracts, applications will only be accepted in response to public invitation by MARAD. Section 295.11(a)(2) has been clarified to establish the limits within which applications will be accepted by MARAD.

Reflagging U.S. Vessels on the Basis of MSP Denial

§ 295.11(a)(4)

Comment: One commentor suggested that MARAD make clear that the rejection for enrollment in the MSP of any U.S.-flag vessel which requires, but did not receive either an affirmative defense or military purposes determination or an age waiver, does not entitle the vessel to be transferred to foreign registry without approval by DOT under section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) (1916 Act).

Response: Generally, section 9(c)(2) of the 1916 Act provides that a U.S.-documented vessel may not be transferred to a foreign registry or operated under the authority of a foreign country without the approval of the Secretary. Section 6 of the MSA adds a new subsection (e) to section 9 of the 1916 Act. Pursuant to paragraph (2) of the new subsection (e) an eligible vessel which has applied for an operating agreement under the MSP, and which has not received an award within 90 days of application, may transfer to a foreign registry without approval by the Secretary. After careful analysis, MARAD has determined that the new section 9(e)(2) would not remove the requirement for approval by MARAD for transfer to foreign registry of a U.S.-flag vessel that applied for MSP but was not qualified for award other than by reason of age. The statute applies only to vessels eligible under section 651(b)(1), which encompasses all vessel eligibility requirements, with the exception of age. Therefore, if MARAD has determined that the applicant is qualified and the vessel is eligible under the provisions of section 651(b)(1), but does not award a MSP operating agreement due to lack of funds or an inadequate program level, the applicant may remove the subject vessel from U.S. registry and reflag the vessel under a foreign registry without section 9 approval by MARAD. This reflag would only apply to vessels eligible for awards within a priority in which awards have been authorized. Vessels under ODS contract or on MSC charter for which MSP applications have been denied would be eligible to reflag only after those obligations have expired.

Proration

§ 295.12(d)(1)

Comment: Rounding problems may produce more eligible vessels than available slots.

Response: One comment was received regarding rounding of fractional eligibility in the proration process. The point was that inclusion of all fractional eligibility could result in a number of eligible vessels that exceeds the funding available for a particular priority. MARAD agrees. However, the problem of fractional vessels versus slots was anticipated by the language of section 652(o)(2) of the Act. Specifically, that section states that, if the number of vessels eligible in a priority exceeds the available funding for the priority, the number of awards to each person shall be made in *approximately* the same ratio as the number of vessels that the individual applied for bears to the total number of vessels applied for in the priority. The term grants latitude within the process to round awards up or down, as needed, to correct rounding problems and adjust awards. Accordingly, § 295.12(d)(1) provides a mechanism for dealing with rounding problems and no changes are required.

Replacement Vessels

§ 295.20(c)

Comment: One comment was received concerning the statutory authority and practical application of § 295.20(c), which permits the replacement of vessels enrolled in the MSP.

Response: In section 8(a), the MSA authorizes the Secretary to prescribe rules as necessary to carry out the MSA. Providing for the orderly replacement of vessels enrolled in the program, should such replacement become necessary, falls within the purview of the Secretary's mandate under section 8(a). Practical application of such replacement would result from the loss of an enrolled vessel, or from an enrolled vessel otherwise becoming ineligible for participation in the program, for example, by becoming overage. The intent of § 295.20(c) is to provide the mechanism for such replacement. Criteria are already established. Section 295.20(c) refers back to § 295.10, which establishes the eligibility criteria and reflects section 651 of the Act. No change will be made in § 295.20(c).

Notice to Shipbuilders

§ 295.20(d)

Comment: MARAD received four comments on § 295.20(d). Two of the commentors stated that the section exceeded the statutory authority of the MSA by providing that MARAD issue notice in the **Federal Register** of a contractor's intent to build a vessel in a foreign shipyard, and a third commentor stated that this notice may be harmful to MSP contractors. The commentors suggested that MARAD simply develop a list of shipyards capable of building various types of vessels and make the list available to the MSP contractors. A contractor then could satisfy the requirements of section 652(b) of the MSA by directly providing notice to the shipbuilders. One commentor suggested that the prohibition against entering a contract with a foreign shipbuilder be extended from 5 to 10 working days after MARAD's publication of notice of the applicant's intent, and also that any interested U.S. shipbuilder should be allowed not less than 30 days, and not more than 120 days, to submit a design and price to the Maritime Administration. Further, the commentor suggested that MARAD require MSP contractors to make both foreign and domestic bid prices known to MARAD. MARAD would determine whether the U.S. bid is competitive and then notify the contractor that, if they select the foreign offer, the vessel would not be eligible for MSP payments.

