Author

The principal author of this final rule is Frank Bruno, Regulatory Management Team, Bureau of Land Management, 1849 C Street, NW., Washington, DC 20240; Telephone 202/452–0352.

List of Subjects for 43 CFR Part 5470

Forests and forest products, Government contracts, Public lands, Reporting and record-keeping requirements.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, part 5470, Group 5400, subchapter E, chapter II of title 43 of the Code of Federal Regulations is amended as set forth below:

PART 5470—CONTRACT MODIFICATION—EXTENSION—ASSIGNMENT

1. The authority citation for part 5470 is revised to read as follows:

Authority: 30 U.S.C. 601; 43 U.S.C. 1181e and 1740.

2. Remove subpart 5475.

Dated: October 2, 1996.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

[FR Doc. 96–26250 Filed 10–15–96; 8:45 am]

BILLING CODE 4310–84–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: Interim final rule and request for comments.

SUMMARY: The Maritime Administration (MARAD) is issuing this interim final rule to provide procedures to implement the provisions of the Maritime Security Act of 1996 (the MSA). The MSA establishes a new 10-year Maritime Security Program (MSP), commencing in Fiscal Year (FY) 1996. 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 interim final rule is effective October 18, 1996. Comments are requested and must be received on or before November 15, 1996.

ADDRESSES: To be considered, comments shall be mailed, delivered in person or telefaxed (in which case an original must subsequently be forwarded) to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590. All comments will be made available for inspection during normal business hours at the above address. Commentors wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

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

SUPPLEMENTARY INFORMATION:

Background

Title VI of the Merchant Marine Act of 1936, as amended, 46 App. U.S.C. 1171 *et seq.* (Act), authorized the Secretary of Transportation (Secretary) to provide operating-differential subsidy (ODS) to U.S.-flag ship operators for the operation of their vessels in essential services in the foreign commerce of the United States. These long-term ODS payments are generally based on the difference between U.S. operating costs, primarily wages, and those of principal foreign competitors. The ODS program helped to maintain a U.S.-flag merchant fleet to serve both the commercial and national security needs of the United States.

Section 2 of the MSA amends Title VI of the Act. The current ODS program is retained as Subtitle A, and current ODS contracts with U.S.-flag operators will be honored until they expire under their own terms.

The MSA adds a new Subtitle B, authorizing a MSP, which provides assistance for U.S.-flag operators and vessels that meet certain qualifications. It requires the Secretary to encourage the establishment of 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. The MSA establishes a new 10-year program which is intended to support the operations of up to 47 U.S.-flag vessels in the foreign commerce of the United States. Payments to the operators start at $2.3 million per ship in FY 1996, and decrease to $2.1 million per ship per year thereafter.

Participating operators are required to make their ships and other commercial resources available upon request by the Secretary of Defense during time of war or national emergency. Unlike the 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.

This rule adds a new 46 CFR Part 295 to provide the 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, subject to acceptance of statutory conditions incorporated therein.

The 10-year program will be administered on the basis of one-year renewable contracts, provided funding is available in subsequent years. Participating operators will be required to operate eligible vessels in the foreign commerce of the United States, and certain domestic areas such as Guam, with a minimum of operating restrictions, for at least 320 days in any fiscal year. Payments will be reduced for each day any vessel carries civilian bulk preference cargoes in excess of 7,500 tons.

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 interim 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 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 will be subject to annual appropriations to provide payments to the participants of $2.3 million for each Agreement Vessel for fiscal year 1996 and $2.1 million for each fiscal year thereafter in which the agreement is in effect. These payments are up to 50 percent less, per vessel, than 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.

Pursuant to authority granted by section 8 of the Act, MARAD is publishing this rule as an interim final rule "excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code." This will facilitate establishment of the MSP as early as possible. A final rule will be published in the **Federal Register** after MARAD has had an opportunity to consider all comments on this interim final rule.

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 interim 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 § 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 interim 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; (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; and (3) when in waters subject to the port-state, will continue to be governed by port-state control. 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 record keeping requirements, which have been approved by OMB (approval number 2133–0525). These have been approved under emergency approval authority until November 30, 1996. The Maritime Administration has requested that this approval be extended for three years. Any comments concerning the application and other information requirements contained in this rule should be submitted to the above address.

This rule does not impose any unfunded mandates.

List of Subjects in 46 CFR Part 295

Assistance payments, Maritime carriers, Reporting and record keeping requirements.

