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§ 282.24 Protection and indemnity insurance.

(a) *Subsidy items.* Items eligible for determination of subsidizable costs and the U.S.-foreign cost differential are:

(1) *Premiums.* The fair and reasonable net premium costs (including stamp taxes) of protection and indemnity, excess insurance, second seamen's insurance, "tovalop" or other forms of pollution insurance, bumbershoot (only that portion identified as applicable to P&I insurance), cargo liability if excluded from the primary policy, supplemental calls against liabilities covered under the terms and conditions of policies approved as to form and coverage by MARAD, less lay-up return premiums, shall be eligible for subsidy and used for determining the U.S.-foreign cost differential.

(2) *Deductibles.* The fair and reasonable cost of crew claims paid by and pending with the operator under the deductible provision of the protection and indemnity insurance policy approved as to form and coverage by MARAD, to the extent that such cost would have been paid by the insurance underwriter under the terms of the policy, except for the fact that it did not exceed the deductible provision of the policy, shall be eligible for subsidy. For subsidy purposes, the deductible absorption shall not exceed \$50,000 for each accident or occurrence, provided however, that benefits paid on unearned wages, if excluded from coverage under the protection and indemnity insurance policy, shall be eligible, notwithstanding that the deductible provisions of the policy may be exceeded.

(b) *Assumption made in calculation.* For purposes of determining subsidy for protection and indemnity insurance, it shall be assumed that the cost differential between the subsidized vessels and the foreign competitive vessels is limited to those portions of premium costs and deductible absorptions which are related to crew liability and that the cost of all other liabilities is the same for both the subsidized vessels and the foreign competitive vessels.

(c) *Calculation.* The following is the method of calculating the U.S.-foreign cost differential for premiums:

(1) *General.* A differential shall be calculated for each subsidized service of the vessel. Since the premium cost for all other liabilities is assumed to be the same for both the U.S. and foreign competitive vessels, the calculation of the differential for protection and indemnity insurance premiums is in effect based on the difference between U.S. and foreign premium costs for crew liabilities. Premium costs are determined in costs per gross registered ton (GRT).

(2) *Reporting Requirement.* The operator shall submit the total premium cost for the subsidized year, plus any supplemental calls and lay-up return premiums not previously reported, to the Director, Office of Ship Operating Costs, not later than 60 days after the beginning of such year. The data shall be supported by invoices from the insurance underwriter.

(3) *U.S. crew liability cost.* The crew liability portion of the total premium cost shall be determined by applying a percentage to the total premium cost based on five (5) years of claims experience for the five years commencing six years prior to January 1 of the subsidized year. The percentage shall be determined by dividing the total of underwriter's absorptions for crew claims, paid and estimated, by the total of underwriter's absorptions for all claims, paid and estimated. The crew claims portion shall be limited to eighty-five (85) percent unless the operator can substantiate a higher percentage as a result of having crew liability and all other liabilities insured with different underwriters. The operator shall submit the five-year claims experience not later than 60 days following the close of each calendar year.

(4) *All other liabilities cost—U.S. and foreign.* The all other liabilities portion of the U.S. premium cost shall be determined by subtracting the crew liability portion from the total premium cost. The same cost shall be used for the all other liabilities portion of the foreign-flag competitor's premium cost.

(5) *Foreign crew liability cost.* The crew liability cost of each principal foreign-flag competitor shall be used, if reliable cost data can be obtained. If such data cannot be obtained for a principal

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competitor, and it is determined that such competitor has a non-national crew, the crew liability cost for similar vessels registered under the flag of the crew's nationality may be used, at the Maritime Administrator's discretion, provided reliable cost data are obtained. If no reliable cost data are obtained for a competitor, the crew liability cost for that competitor shall be estimated by multiplying the subsidized operator's crew liability portion

of the total premium cost by the ratio of that competitor's wage costs (FC) to the subsidized operator's wage costs (WC), as determined in the calculation of the wage differential.

(6) *U.S.-foreign cost differential.* The U.S.-foreign cost differential shall be the excess of the operator's total premium cost over the principal foreign-flag competitor's estimated total premium cost, expressed as a percentage, calculated in the following manner.

ABC STEAMSHIP COMPANY, INC., TRADE ROUTE X, PROTECTION AND INDEMNITY INSURANCE PREMIUMS, 1985

Premium cost (per GRT)	United States	Greece	Pakistan	South Africa
Crew liability	¹ \$3.98	² \$1.27	³ \$0.45	² 0.08
All other liability	\$1.06	\$1.06	\$1.06	\$1.06
Total costs	\$5.04	\$2.33	\$1.51	\$1.14
Differential—Excess of U.S. cost over foreign cost	\$2.71	\$3.53	3.90	
Unweighted differential (percent)	53.77	70.04	77.38	
Competition weight factor (percent)		24.3	24.9	50.8
Weighted differential (percent)		13.07	17.44	39.31
U.S.-foreign cost differential (percent)				69.82

¹ Determined by applying 79.03 percent (based on 5-year claims experience) to total GRT premium rate of \$5.04.