Response: MARAD's role in issuing notices in instances where an MSP contractor proposes construction of a vessel or vessels by a foreign shipbuilder was intended to expedite the notification process while ensuring that every shipbuilder in the United States would have proper and timely notice. The agency considered the idea of providing a list of shipbuilders to each MSP contractor. However, after review, MARAD decided that such a list would be an inadequate notification tool when considering the ever changing maritime environment. It is appropriate for MARAD to exercise its discretion to provide adequate notice to U.S. shipbuilders, and it would satisfy Congressional intent that they be given an opportunity to compete for contracts. MARAD believes that publishing in the **Federal Register** is in the best interest of U.S. shipbuilders, since these notices are public documents and potential U.S. shipbuilders have access to the information. MARAD agrees with the comment concerning the length of the notice period because it will allow a more reasonable time period for U.S. shipbuilders to learn of the notice and respond to it. Section 295.20(d) will be amended to provide that MARAD publish notice of a contractor's intent within 10 days of notification by the contractor, and that the contractor will be required to wait an additional 10 days from the date of publication before entering into any contract with a foreign shipyard.

With regard to a mandatory delay of 30 to 120 days for U.S. shipyards to respond to a foreign contracting notice published by MARAD, MARAD does not believe that it has authority under the MSA to require such extended delay. The apparent intent of the legislation was only that notification be given, not that an extended delay should be imposed. Since the notification from the contractor is required "not later than 30 days" after a solicitation of a bid from a foreign yard, the bidding process should not be sufficiently advanced that U.S. shipyards could not provide bids in an expeditious manner. Accordingly, MARAD will not attempt to impose any further restriction on the contractors by requiring a longer waiting period.

With respect to the comment that MARAD evaluate bids and withhold MSA payments if the MSP operator selects a foreign shipyard, the MSA contains no authority for MARAD to deny an award or withhold MSP payments based on its evaluation of the U.S. bid being competitive.

Early Termination

§ 295.20(e)

Comment: One commentor suggested that § 295.20(e) should be rewritten substantially in the form of section 652(m) of the Act, or that the phrase "* * * to the extent and for the period * * *," be inserted before, "* * * contained in section 652(m) of the Act."

Response: Section 295.20(e) concerns the obligations of a contractor to keep an Agreement Vessel documented under U.S. registry if the contractor voluntarily elects to terminate the MSP Agreement before its termination date. The inclusion of the language "* * * to the extent and for the period * * *" would add some clarity to this provision by directly linking § 295.20(e) to the period of time specified for retention under U.S. registry in section 652(m) of the Act. Section 295.20(e) will be amended accordingly.

Termination for Lack of Funds

§ 295.20(f)

Comment: One commentor has proposed that the title of this part be changed to "Nonrenewal for Lack of Funds." In addition, the commentor suggested that vessels transferred to another registry under this regulation should be transferred to "Effective United States Control" registries deemed acceptable by MARAD.

Response: The first proposed amendment, i.e., the use of "Nonrenewal" vs. "Termination," would conform the regulation to the language of section 652(n) of the Act. Section 295.20(f) will be amended accordingly. With regard to the language on "Effective United States Control," it should be noted that the language contained in that section of the Act specifies that "* * * the vessel owner or operator may transfer and register such vessel under a foreign registry deemed acceptable by the Secretary of Transportation, notwithstanding any other provision of law." The language adopted in § 295.20(f) states "* * * the contractor may transfer and register the applicable vessel under a foreign registry deemed acceptable to the Maritime Administration." Since the Administrator has been delegated authority by the Secretary to authorize such transfers, MARAD believes that the language contained in § 295.20(f) adequately covers this situation and that no additional change is required.

Transfer of Operating Agreements.

§ 295.20(i)

In light of the issues raised by many commentors regarding possible transfers of MSP operating agreements, additional safeguards have been included in § 295.20(i) to ensure that, in the event an Agreement is transferred by a Contractor to another person or entity, the person or entity to whom an Agreement is transferred, and the vessel to be covered by the Agreement after transfer, meet the original eligibility requirements.

Limitations

§ 295.21(e)

Comment: One commentor noted that section 804 of the Act was substantially changed by section 5 of the MSA, and recommended that "* * * as amended," be added to the first sentence of § 295.21(e) after "* * * section 804."

Response: MARAD agrees, and will make the change.

Determination of Section 656 Service Level Criteria

§ 295.21(f)

Comment: MARAD received four extensive comments regarding how it should interpret the statute with regard to service levels and provide objective criteria to determine the allowable levels of service provided by MSP contractors in noncontiguous domestic trades. Most of the commentors requested that the service levels be determined at their historical levels, not anticipated carrying capacity. One commentor, in addition to advocating the use of historical capacity figures for this purpose, suggested that the applicant or contractor submit this information under oath, subject to validation by an objective source, and that the number of TEU's carried in the noncontiguous trades be reported annually by MSP contractors under oath, and subject to audit.

Response: Upon receipt of the applications for the MSP, MARAD published notification of those applications wherein the applicants requested approval to continue existing noncontiguous domestic operations. These notices were separate from the Interim Final Rule, and the comments were received separately from those of this rulemaking. Notices were published for Sea-Land Service, Inc., for services to Hawaii, Puerto Rico and Alaska; Crowley Maritime Corp., for Alaska; and OSG Car Carriers, Inc., for Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands.

Comments were received from seven commentors on the published levels of existing service claimed by the applicants, particularly where service to Alaska and Hawaii is involved. However, the volume and complexity of those comments mandated a thorough and separate examination of the implementation of section 656 of the Act.