Accordingly, Part 295 is added to 46 CFR chapter II, subchapter C, 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 Termination of authority.
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.*, 49 CFR 1.66.

Subpart A—Introduction

§ 295.1 Purpose.

This part prescribes regulations implementing the provisions of Subpart B 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 (46 App. U.S.C. 1101 *et seq.*).

(b) *Administrator*, means the Maritime Administrator, Maritime Administration, U.S. Department of Transportation, to whom the authority to administer Title VI of the Act has been delegated, with the exception of entering into, amending and terminating subsidy contracts.

(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, Maritime Administration.

(i) *Contractor*, means the owner or operator of a vessel that enters into a MSP Operating Agreement for the vessel with the Maritime Administration under 46 CFR 295.20.

(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 Contractor*, means a Contractor, as defined in this section, who has a completed application for participation in the MSP on file with MARAD.

(m) *Eligible Vessel*, means a vessel that meets the requirements of 46 CFR 295.10(b), as added below.

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

(o) *Enrollment*, means the entry into a MSP Operating Agreement with the

Maritime Administration to operate a vessel(s) in the MSP Fleet in accordance with 46 CFR 295.20.

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

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

(r) *Maritime Subsidy Board*, means the Maritime Subsidy Board which is constituted by 46 CFR 1.67 and delegated authority to enter into, amend and terminate contracts.

(s) *Militarily Useful*, means a measure of utility applicable only for deliberate planning. As applied to dry cargo vessels it means dry cargo ships, including integrated tug/barges, with a minimum capacity of 6,000 (DWT) capable of carrying, without significant modification, any of the following cargoes: unit equipment, ammunition, or sustaining supplies.

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

(u) *MSP Operating Agreement*, means the MSP Operating Agreement, providing for MSP payments entered into by a Contractor and the Maritime Administration.

(v) *MSP Payments*, means the payments made for the operation of U.S.-flag vessels 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, to maintain intermodal shipping capability and to meet national defense and security requirements in accordance with the terms and conditions of a MSP Operating Agreement.

(w) *Ocean Common Carrier*, means a carrier that meets the requirements of 46 U.S.C. App. 1702(3)(6).

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

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

(z) *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.

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

(bb) *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 the Maritime Administration 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 the Applicant in its capacity 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 Maritime Administration 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, the Maritime Administration is authorized to waive the application of paragraph (2)(ii) of this section if the Maritime Administration, 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) *Maritime Administration's determination*. The Maritime Administration determines that the vessel is necessary to maintain a United States presence in international commercial shipping and the Contractor possesses the ability, experience, resources and other qualifications necessary to execute the obligations of the MSP Operating Agreement, or the Maritime Administration, 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 the Maritime Administration*. Not later than 30 days after the enactment of the Maritime Security Act, the Maritime Administration shall accept applications for Enrollment of vessels in the MSP Fleet. Within 90 days after receipt of a completed application, the Maritime Administration shall enter into a MSP Operating Agreement with the applicant or provide in writing the reason for denial of that application.

(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, the Maritime Administration 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 or related parties who are Citizens of the United States as defined in section 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 (including mixed noncontiguous domestic and foreign commerce, but excluding mixed coastwise and foreign commerce) on May 17, 1995; 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), 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 Maritime Administration 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 section 295.2, 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*—(1) *General rule.* If appropriated funds are not sufficient for MSP Operating Agreements within a first, second or third priority set forth herein, the Maritime Administration shall award a number of Operating Agreements to each applicant, so that the number of Operating Agreements awarded within such priority to that applicant bears approximately the same ratio to the total number of Operating Agreements in the priority 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.

(2) *Limited term MSP Operating Agreements.* To the extent that funds are available prior to the effective dates of MSP Operating Agreements awarded under section 295.20(b)(2), the Maritime Administration may award limited term MSP Operating Agreements for periods terminating prior to those effective dates under section 295.20(b)(2), in accordance with section 295.12(d).

Subpart C—Maritime Security Program Operating Agreements

§ 295.20 General conditions.

(a) *Approval.* The Maritime Administration 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 for 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 the Maritime Administration.

(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, 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.* The Maritime Administration may approve the replacement of an Eligible Vessel in a MSP Operating Agreement provided the replacement vessel is eligible under section 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 the Maritime Administration. Within 5 business days of the receipt of such notification, the Maritime Administration shall issue a notice in the **Federal Register** of the Contractor's intent. The Contractor is prohibited from entering into any such contract until 5 business days after 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 the Maritime Administration 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 contained in section 652(m) of the Act.

