

(iii) Other applicable provisions of law, and

(iv) The Documentation.

(c) *Security proceeds to Secretary.* Our interest in proceeds realized from the disposition of or collection regarding the security granted to us in consideration for the Guarantees (except all proceeds from the sale, requisition, charter or other disposition of property purchased by us at a foreclosure or other public sale, which proceeds shall belong to and vest exclusively in us), shall be an amount equal to, but not in excess of, the sum of (in order of priority of application of the proceeds):

(1) All moneys due and unpaid and secured by the Mortgage or Security Agreement;

(2) All advances, including interest thereon, by us, under the Security Agreement and all our reasonable charges and expenses;

(3) The accrued and unpaid interest on the Secretary's Note;

(4) The accrued and unpaid balance of the principal of the Secretary's Note; and

(5) To the extent of any collateralization by the Obligor of other debt due to us from the Obligor under other Title XI financings, such other Title XI debt.

(d) *Security proceeds to Obligor.* You shall be entitled to the proceeds from the sale or other disposition of security, described in paragraph (c) of this section, if and to the extent that the proceeds realized are in excess of the amounts described in paragraphs (c)(1) through (5) of this section.

**§ 298.42 Reporting requirements—financial statements.**

(a) *In general.* The financial statements of the Company shall be audited at least annually, in accordance with generally accepted auditing standards, by independent certified public accountants licensed to practice by the regulatory authority of a State or other political subdivision of the United States or, licensed public accountants licensed to practice by the regulatory authority or other political subdivision of the United States on or before December 31, 1970.

(b) *Eligible Export Vessels.* In the case of Eligible Export Vessels, the ac-

counts of the Company shall be audited at least annually, and unless otherwise agreed to by us, we shall require that the financial statements be in accordance with generally accepted accounting principles, by accountants as described in paragraph (a) of this section or by independent public accountants licensed to practice by the regulatory authority or other political subdivision of a foreign country, provided such accountants are satisfactory to us. The accountants performing such audits may be the regular auditors of the Company.

(c) *Reports of Company and other Persons.* Except as we require otherwise, the Company must file a semiannual financial report and an annual financial report, prepared in accordance with generally accepted accounting principles, with us as specified in the Documentation. You must include:

(1) The balance sheet and a statement of paid-in-capital and retained earnings at the close of the required reporting period,

(2) A statement of income for the period, and

(3) Any other statement that we consider necessary to accurately reflect the Company's financial condition and the results of its operations.

(d) *Required form.* We will specify in a letter to the Company the form required for reporting and the number of copies that you must submit

(e) *Other Persons.* We may after providing the Company notice, also require the Company to submit financial statements of any other Person, directly or indirectly participating in the project, if the financial condition of that Person affects our security for the Guarantees.

(f) *Timeliness.* The required financial report for the annual period will be due within 105 days after the close of each fiscal year of the Company, commencing with the first fiscal year ending after the date of the Security Agreement. The required semiannual report will be due within 105 days after each semiannual period, commencing with the first semiannual period ending after the date of the Security Agreement.

(g) *Public accountant's report.* The annual report will be accompanied by the

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public accountant's report based on an audit of the company's financial statements. We may require an audit by the public accountants of the financial statements contained in the company's semiannual report. We also may require certification of the semiannual report by the accountants. Where independent certification is not required, a responsible corporate officer will attach a certification that such report is based on the accounting records and, to the best of that officer's knowledge and belief, is accurate and complete.

(h) *Leveraged lease financing.* If the method of financing involved is a leveraged lease financing, or a trust is the owner of the Vessels, we may modify the requirements for annual and semiannual accounting reports of the Obligor accordingly.

(i) *Letter of confirmation.* The Company must furnish, along with its financial report, a letter of confirmation issued by its insurance underwriter(s) or broker(s) that the Company has paid premiums on insurance applicable to the preservation, protection and operation of the asset, which information

must state the term for which the insurance is in force.

**§ 298.43 Applicability of the regulations.**

(a) The regulations in this part are effective August 21, 2000, and apply to all applications made, Letter Commitments, Commitments to Guarantee Obligations or Guarantees issued or entered into on or after August 21, 2000, under section 1104(a) of the Merchant Marine Act, 1936, as amended.

(b) The regulations in this part do not apply to any applications made, Letter Commitments, Commitments to Guarantee Obligations, or Guarantees issued under those regulations in effect before August 21, 2000. See 46 CFR, parts 200 to 499, edition revised as of October 1, 1996 and 46 CFR, parts 200 to 499, edition revised as of October 1, 1999 for regulations that apply to applications made, Letter Commitments, Commitments to Guarantee Obligations, or Guarantees issued before August 21, 2000.

**Subpart F—Administration  
[Reserved]**

**SUBCHAPTER E [Reserved]  
SUBCHAPTER F—POSITION REPORTING SYSTEM**

**PART 307—ESTABLISHMENT OF  
MANDATORY POSITION REPORTING SYSTEM FOR VESSELS**

- Sec.
- 307.1 Purpose.
- 307.3 Definitions.
- 307.5 Provisions of general applicability.
- 307.7 Information required in report.
- 307.9 When to report.
- 307.11 Report changes.
- 307.13 Where to report.
- 307.15 Release of information from reports.
- 307.17 Distress messages and hostile action reports.
- 307.19 Penalties.

AUTHORITY: Secs. 204(b), 212(A), 1203(a), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1122(a), 1283)); Pub. L. 97-31; 46 CFR 1.66.

SOURCE: 51 FR 18329, May 19, 1986, unless otherwise noted.

**§ 307.1 Purpose.**

This part establishes that operators of U.S.-flag oceangoing vessels in U.S. foreign trade and certain foreign-flag vessels as described in 46 U.S.C. 1283 must report on their locations according to the provisions of this regulation to enhance the safety of vessel operations at sea and provide a contingency for events of national emergency.

**§ 307.3 Definitions.**

As used in this part:

(a) *Administrator* means the Maritime Administrator of the Department of Transportation.

(b) *MARAD* means the Maritime Administration, Department of Transportation.

(c) *Coast Guard* means the United States Coast Guard, Department of Transportation.