MARAD is reserving a section in the Final Rule for determination of limitations on operations in the non-contiguous domestic trades, and will publish a Notice of Proposed Rulemaking regarding those provisions after the issue has been resolved. Section 295.21(f) has been reserved for that purpose.

Need for Financial Data

§ 295.23

Comment: MARAD received numerous comments which stated that the requirement for filing form MA–172 and an audited financial statement was beyond the statutory authority contained in the MSP and should be removed.

MARAD does not agree. In collecting such information, MARAD is exercising its discretion to require information necessary to perform its responsibilities and to monitor the efficiency and effectiveness of the maritime industry. However, in an effort to minimize the administrative burden on the contractor, the rule has been changed. MARAD is not requiring the submission of Form MA–172. The Final Rule will provide that, in the alternative, an applicant may submit an audited financial statement and vessel operating cost data submitted as part of its Emergency Preparedness Program Agreement. Final approval of the MSP data collection requirement was made by OMB on February 24, 1997, under approval number 2133–0525.

Reduction in Amount Payable

§ 295.30 (b)

Comment: MARAD received three comments which requested that the 30-day limitation on the number of days a vessel may be drydocked, surveyed, inspected or repaired be made more flexible.

Response. MARAD agrees in part with the commentors regarding the 30-day limitation. Some legitimate shipyard periods may require a greater length of time. However, in its capacity as funds administrator, the agency must assess some reasonable time frame for work or maintenance to be performed in order to ensure that the program is for operating vessels. Therefore, the final rule at § 295.30(b)(1) will be revised to permit greater than 30-day periods upon approval from MARAD.

Calculation for Partial Months

§ 295.31(a)(3) (New)

After experience gained in the start-up of the MSP in December 1996 and January 1997, MARAD realized that clarification was required regarding billing and payment for partial months. To remedy the problems experienced, a new § 295.31(a)(3) was developed. The new paragraph provides for potential prorating. The original § 295.31(a)(3) has been redesignated § 295.31(a)(4), and subsequent material has been redesignated accordingly.

Withholding 10 Percent of Funds Payable Until Final Review of the Billing Period

§ 295.31(a)(4)

Comment: MARAD received two comments stating that withholding 10 percent of funds payable until final review of the billing period exceeds the authority of the MSA.

Response: MARAD disagrees with the commentors that withholding of funds exceeds the authority granted by the MSA. Pursuant to 46 App. U.S.C. 1114(b), the Secretary, acting through the Administrator by delegation, has the authority to adopt all necessary rules and regulations to carry out the Act.

The intent of § 295.31(a)(4) is to provide a readily available source for the recapture of funds in the event that

a Contractor fails to meet the requirements of § 295.21(d). Section 295.21(d) reflects the language of section 652(b) of the Act, which requires that a vessel must be operated in U.S.-foreign, or specified mixed foreign and domestic trade, and must remain documented under 46 U.S.C., Chapter 121. However, MARAD agrees with the commentors that the establishment of an across-the-board level of 10 percent would not be necessary in all cases under the MSP. Therefore, MARAD will exercise its discretion to withhold funds based on a carrier's normal operating experience. Section 295.31(a)(4) is being amended accordingly.

Rulemaking Analysis and Notices

Executive Order 12866 (Regulatory Planning and Review), and Department of Transportation (DOT) Regulatory Policies

This rulemaking is not considered to be an economically significant regulatory action under section 3(f) of E.O. 12866. This Final Rule also is not considered a major rule for purposes of Congressional review under P.L. 104–121. Since the program is designed to support 47 vessels in FY 1997, each receiving up to $2.1 million annually, the Maritime Administrator finds that the program will not have an annual effect on the economy of $100 million or more. However, it is considered to be a significant rule under Executive Order 12866 and DOT's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Accordingly, it has been reviewed by the Office of Management and Budget.

The program is subject to annual appropriations to provide payments to the participants of $2.1 million for each Agreement Vessel for each fiscal year in which the agreement is in effect. These payments are approximately 50 percent less, per vessel, than the average payments made under the existing ODS program. A full regulatory evaluation is not necessary since this rule only establishes the procedures to implement the Act, which imposes conditions for enrollment of vessels in the MSP.

Federalism

MARAD has analyzed this rulemaking in accordance with principles and criteria contained in E.O. 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility

Although the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq*, does not apply to final rules for which a proposed rulemaking was not required, MARAD has evaluated this rule under that Act and certifies that this rule will not have a significant economic impact on a substantial number of small entities. The participants in this program are not small entities.

Environmental Assessment

MARAD has concluded that this final rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA) because they would not individually or cumulatively have a significant impact on the human environment, as determined by section 4.05 and Appendices 1 and 2 of Maritime Administrative Order MAO–600–1, which contains MARAD Procedures for Considering Environmental Impacts (50 FR 11606, March 22, 1985) implementing NEPA. The final rule does not change the environmental effect of the current ODS program, which the MSP supersedes (and which is currently under a categorical exclusion pursuant to MAO–600–1), because the vessels eligible for the MSP (1) Will continue to operate under the U.S. flag, and will continue to be governed by U.S.-flag state control while operating in the global commons; and (2) are and will continue to be designed, constructed, equipped and operated in accordance with stringent United States Coast Guard and International Maritime Organization standards for maritime safety and marine environmental protection. Therefore, this rule does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*), this rulemaking contains new information collection or recordkeeping requirements, which were approved by OMB (approval number 2133–0525) under emergency approval authority until February 28, 1997. This approval was subsequently extended by OMB for the customary three years on February 24, 1997.