(f) *Termination 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, the Maritime Administration 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 section 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 the Maritime Administration. 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 section 295.30. To the extent that funds are appropriated in a subsequent fiscal year, the Maritime Administration shall enter into new MSP Operating Agreements in accordance with the applicable provisions contained in this part.

(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 section 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 under a Operating Agreement shall notify the Maritime Administration of its intention to transfer the agreement (including all rights and obligations under the agreement) to any Eligible Contractor or related party. The proposed transfer shall become effective within 90 days unless disapproved by the Maritime Administration.

§ 295.21 MSP assistance conditions.

(a) *Term of MSP Operating Agreement.* The Maritime Administration is authorized to enter into MSP Operating Agreements commencing in FY 1996. 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 are void and the Contractor may request termination of the MSP Operating Agreement in accordance with section 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. 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) *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 Termination of authority.

(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 the Maritime Administration within 30 days of the Contractor's intent; or

(2) *Newbuilding.* 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 the Maritime Administration.

§ 295.23 Reporting requirements.

The Contractor shall submit to the Director, Office of Financial Approvals, Maritime Administration, 400 Seventh St., S.W. Washington, D.C. 20590, 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; and

(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.

(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 $2,300,000 for fiscal year 1996, and $2,100,000 for each fiscal year thereafter. 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 section 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 which the vessel is operated, provided the total of such days within a fiscal year does not exceed 30 days.

(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, 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 consideration shall be given to reductions in amounts payable as set forth in section 295.30. All submissions shall be forwarded to the Director, Office of Accounting, MAR–330 Room 7325, Maritime Administration, 400 Seventh Street S.W., Washington, D.C. 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, as follows:

FY 1996—$191,666.66
FY 1997—$175,000.00
FY 1998—$175,000.00
FY 1999—$175,000.00
FY 2000—$175,000.00
FY 2001—$175,000.00
FY 2002—$175,000.00
FY 2003—$175,000.00
FY 2004—$175,000.00
FY 2005—$175,000.00

(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 1996—$6,284.15
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) The Maritime Administration may require, for good cause, that a portion not to exceed 10% of the funds payable under this section be withheld until final review of the current billing period is completed.

(4) 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 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 other proceedings appropriate in the circumstances. The decision of the Maritime Administrator shall be final.

Dated: October 10, 1996.

By order of the Maritime Administration.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96–26502 Filed 10–15–96; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 960520141–6221–02; I.D. 042696A]

RIN 0648–AH05

Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Amendment 8; Correction

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

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rule (I.D. 042696A), which was published Friday, August 23, 1996 (61 FR 43420). The final rule implemented the approved provisions of Amendment 8 to the Fishery Management Plan (FMP) for the Summer Flounder and Scup Fisheries.

EFFECTIVE DATE: September 23, 1996.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 508–281–9221.

SUPPLEMENTARY INFORMATION:

Background

Amendment 8 revised the summer flounder FMP to include management measures for the scup fishery in order to reduce fishing mortality and to allow the stock to rebuild.

Need for Correction

The final rule that implemented the approved provisions of Amendment 8 to the Fishery Management Plan for the Summer Flounder and Scup Fisheries (61 FR 43420, August 23, 1996) redesignated paragraph (t) of the regulatory text under 50 CFR 648.14 as paragraph (u) and added and reserved a new paragraph (t). Paragraph (t) should not have been redesignated as paragraph (u), because it had already been redesignated in Amendment 7 (61 FR 39909, July 31, 1996), and hence it was also not necessary to add and reserve a new paragraph (t) as a place holder. Therefore, NMFS is correcting amendatory instruction 12 by removing that part of the instruction.

Correction of Publication

Accordingly, the publication on August 23, 1996, of the final rule (I.D. 042696A), which was the subject of FR Doc. 96–21515, is corrected as follows:

On page 43426 of the regulatory text, in the first column, amendatory instruction 12 is corrected as follows:

"12. In § 648.14, paragraphs (a)(80) through (a)(88), and paragraph (u)(6) are added, and paragraphs (k) and (l) are revised to read as follows:"

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 9, 1996.

Rolland A. Schmitten,

Assistant Adminstrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–26391 Filed 10–15–96; 8:45 am]

BILLING CODE 3510–22–F