² Crew liability data obtained by Maritime Administration.

³ The unweighted percentage of Pakistani to U.S. wage costs of 11.23% was applied to \$3.98 to estimate the foreign cost.

(d) *Daily Subsidy Rate.* The daily subsidy rate shall be calculated in the following manner:

(1) *Premiums.* The net premium costs per calendar day for the subsidized year shall be multiplied by the U.S.-foreign cost differential percentage determined for the most recent year. The product shall be the daily amount of subsidy for P&I premiums.

(2) *Deductibles.* (i) The eligible illness and injury crew claims paid and pending for each calendar year of a three-year period commencing six years prior to January 1 of the subsidized year shall be recalculated, if necessary, to reflect the operator's current deductible levels. These expenses, after audit, shall be multiplied by the percentage wage differential, as determined in the calculation of wage subsidy for the appropriate fiscal period. The resulting calendar period P&I deductible subsidy for the three-year period shall be di-

vided by the voyage days for the period to arrive at an aggregate daily P&I deductible subsidy. The aggregate fiscal period wage subsidy accrued in the service for the three-year period shall be divided by the voyage days for the period to arrive at an aggregate daily wage subsidy amount. The aggregate daily P&I deductible subsidy for the three-year calendar period shall be divided by the aggregate daily wage subsidy for the three-year fiscal period. The resulting percentage shall be applied to the wage per diem calculated for each ship type in the service to derive the daily amount of subsidy for P&I deductibles. As to pending claims previously recognized in the historical period, only the amount of changes in cost with respect to such claims shall be subsequently recognized. The following methodology shall be used to determine subsidy for P&I deductibles.

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DETERMINATION OF DAILY AMOUNT OF SUBSIDY FOR P&I DEDUCTIBLES

T.R. 98 item	Calendar year 1979	Calendar year 1980	Calendar year 1981	Total
P&I Deductible C.Y. Expenses	\$1,680,000	\$1,220,000	\$1,400,000	
Diff. Foreign/U.S. Wage Cost	26.00%	23.00%	20.00%	
Subsidy	\$436,800	\$280,600	\$280,000	\$997,400
Voyage Days	1,140	1,100	1,225	3,465
Average Subsidy Per Voyage Day (\$997,400÷3,465 days)=\$287.85				
	Fiscal year 1979	Fiscal year 1980	Fiscal year 1981	Total
Wages F.Y. Per Diem Rate	\$7,660	\$7,700	\$8,050	
Voyage Days	1,090	1,180	1,230	3,500
Subsidy	\$8,349,400	\$9,086,000	\$9,901,500	\$27,336,900
Average Subsidy Per Voyage Day (\$27,336,900÷3,500 days)=\$7,810.54				
Ratio P&I Deductible ODS to Wage ODS \$287.85÷\$7,810.54=3.69%				

T.R. 98 ship type	Daily wage ODS 1/1/85	Ratio P&I ded. to wage ODS (percent)	Daily P&I ded. ODS 1/1/85
C4-A	\$9,000	×3.69	\$332.10
C5-B	9,300	×3.69	343.17
C6-C	9,600	×3.69	354.24

(ii) In cases where national insurance schemes cover crew claims costs in their entirety, resulting in no cost to the foreign competitor for deductible absorptions, the composite percentage differential for wages shall be adjusted by substituting a zero cost for such foreign competitor in the calculation of the differential. The adjustment of the wage percentage differential shall not be used for Japan, where operators incur minimal costs for deductible absorptions, rather than no costs. For Japan, the insurance related costs which are normally included in the calculation of Japanese wage costs shall be excluded in adjusting the wage percentage differential for this purpose.

(3) *Data submission requirement.* The operator is required to submit annually a certified statement of eligible and audited crew claims, as identified in paragraph (d)(2) of this section, for the historical period identified therein. The report shall be submitted to the Director, Office of Ship Operating Costs no later than January 1 of the subsidized year.

Subpart D—Subsidy Payment and Billing Procedures

§ 282.30 Payment of subsidy.

Submission of voucher. At the close of each calendar month, the subsidized operator may submit a voucher, and include for payment in such voucher the amount of ODS accrued for the voyages terminated during the period.

§ 282.31 Subsidy billing procedures.

(a) *Subsidy voucher—(1) Form.* Requests for payment of ODS shall be submitted on a public voucher, Standard Forms 1034 and 1034A, which can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402.

(2) *Copies.* The operator shall submit the original and 3 copies of the voucher to the MARAD Region Director for payment. The original and 2 copies must be supported by schedules and an affidavit. The third copy is the payee's copy and need not be supported.

(b) *Schedules and affidavit.* (1) The following schedules shall be used for calculating the amount of ODS payable:

SCHEDULE A

(Company) _____
 ODSA No. _____
 ODS Accrued During Fiscal Year 198 _____