This rule does not impose any unfunded mandates.

List of Subjects in 46 CFR Part 295

Assistance payments, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, Part 295 of 46 CFR Chapter II, Subchapter C, is revised to read as follows:

PART 295—MARITIME SECURITY PROGRAM (MSP)

Subpart A—Introduction

Sec.
295.1 Purpose.
295.2 Definitions.
295.3 Waivers.

Subpart B—Establishment of MSP Fleet and Eligibility

295.10 Eligibility requirements.
295.11 Applications.
295.12 Priority for awarding agreements.

Subpart C—Maritime Security Program Operating Agreements

295.20 General conditions.
295.21 MSP assistance conditions.
295.22 Commencement and termination of operations.
295.23 Reporting requirements.

Subpart D—Payment and Billing Procedures

295.30 Payment.
295.31 Criteria for payment.

Subpart E—Appeals Procedures

295.40 Administrative determinations.

Authority: 46 App. U.S.C. 1171 *et seq.*, 46 App. U.S.C. 1114 (b), 49 CFR 1.66.

Subpart A—Introduction

§ 295.1 Purpose.

This part prescribes regulations implementing the provisions of Subtitle B (Maritime Security Fleet Program) of Title VI of the Merchant Marine Act, 1936, as amended, governing Maritime Security Program payments for vessels operating in the foreign trade or mixed foreign and domestic commerce of the United States allowed under a registry endorsement issued under 46 U.S.C. 12105.

§ 295.2 Definitions.

For the purposes of this part:

(a) *Act*, means the Merchant Marine Act, 1936, as amended by the Maritime Security Act of 1996 (MSA)(46 App. U.S.C. 1101 *et seq.*).

(b) *Administrator*, means the Maritime Administrator, U.S. Maritime Administration (MARAD), U.S. Department of Transportation, who is authorized to administer the MSA.

(c) *Agreement Vessel*, means a vessel covered by a MSP Operating Agreement.

(d) *Applicant*, means an applicant for a MSP Operating Agreement.

(e) *Bulk Cargo*, means cargo that is loaded and carried in bulk without mark or count.

(f) *Chapter 121*, means the vessel documentation provisions of chapter 121 of Title 46, United States Code.

(g) *Citizen of the United States*, means an individual or a corporation, partnership or association as

determined under section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).

(h) *Contracting Officer*, means the Associate Administrator for National Security, MARAD.

(i) *Contractor*, means the owner or operator of a vessel that enters into a MSP Operating Agreement for the vessel with MARAD pursuant to § 295.20 of this part.

(j) *DOD*, means the U.S. Department of Defense.

(k) *Domestic Trade*, means trade between two or more ports and/or points in the United States.

(l) *Eligible Vessel*, means a vessel that meets the requirements of § 295.10(b) of this part.

(m) *Emergency Preparedness Program Agreement*, means the agreement, required by section 653 of the Act, between a Contractor and the Secretary of Transportation (acting through MARAD) to make certain commercial transportation resources available during time of war or national emergency.

(n) *Enrollment*, means the entry into a MSP Operating Agreement with the MARAD to operate a vessel(s) in the MSP Fleet in accordance with § 295.20 of this part.

(o) *Fiscal Year*, means any annual period beginning on October 1 and ending on September 30.

(p) *LASH Vessel*, means a lighter aboard ship vessel.

(q) *Militarily Useful*, is defined according to DOD Joint Strategic Planning Capabilities Plan (JSCAP) guidance as follows:

(1) *U.S. Sources*—All active and inactive ocean-going ships (and certain other specially selected vessels) within the following types and criteria from United States sources with a minimum speed of 12 knots.

(2) *Dry Cargo*—All dry cargo ships, including integrated tug/barges (ITBs) with a minimum capacity of 6,000 tons (DWT) capable of carrying, without significant modification, any of the following cargoes: unit equipment, ammunition, or sustaining supplies.

(r) *MSP Fleet*, means the fleet of vessels operating under MSP Operating Agreements.

(s) *MSP Operating Agreement*, means the MSP Operating Agreement, providing for MSP payments entered into by a Contractor and MARAD.

(t) *MSP Payments*, means the payments made for the operation of U.S.-flag vessels in the foreign trade or mixed foreign and domestic trade of the United States allowed under a registry endorsement issued under 46 U.S.C. 12105, to maintain intermodal shipping capability and to meet national defense and security requirements in accordance with the terms and conditions of the MSP Operating Agreement.

(u) *Ocean Common Carrier*, means a carrier that meets the requirements of the MSA, section 654(3).

(v) *ODS*, means Operating-Differential Subsidy provided by Subtitle A, Title VI, of the Act.

(w) *Operating Day*, means any day during which a vessel is operated in accordance with the terms and conditions of the MSP Operating Agreement.

