

(v) Any other evidence that would demonstrate ownership or control of one party by another allegedly related party.

(c) If MARAD determines during the course of its review that additional information is required from the parties alleged to have exceeded the excessive share cap, the Chief Counsel will advise the Secretary of Commerce and/or the NPFMC what information is required. The Secretary and/or the NPFMC will request that specific parties submit the required information to MARAD.

(d) The Chief Counsel will make a finding as soon as practicable and will submit it to the Secretary of Commerce and the NPFMC.

(e) For purposes of this section, if 10% or more of the interest in an entity is owned or controlled either directly or indirectly by another individual or entity, the two entities will be considered the same entity for purposes of applying the harvesting and processing caps.

(1) For purposes of this section, an entity will be deemed to have an ownership interest in a pollock harvesting or processing entity if it either owns a percentage of the pollock harvesting or processing entity directly or if ownership can be traced through intermediate entities to the pollock harvesting or processing entity. To determine the percentage of ownership interest that an entity has in a pollock harvesting or processing entity where the ownership interest passes through one or more intermediate entities, the entity's percentage of direct interest in an intermediate entity is multiplied by the intermediate entity's percentage of direct or indirect interest in the pollock harvesting or processing entity.

(2) For purposes of this section, an entity will be deemed to exercise 10% or greater control over a pollock harvesting or processing entity if:

(i) It has the right to direct the business of the pollock harvesting or processing entity;

(ii) It has the right to appoint members to the management team of the pollock harvesting or processing entity such as the directors of a corporation or is a general partner or joint venturer in a harvesting or processing entity;

(iii) It has the right to direct the business of an entity that directly or indirectly owns or controls 10% of a harvesting or processing entity; or

(iv) It owns 50% or more of an entity that owns or controls 10 percent of a pollock harvesting or processing entity.

(f) If the Secretary of Commerce determines that there is enough evidence to pursue an enforcement action for violation of the harvesting or processing caps contained in section 210(e) of the AFA, the Person against whom an enforcement action is taken is entitled to notice and an opportunity for a hearing before the Secretary of Commerce in accordance with 5 U.S.C. 554.

**PART 370—CLAIMS**

**Subpart A—Processing of Time-Barred Claims**

- Sec.
- 370.1 Definitions.
- 370.2 General policy.

**Subpart B [Reserved]**

**Subpart A—Processing of Time-Barred Claims**

**§ 370.1 Definitions.**

(a) *Time-barred claim* means a claim against the Government, for which the statutory period for filing suit has expired.

(b) *Contract* includes every agreement or contract entered into by the Maritime Administrator and/or Maritime Subsidy Board, the Director National Shipping Authority or their delegatee.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

[G.O. 102, 34 FR 6928, Apr. 25, 1969]

**§ 370.2 General policy.**

(a) Time-barred claims shall be rejected, except as follows:

(1) A time-barred claim which could be asserted in court by way of set-off against a claim in favor of the United States arising out of the same contract may be considered in an overall settlement where settlement will result in a net payment to the United States, provided claimant releases the United States from all claims arising from or

in any way connected with said contract.

(2) Time-barred claims in favor of friendly foreign governments shall not be rejected solely because they are time-barred. However, should any such government adopt the practice of asserting the statute of limitations as a defense against claims of the United States, the time-barred claims of that government shall be rejected.

(3) Time-barred claims arising under Second Seamen's War Risk insurance (or similar earlier types of crew insurance) where the policy was issued or the risks were assumed by the Maritime Administration (or its predecessors), shall not be rejected where the beneficiaries were precluded from receiving the proceeds of the policy by reason of regulations or orders of the U.S. Government (i) by reason of the beneficiary being physically or mentally unable to present the claim, (ii) by the beneficiaries being unaware of their entitlement to the proceeds in question, or (iii) where the claim is not "stale" under general principles of equity.

(b) For the purpose of a claim by a General Agent under General Agency Agreements set forth in 32A CFR AGE-1 for reimbursement by the Maritime Administration on account of a timely payment made to a third party within a period of limitations running from the date the claim of the third party accrued, the period of limitations applicable to the General Agent shall run from the date of such payment. In all other cases involving claims arising under General Agency Agreements, including third-party claims, the policy provided in paragraph (a) of this section shall apply.

(c) Consideration of any claim governed by applicable regulations in this chapter II, including without limitation parts 272, 292, and 205 of this chapter, shall be controlled by the time limitations expressly provided for with respect to the submission of such claims.

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

[G.O. 102, 34 FR 6928, Apr. 25, 1969]

### Subpart B [Reserved]

## PART 380—PROCEDURES

### Subpart A—Filing of Applications Under Section 805(a), 1936 Act

Sec.

- 380.1 Purpose.
- 380.2 Filing applications.
- 380.3 Processing of application.
- 380.4 Notices; statements from interested parties and arrangements for hearing.
- 380.5 Exception to procedure.

### Subpart B—Application for Designation of Vessels as American Great Lakes Vessels

- 380.10 Purpose.
- 380.11 Designation of American Great Lakes vessels.
- 380.12 Application requirements.

### Subpart C—Records Retention Schedule

- 380.20 Purpose.
- 380.21 Reproduction.
- 380.22 Responsibility.
- 380.23 Supervision of records.
- 380.24 Schedule of retention periods and description of records.

### Subpart D [Reserved]

### Subpart E—Compulsory Disclosure

- 380.40 Subpoenas, other compulsory processes and requests.

### Subpart A—Filing of Applications Under Section 805(a), 1936 Act

AUTHORITY: Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114.

SOURCE: General Order 86, Rev., 33 FR 810, Jan. 23, 1968, unless otherwise noted.

#### § 380.1 Purpose.

To prescribe procedure to be followed for filing applications submitted to the Maritime Subsidy Board/Maritime Administration pursuant to the provisions of section 805(a), Merchant Marine Act, 1936, as amended.

#### § 380.2 Filing applications.

(a) An applicant under section 805(a) shall file his application (16 copies, including three originals) with the Secretary, Maritime Subsidy Board/Maritime Administration at least 15 days in advance of the effective date of the action proposed in the application.

(b) The application shall concisely and clearly reflect: