

**§ 295.40**

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 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

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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.

**PART 296—MARITIME SECURITY PROGRAM (MSP)**

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## Subpart A—Introduction

### § 296.1 Purpose.

This part prescribes regulations implementing the provisions of Subtitle C, Maritime Security Fleet Program, Title XXXV of the National Defense Authorization Act for Fiscal Year 2004, the Maritime Security Act of 2003 (MSA 2003), governing Maritime Security Program (MSP) 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. The MSA 2003 provides for joint responsibility between the Department of Defense (DOD) and the Department of Transportation (DOT) for administering the law. These regulations provide the framework for the coordination between DOD and DOT in implementing the MSA 2003. Implementation of the MSA 2003 has been delegated by the Secretary of Transportation to the Maritime Administrator, U.S. Maritime Administration and by the Secretary of Defense to the Commander, U.S. Transportation Command, respectively.

### § 296.2 Definitions.

For the purposes of this part:

*Act* means the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 *et seq.*).

*Administrator* means the Maritime Administrator, U.S. Maritime Administration (MARAD), U.S. DOT, who is authorized by the Secretary of Transportation to administer the MSA 2003, in consultation with the Commander, U.S. Transportation Command (USTRANSCOM).

*Agreement Vessel* means a vessel covered by an MSP Operating Agreement.

*Applicant* means an applicant for an MSP Operating Agreement. The term, “applicant” excludes a trust.

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

*Chapter 121* means the vessel documentation provisions of chapter 121 of title 46, United States Code.

*Coastwise Trade* means trade between points in the United States.

*Commander* means Commander, USTRANSCOM, who is authorized by the Secretary of Defense to administer the MSA 2003, in consultation with the Administrator.

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

*Contractor* means the owner or operator of a vessel that enters into an MSP Operating Agreement for the vessel with the Secretary of Transportation (acting through MARAD) pursuant to §53103 of the MSA 2003. The term, “Contractor” excludes a trust.

*Defense Contractor* means a person that operates or manages United States documented vessels for the Secretary of Defense or charters vessels to the Secretary of Defense and has entered into a special security agreement with the Secretary of Defense.

*Documentation Citizen* means an entity able to document a vessel under 46 U.S.C. chapter 121. This definition includes a trust.

*DOD* means the U.S. Department of Defense.

*Domestic Trade* means trade between points in the United States.

*Eligible Vessel* means a vessel that meets the requirements of §53102(b) of the MSA 2003.

*Emergency Preparedness Agreement* means an agreement, required by