(x) *Related party*, means:

(1) a holding company, subsidiary, affiliate, or associate of a contractor who is a party to an operating agreement under Subtitle B, Title VI, of the Act; and

(2) an officer, director, agent, or other executive of a contractor or of a person referred to in paragraph (x)(1) of this section.

(y) *Roll-on/Roll-off Vessel*, means a vessel that has ramps allowing cargo to be loaded and discharged by means of wheeled vehicles so that cranes are not required.

(z) *Secretary*, means the Secretary of Transportation.

(aa) *United States Documented Vessel*, means a vessel documented under Chapter 121 of Title 46, United States Code.

§ 295.3 Waivers.

In special circumstances, and for good cause shown, the procedures prescribed in this part may be waived in writing by the Maritime Administration, by mutual agreement of the Maritime Administration and the Contractor, so long as the procedures adopted are consistent with the Act and with the objectives of these regulations.

Subpart B—Establishment of MSP Fleet and Eligibility

§ 295.10 Eligibility requirements.

(a) *Applicant*. Any person may apply to MARAD for Enrollment of Eligible Vessels in MSP Operating Agreements for inclusion in the MSP Fleet pursuant to the provisions of Subtitle B, Title VI, of the Act. Applications shall be addressed to the Secretary, Maritime Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) *Eligible Vessel*. A vessel eligible for enrollment in a MSP Operating Agreement shall be self-propelled and meet the following requirements:

(1) *Vessel Type*. (i) *Liner Vessel*. The vessel shall be operated by a person as an Ocean Common Carrier.

(ii) *Specialty vessel*. Whether in commercial service, on charter to the DOD, or in other employment, the vessel shall be either:

(A) a Roll-on/Roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units; or

(B) a LASH vessel with a barge capacity of at least 75 barges; or

(iii) *Other vessel*. Any other type of vessel that is determined by the MARAD to be suitable for use by the United States for national defense or military purposes in time of war or national emergency; and

(2) *Vessel Requirements*. (i) *U.S. Documentation*. Except as provided in paragraph (b)(2)(iv) of this section, the vessel is a U.S.-documented vessel; and

(ii) *Age*. Except as provided in paragraph (b)(2)(iii), on the date a MSP Operating Agreement covering the vessel is first entered into is:

(A) a LASH Vessel that is 25 years of age or less; or

(B) any other type of vessel that is 15 years of age or less.

(iii) *Waiver Authority*. In accordance with section 651(b)(2) of the Act, MARAD is authorized to waive the application of paragraph (b)(2)(ii) of this section if MARAD, in consultation with the Secretary of Defense, determines that the waiver is in the national interest.

(iv) *Intent to document U.S.* Although the vessel may not be a U.S.-documented vessel, it shall be considered an Eligible Vessel if the vessel meets the criteria for documentation under 46 U.S.C. Chapter 121, the vessel owner has demonstrated an intent to have the vessel documented under 46 U.S.C. Chapter 121, and the vessel will be less than 10 years of age on the date of that documentation; and

(3) *MARAD's determination*. MARAD determines that the vessel is necessary to maintain a United States presence in international commercial shipping and the applicant possesses the ability, experience, resources and other qualifications necessary to execute the obligations of the MSP Operating Agreement, or MARAD, after consultation with the Secretary of Defense, determines that the vessel is militarily useful for meeting the sealift needs of the United States.

§ 295.11 Applications.

(a) *Action by MARAD*. (1) *Time Deadlines*. Not later than 30 days after the enactment of the Maritime Security Act of 1996, Pub. L. 104–239, MARAD shall accept applications for Enrollment of vessels in the MSP Fleet. Within 90 days after receipt of a completed application, MARAD shall enter into a MSP Operating Agreement with the

applicant or provide in writing the reason for denial of that application.

(2) *Closure of Applications.* Applications for MSP Operating Agreements shall be made only at such time as, and in response to, publication of invitations to apply by MARAD in the **Federal Register**. After the Administrator has fully allocated authorized contracting authority through the award of the maximum number of vessels allowed under § 295.30(a), MARAD will not accept any applications for award of new Operating Agreements until additional contracting authority becomes available, or existing contracting authority reverts back to MARAD.

(3) *Reflagging for Eligible vessels.* Except as provided in paragraph (a)(4) of this section, an applicant may remove a vessel from U.S. registry without MARAD approval if an application for a MSP Operating Agreement has been filed for that vessel, the applicant is qualified, and it has been determined by MARAD to be eligible under MSA section 651(b)(1) under a priority for which sufficient funds are available and the Administrator has not awarded an Operating Agreement for the vessel within 90 days of that application.

(4) *Reflagging ODS and MSC chartered vessels.* Vessels eligible under MSA section 651(b)(1) which are also subject to ODS contracts or on charter to MSC, and for which applications have been denied pursuant to § 295.11(a)(1) of this part, may be removed from U.S. registry only after those agreements have expired and only after the age requirement in section 9(e)(3) of the Shipping Act, 1916 (46 App. U.S.C. 808) has been met.

