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days to yield the daily cost factors. Total voyage days shall be applied to the daily cost factors and totaled with the return on working capital and new vessel allowance for the voyage to determine the daily capital cost component.

(c) *Port and cargo handling cost component.* MARAD shall calculate an estimate of all port and cargo handling costs on the basis of the reported cargo tender terms. The port and cargo handling cost component shall be based on vessels in the category and the most current information available verified by information submitted in accordance with §382.2(c), or as otherwise determined by MARAD, such as by analysis of independent data obtained from chartering agencies.

(d) *Brokerage and overhead component.* An allowance for broker's commission and overhead expenses of 8.5 percent shall be added to the sum of the operating cost component, the capital cost component, and the port and cargo handling cost component.

(e) *Determination of voyage days.* The following assumptions shall be made in determining the number of preference cargo voyage days:

(1) The voyage shall be round-trip with the return in ballast to a port or port range selected by MARAD as the most appropriate, unless the vessel is scrapped or sold after discharge of the preference cargo and does not return to the United States as a U.S.-flag vessel. In this event, only voyage days from the load port to the discharge port, including time allowed to discharge, shall be included.

(2) Cargo is loaded and discharged as per cargo tender terms interpreted in accordance with the "International Rules For the Interpretation of Trade Terms" (INCOTERMS) published by the International Chamber of Commerce.

(3) Total loading and discharge time includes the addition of a factor to account for delays and days not worked.

(4) One extra port day is included at each anticipated bunkering port.

(5) An allowance shall be included for canal transits, when appropriate.

(6) Transit time shall be based on the average speed of vessels in the category. When calculating the vessels'

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average speed, individual vessel speeds will be reduced by five percent for self-propelled vessels and ten percent for tugs/barges to account for weather conditions.

(f) *Determination of cargo carried.* The amount of cargo tonnage used to calculate the rate shall be based on the tender offer or charter party terms. In instances when separate parcels of preference cargo are booked or considered for booking on the same vessel, whether under a single program or different programs, a guideline rate shall be provided based on the combined voyage.

(g) *Total rate.* The guideline rate shall be the total of the operating cost component, the capital cost component, the port and cargo handling cost component, and the broker's commission and overhead component. The fair and reasonable rate can be expressed as total voyage revenue or be divided by the amount of cargo to be carried, as prescribed in paragraph (f) of this section, and expressed as cost per ton, whichever MARAD deems most appropriate.

§ 382.4 Waivers.

In special circumstances and for good cause shown, the procedures prescribed in this part may be waived in keeping with the circumstances of the present, so long as the procedures adopted are consistent with the Act and with the intent of this part.

PART 383 [RESERVED]

PART 385—RESEARCH AND DEVELOPMENT GRANT AND COOPERATIVE AGREEMENTS REGULATIONS

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AUTHORITY: Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); Department of Commerce Organization Order 10-8 (36 FR 19707, July 23, 1973); and Secretary's Circular 30 (Nov. 5, 1979).

SOURCE: 45 FR 66168, Oct. 6, 1980, unless otherwise noted.

GENERAL

§ 385.1 Scope.

This part sets forth information about the Maritime Administration (MarAd) assistance regulations: Their purpose, authority, applicability, issuance, arrangement, implementation, and exception procedure; definitions of terms; and general MarAd assistance policies.

REGULATION SYSTEM

§ 385.2 Scope.

Sections 385.2 through 385.9 set forth introductory information pertaining to the MarAd assistance regulations:

Their purpose, authority, applicability, exclusions, issuance, arrangement, publication, and exceptions.

§ 385.3 Purpose.

Sections 385.2 through 385.9 establish the MarAd assistance regulations which codify, implement, and publish uniform assistance policies and selected procedures applicable to MarAd and recipients of MarAd assistance awards. The MarAd assistance regulations do not, in and of themselves, provide authority for the use of assistance instruments nor the making of assistance awards where statutory authority has not been otherwise provided. Generic authority to award grants and cooperative agreements is provided in Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977. The assistance regulations are distinct from the Federal and MarAd and Department of Transportation procurement regulations.

§ 385.4 Authority.

The MarAd assistance regulations are issued pursuant to section 204(b) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), and pursuant to delegation of authority by the Secretary of Transportation to the Maritime Administrator, Department of Transportation.

§ 385.5 Applicability.

The MarAd assistance regulations apply to all MarAd research and development programs which will result in assistance awards, and to all recipients eligible for MarAd assistance awards such as state and local governments, institutions of higher education, hospitals, other nonprofit organizations, individuals, profitmaking organizations, and foreign organizations. The provisions of this part govern the award and administration of all such financial assistance matters, including resolutions and guidelines issued by MarAd except:

- (a) As otherwise required by statute; and,
- (b) As otherwise provided by specific program regulations.