(b) *Action by the Applicant.* Applicants for MSP Payments shall submit information on the following:

(1) *Intermodal network.* A statement describing its operating and transportation assets, including vessels, container stocks, trucks, railcars, terminal facilities, and systems used to link such assets together;

(2) *Diversity of trading patterns.* A list of countries and trade routes serviced along with the types and volumes of cargo carried;

(3) *Vessel construction date;*

(4) *Vessel type and size;* and

(5) *Military Utility.* An assessment of the value of the vessel to DOD sealift requirements.

(Approved by the Office of Management and Budget under Control Number 2133–0525)

§ 295.12 Priority for awarding agreements.

Subject to the availability of appropriations, MARAD shall enter into individual MSP Operating Agreements for Eligible Vessels according to the following priorities:

(a) *First priority requirements.* First priority shall be accorded to any Eligible Vessel meeting the following requirements:

(1) *U.S. citizen ownership.* Vessels owned and operated by persons who are Citizens of the United States as defined in § 295.2; or

(2) *Other corporations.* Vessels less than 10 years of age and owned and operated by a corporation that is:

(i) eligible to document a vessel under 46 U.S.C. Chapter 121; and

(ii) affiliated with a corporation operating or managing for the Secretary of Defense other vessels documented under 46 U.S.C. Chapter 121, or chartering other vessels to the Secretary of Defense.

(3) *Limitation on number of vessels.* Limitation on the total number of Eligible Vessels awarded under paragraph (a) of this section shall be:

(i) For any U.S. citizen under paragraph (a)(1), the number of vessels may not exceed the sum of:

(A) the number of U.S.-flag documented vessels that the Contractor or a related party operated in the foreign commerce of the United States on May 17, 1995, except mixed coastwise and foreign commerce; and

(B) the number of U.S.-flag documented vessels the person chartered to the Secretary of Defense on that date; and

(ii) For any corporation under paragraph (a)(2) of this section, not more than five Eligible Vessels.

(4) *Related party.* For the purpose of this section a related party with respect to a person shall be treated as the person.

(b) *Second priority requirements.* To the extent that appropriated funds are available after applying the first priority in paragraph (a) of this section, the MARAD shall enter into individual MSP Operating Agreements for Eligible Vessels owned and operated by a person who is:

(1) *U.S. citizen.* A Citizen of the United States, as defined in § 295.2(g), that has not been awarded a MSP Operating Agreement under the priority in paragraph (a) of this section, or

(2) *Other.* A person (individual or entity) eligible to document a vessel under 46 U.S.C. Chapter 121, and affiliated with a person or corporation operating or managing other U.S.-documented vessels for the Secretary of Defense or chartering other vessels to the Secretary of Defense.

(c) *Third priority.* To the extent that appropriated funds are available after applying the first and second priority, any other Eligible Vessel.

(d) *Number of MSP Operating Agreements Awarded.* If appropriated funds are not sufficient to award agreements to all vessels within a priority set forth herein, MARAD shall award to each eligible applicant in that priority a number of Operating Agreements that bears approximately the same ratio to the total number of Operating Agreements requested under that priority, and for which timely applications have been made, as the amount of appropriations available for MSP Operating Agreements for Eligible Vessels in the priority bears to the amount of appropriations necessary for MSP Operating Agreements for all Eligible Vessels in the priority.

Subpart C—Maritime Security Program Operating Agreements

§ 295.20 General conditions.

(a) *Approval.* MARAD may approve applications to enter into a MSP Operating Agreement and make MSP Payments with respect to vessels that are determined to be necessary to maintain a United States presence in international commercial shipping or those that are deemed, after consultation with the Secretary of Defense, to be militarily useful for meeting the sealift needs of the United States in national emergencies.

(b) *Effective date.* (1) *General Rule.* Unless otherwise provided in the contract, the effective date of a MSP Operating Agreement is the date when executed by the Contractor and MARAD.

(2) *Exceptions.* In the case of an Eligible Vessel to be included in a MSP Operating Agreement that is subject to an ODS contract under Subtitle A, Title VI, of the Act or on charter to the U.S. Government, other than a charter under the provisions of an Emergency Preparedness Program Agreement provided by Section 653 of the Act, unless an earlier date is requested by the applicant, the effective date for a MSP Operating Agreement shall be:

(i) The expiration or termination date of the ODS contract or Government charter covering the vessel, respectively, or

(ii) Any earlier date on which the vessel is withdrawn from that contract or charter.

(c) *Replacement Vessels.* MARAD may approve the replacement of an Eligible Vessel in a MSP Operating Agreement provided the replacement vessel is eligible under § 295.10.

(d) *Notice to shipbuilders.* The Contractor agrees that no later than 30

days after soliciting any offer or bid for the construction of any vessel in a foreign shipyard, and before entering into any contract for construction of a vessel in a foreign shipyard, the Contractor shall provide notice of its intent to enter into such a contract (for vessels being considered for U.S.-flag registry) to MARAD. Within 10 business days after the receipt of such notification, MARAD shall issue a notice in the **Federal Register** of the Contractor's intent. The Contractor is prohibited from entering into any such contract until 10 business days after the date of publication of such notice.

(e) *Early termination.* A MSP Operating Agreement shall terminate on a date specified by the Contractor if the Contractor notifies MARAD not later than 60 days before the effective date of the proposed termination, that the Contractor intends to terminate the Agreement. The Contractor shall be bound by the provisions relating to vessel documentation and national security commitments to the extent and for the period contained in section 652(m) of the Act.

(f) *Non-renewal for lack of funds.* If, by the first day of a fiscal year, insufficient funds have been appropriated under Section 655 of the Act for that fiscal year, MARAD shall notify the Congress that MSP Operating Agreements for which insufficient funds are available will be terminated on the 60th day of that fiscal year if sufficient funds are not appropriated or otherwise made available by that date. If only partial funding is appropriated by the 60th day of such fiscal year, then MSP Operating Agreements for which funds are not available shall be terminated using the pro rata distribution method used to award MSP Operating Agreements set forth in § 295.12(d). With respect to each terminated agreement the Contractor shall be released from any further obligation under the agreement, and the Contractor may transfer and register the applicable vessel under a foreign registry deemed acceptable by MARAD. In the event that no funds are appropriated, then all MSP Operating Agreements shall be terminated and each Contractor shall be released from its obligations under the agreement. Final payments under the terminated agreements shall be made in accordance with § 295.30. To the extent that funds are appropriated in a subsequent fiscal year, existing operating agreements may be renewed if mutually acceptable to the Administrator and the Contractor and the MSP vessel remains eligible.

(g) *Operation under a Continuing Resolution.* In the event a Continuing Resolution (CR) is in place that does not provide sufficient appropriations to fully meet obligations under MSP Operating Agreements, a Contractor may request termination of the agreement in accordance with paragraph (f), herein, and § 295.30.

(h) *Requisition authority.* To the extent section 902 of the Act is applicable to any vessel transferred foreign under this section, the vessel shall remain available to be requisitioned by the Maritime Administration under that provision of law.

(i) *Transfer of Operating Agreements.* A Contractor subject to an Agreement may transfer that Agreement (including all rights and obligations thereunder) to any person eligible to enter into an Agreement under the same priority established in section 652(i)(1)(A) of the Act as the Contractor, provided that:

(1) The Contractor gives notice of any such transfer to the Maritime Administrator by filing a completed application;

(2) The transfer is not disapproved in writing by the Maritime Administrator within 90 days of the notification; and

(3) the vessel to be covered by the Agreement after transfer is the same vessel originally covered by the Agreement or is an eligible vessel under section 651(b) of the Act and is the same type, and comparable to, the vessel originally covered by the Agreement.

§ 295.21 MSP Assistance Conditions.

(a) *Term of MSP Operating Agreement.* MSP Operating Agreements shall be effective for a period of not more than one fiscal year, and unless otherwise specified in the Agreement, shall be renewable, subject to the availability of appropriations or amounts otherwise made available, for each subsequent fiscal year through the end of FY 2005. In the event appropriations are enacted after October 1 with respect to any subsequent fiscal year, October 1 shall be considered the effective date of the renewed agreement, provided sufficient funds are made available and subject to the Contractor's rights for early termination pursuant to section 652(m) of the Act.

(b) *Terms under a Continuing Resolution (CR).* In the event funds are available under a CR, the terms and conditions of the MSP Operating Agreements shall be in force provided sufficient funds are available to fully meet obligations under MSP Operating Agreements, and only for the period stipulated in the applicable CR. If funds are not appropriated at sufficient levels for any portion of a fiscal year, the terms and conditions of any applicable MSP Operating Agreement may be voided and the Contractor may request termination of the MSP Operating Agreement in accordance with § 295.20(f).

(c) *National security requirements.* Each MSP Operating Agreement shall require the owner or operator of an Eligible Vessel included in that agreement to enter into an Emergency Preparedness Program Agreement pursuant to Section 653 of the Act.

(d) *Vessel operating requirements.* The MSP Operating Agreement shall require that during the period an Eligible Vessel is included in that Agreement, the Eligible Vessel shall:

(1) *Documentation.* Be documented as a U.S.-flag vessel under 46 U.S.C. Chapter 121; and

(2) *Operation.* Be operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105, and shall not otherwise be operated in the coastwise trade of the United States.

(e) *Limitations.* Limitations on Contractors with respect to the operation of foreign-flag vessels shall be in accordance with section 804 of the Act, as amended. The operation of vessels, other than Agreement Vessels, in the noncontiguous trades shall be limited in accordance with service levels and conditions permitted in section 656 of the Act.

(f) *Non-Contiguous Domestic Trade. [Reserved]*

(g) *Obligation of the U.S. Government.* The amounts payable as MSP Payments under a MSP Operating Agreement shall constitute a contractual obligation of the United States Government to the extent of available appropriations.

§ 295.22 Commencement and termination of operations.

(a) *Time frames.* A Contractor that has been awarded a MSP Operating Agreement shall commence operations of the Eligible Vessel, under the applicable agreement or a subsequently renewed agreement, within the time frame specified as follows:

(1) *Existing vessel.* Within one year after the initial effective date of the MSP Operating Agreement in the case of a vessel in existence on that date and after notification to MARAD within 30 days of the Contractor's intent; or

(2) *New building.* Within 30 months after the initial effective date of the MSP Operating Agreement in the case of a vessel to be constructed after that date.

(b) *Unused authority.* In the event of a termination of unused authority pursuant to paragraph (a) of this section, such authority shall revert to MARAD.

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial Approvals, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590, one of the following reports, including management footnotes where necessary to make a fair financial presentation:

(a) *Form MA–172.* Not later than 120 days after the close of the Contractor's semiannual accounting period, a Form MA–172 on a semiannual basis, in accordance with 46 CFR 232.6; or

(b) *Financial Statement.* Not later than 120 days after the close of the Contractor's annual accounting period, an audited annual financial statement in accordance with 46 CFR 232.6 and the most recent vessel operating cost data submitted as part of its Emergency Preparedness Agreement.

(Approved by the Office of Management and Budget under Control Number 2133–0525.).

Subpart D—Payment and Billing Procedures

§ 295.30 Payment.

(a) *Amount payable.* A MSP Operating Agreement shall provide, subject to the availability of appropriations and to the extent the agreement is in effect, for each Agreement Vessel, an annual payment of $2,100,000 for each fiscal year. This amount shall be paid in equal monthly installments at the end of each month. The annual amount payable shall not be reduced except as provided in paragraph (b) of this section and § 295.31(a)(3).

(b) *Reductions in amount payable.* (1) The annual amount otherwise payable under a MSP Operating Agreement shall be reduced on a pro rata basis for each day less than 320 in a fiscal year that an Agreement Vessel is not operated exclusively in the U.S.-foreign trade or in mixed foreign and domestic trade allowed under a registry endorsement issued under 46 U.S.C. 12105. Days during which the vessel is drydocked or undergoing survey, inspection, or repair shall be considered to be days during which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days, unless prior to the expiration of a vessel's 30 day period, approval is obtained from MARAD for an extension of the 30 day provision.

(2) There shall be no payment for any day that a MSP Agreement Vessel is engaged in transporting more than 7,500 tons (using the U.S. English standard of short tons, which converts to 6,696.75 long tons, or 6,803.85 metric tons) of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b of the Act, provided that it is bulk cargo.

§ 295.31 Criteria for payment

(a) *Submission of voucher.* For contractors operating under more than one MSP Operating Agreement, the contractor may submit a single monthly voucher applicable to all its agreements. Each voucher submission shall include a certification that the vessel(s) for which payment is requested were operated in accordance with § 295.21(d) and applicable MSP Operating Agreements with MARAD, and consideration shall be given to reductions in amounts payable as set forth in § 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR–330 Room 7325, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590. Payments shall be paid and processed under the terms and conditions of the Prompt Payment Act, 31 U.S.C. 3901.

(1) Payments shall be made per vessel, in equal monthly installments, of $175,000.

(2) To the extent that reductions under § 295.30(b) are known, such reductions shall be applied at the time of the current billing. The daily reduction amounts shall be based on the annual amounts in 295.30(a) of this part divided by 365 days (366 days in leap years) and rounded to the nearest cent. Daily reduction amounts shall be applied as follows:

FY 1997—$5,753.42
FY 1998—$5,753.42
FY 1999—$5,753.42
FY 2000—$5,737.70
FY 2001—$5,753.42
FY 2002—$5,753.42
FY 2003—$5,753.42
FY 2004—$5,737.70
FY 2005—$5,753.42

(3) In the event a monthly payment is for a period less than a complete month, that month's payment shall be calculated by multiplying the appropriate daily rate in § 295.31(a)(2) by the actual number of days the Eligible Vessel operated in accordance with § 295.21.

(4) MARAD may require, for good cause, that a portion of the funds payable under this section be withheld if the provisions of § 295.21(d) have not been met.

(5) Amounts owed to MARAD for reductions applicable to a prior billing period shall be electronically transferred using MARAD's prescribed format, or a check may be forwarded to the Maritime Administration, P.O. Box 845133, Dallas, Texas 75284–5133, or the amount owed can be credited to MARAD by offsetting amounts payable in future billing periods.

(b) [Reserved]

Subpart E—Appeals Procedures

§ 295.40 Administrative determinations.

(a) *Policy.* A Contractor who disagrees with the findings, interpretations or decisions of the Contracting Officer with respect to the administration of this part may submit an appeal to the Maritime Administrator. Such appeals shall be made in writing to the Maritime Administrator, within 60 days following the date of the document notifying the Contractor of the administrative determination of the Contracting Officer. Such an appeal should be addressed to the Maritime Administrator, Att.: MSP Contract Appeals, Maritime Administration, 400 Seventh St., S.W. Washington, D.C. 20590.

(b) *Process.* The Maritime Administrator may require the person making the request to furnish additional information, or proof of factual allegations, and may order any proceeding appropriate in the circumstances. The decision of the Maritime Administrator shall be final.

By order of the Maritime Administrator.

Dated: July 10, 1997.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 97–18559 Filed 7–14–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346–7035–02; I.D. 070397G]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Adjustments to the 1997 State Quotas; Commercial Quota Harvested for North Carolina

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota adjustment, notice of commercial quota harvest.

SUMMARY: NMFS issues this notification announcing adjustments to the commercial state quotas for the 1997 summer flounder fishery. This action complies with regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea