

any U.S. cash transfer foreign assistance program. In such a circumstance, there is no foreign-flag competitions for such cargoes.

[54 FR 39182, Sept. 25, 1989]

### Subpart D—Calculation of Subsidy Rates

SOURCE: 51 FR 40426, Nov. 7, 1986, unless otherwise noted.

#### § 252.30 Amount of subsidy payable.

(a) *Daily rates.* Daily ODS rates shall be used to quantify the amount of ODS payable except for the ODS rates applicable to maintenance and repair expenses, as described separately in § 252.32. The daily ODS rate represents the cost differential between the subsidized vessel and its foreign-flag competition. A daily rate shall be calculated for each subsidized item of expense identified in the ODSA (with the exception of ODS rates applicable to maintenance and repair expenses), and the total of all items is the daily amount of ODS payable for approved vessel operating days, excluding reduced crew periods.

(b) *Reduced crew periods.* For reduced crew periods, as defined in § 252.3 of this part, a man-day reduction amount, calculated separately for officers and unlicensed crew members, shall be used to reduce the daily wage ODS rate to conform to the complement remaining on the vessel. The man-day reduction amounts shall be determined by dividing the daily wage ODS for officers and unlicensed crew members by the number of subsidizable crew members in each category. For each day of a reduced crew period, the man-day amount shall be multiplied by the number of crew members missing for that day, and the resulting product shall be deducted from the daily ODS rate. The difference shall be the ODS payable for such day. (See illustration in Schedule C at § 252.41 of this part.)

(c) *Review of rates.* Daily subsidy rates shall be reviewed every six months. For the item, "wages of officers and crews," the daily rate shall be calculated for fiscal periods July 1 through June 30, in accordance with provisions of the Act. During the pe-

riod January through June, adjustments—paid as a lump sum or as a daily amount—shall be made to wage ODS so that the correct amount of ODS for the full fiscal period is received by the operator. For other subsidizable items of expense, the daily rate shall be calculated for calendar years.

(d) *Negative rates.* When an ODS rate in any category is less than zero, indicating that the subsidized operator is at an advantage rather than a disadvantage in such category, the negative rate shall be deducted from positive rates in determining the daily ODS amount payable.

(e) *Operator Comments.* The operator shall have the opportunity to comment on each subsidy rate as calculated by MARAD. The operator and contracting officer shall make every effort to resolve disagreements that arise. In the event of a disagreement that cannot be resolved, comments received from the operator and the contracting officer's recommendation shall be presented to the Board for its consideration in determining subsidy rates.

[51 FR 40426, Nov. 7, 1986, as amended at 58 FR 17349, Apr. 2, 1993]

#### § 252.31 Wages of officers and crews.

(a) *Definitions.* When used in this part:

(1) *Base period.* The first base period under the wage index systems, as provided in section 603 of the Act, is the period beginning July 1, 1970 and ending June 30, 1971. Thereafter, base period means any annual period beginning July 1 and ending June 30, with respect to which the Board establishes a base period cost. At intervals of not less than two years, nor more than four years, the Maritime Subsidy Board shall establish a new base period. Base periods shall be announced by the Board prior to the December 31 date that would be included in the new base period.

(2) *Base period cost*—(i) *Initial base period.* For the initial base period of subsidized service, the term *base period cost* means the collective bargaining cost as of January 1 of that base period.

(ii) *Subsequent base periods.* For base periods subsequent to the initial base

§ 252.31

period, the term *base period cost* means the average of the collective bargaining cost as of January 1 of such fiscal year, and the base period cost of the previous base period, indexed to January 1 of the new base period by an index compiled by the Bureau of Labor Statistics. This index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective bargaining agreements, with equal weight to be given to changes affecting employees in the transportation industry (excluding the off-shore maritime industry) and to changes affecting employees in private non-agricultural industries other than transportation. However, such base period cost shall not be less than a minimum, nor more than a maximum amount, determined as a percentage of the collective bargaining cost computed for January 1 of such base period in accordance with the following schedule:

	Minimum (pct)	Maximum (pct)
Base period following a:		
2 year cycle .....	97½	102½
3 year cycle .....	96¼	103¾
4 year cycle .....	95	105

(3) *Collective bargaining cost (CBC)* means the annual cost, calculated on the basis of the per diem rate of expense, as of January 1 of the annual fiscal periods July 1 through June 30, of all items of expense required by the operator through a collective bargaining or other agreement, covering the employment of the approved manning complement of the subsidized vessel, including payments required by law to assure old-age pensions, unemployment benefits or similar benefits, and taxes or other governmental assessments on crew payrolls.

(4) *Approved manning complement* means the complement approved by the Board for subsidy.

(5) *U.S. wage cost (WC)* means the annual cost, calculated on the basis of the per diem rate of expense as of January 1 of the annual fiscal periods July 1 through June 30, of all items of expense required of the operator through a collective bargaining or other agreement, covering the employment of the normal manning complement of the

subsidized vessel, including payments required by law to assure old-age pensions, unemployment benefits or similar benefits, and taxes or other governmental assessments on crew payrolls.

(6) *Normal manning complement* means the crew complement established by a collective bargaining or other agreement with the officers and unlicensed crew of the vessel. When ratings of different salaries are in the same job during the year, the base wages of the rating carried most of the time shall be used.

(7) *Subsidizable wage cost* means, (i) with respect to a base period, the base period cost, and (ii) in any fiscal period other than a base period, the most recent base period cost, increased or decreased by the change from January 1 of the base period to January 1 of the non-base period. The subsidizable wage cost shall not be less than 90 percent nor greater than 110 percent of the collective bargaining cost as of January 1 of such period.

(8) *Unpredictably timed costs* are collective bargaining costs that are not regularly incurred. Examples of unpredictably timed costs are such costs as severance pay, shortfalls, special assessments, and war zone bonuses.

(b) *Method of calculating collective bargaining cost (CBC)*. CBC shall be determined by pricing out, for the approved crew complement, the per diem total of fixed costs specified in the collective bargaining agreement and adding a per diem total of variable costs obtained from the cost experience of the subsidized vessel during the first nine months of the preceding calendar year.

(1) *Fixed Costs*. The per diem total of fixed costs shall include all costs that are stated in specific or determinable amounts per time period and, based on operating experience, do not vary. In cases where a monthly amount is specified in the agreement, the per diem amount shall be determined by dividing the monthly amount by 30. When a daily amount is specified it shall be used. Examples of fixed costs are:

- (i) Base wages;
- (ii) Non-watch pay;
- (iii) Vacation pay (including contributions to vacation funds);
- (iv) Tool allowance;

(v) Clothing and uniform allowances; and

(vi) Per diem contributions for pension, training, welfare, unemployment, including unallocated contributions placed in escrow.

(2) *Variable costs.* Variable costs are regularly incurred employment costs which vary with ship operating experience. The per diem aggregate of variable costs as of January 1 shall be determined by applying a ratio to the per diem aggregate of base wage costs as of January 1, the numerator of which shall be the total of variable costs for the first nine months of the preceding calendar year and the denominator of which shall be the total of base wage costs for the first nine months of the preceding calendar year. Variable costs include but are not limited to:

- (i) Payroll taxes (including social security taxes);
- (ii) Overtime and penalty pay;
- (iii) Variable pension, training, welfare, unemployment, and vacation costs;
- (iv) Pay in lieu of time off;
- (v) Transportation and travel allowances;
- (vi) Payments to relief officers and crews;
- (vii) Wages and other expenses of USMMA cadets and extra messmen;
- (viii) Board and lodging allowances;
- (ix) Overlap in wages (a maximum of three days for officers and two days for unlicensed crew); and
- (x) Penalty cargo bonuses.

(c) *Method of calculating U.S. wage cost (WC).* Two different calculations of WC are necessary—a per diem amount for every ship type on the service and a per month amount for the predominant ship type (most voyages) on the service. The purpose of the per month calculation is to make a comparison with the monthly foreign wage costs. The relationship of WC to foreign costs for the predominant ship is applied to the per diem WC for other ship types in the service to estimate comparable foreign costs for them.

(1) *Calculation of per diem WC.* The per diem WC shall be calculated by the same method that applies to CBC, except that the normal manning complement shall be used.

(2) *Calculation of per month WC.* The costs and manning level used in this calculation shall be the same as those used for the per diem WC.

(d) *Data submission requirements.* For purposes of calculating CBC and WC the operator shall each year submit Form MA-790 and, as appropriate, current copies of all collective bargaining or other agreements, memoranda of understanding, and arbitration awards, which specify the fixed costs as of January 1. Schedule A of Form MA-790, which covers wage costs on voyages terminated during the first nine months of the previous calendar year, shall be submitted by December 31. Schedule B of Form MA-790—normal manning complement, rates of pay, and contributions in effect on January 1 of the current year—shall be submitted by January 31. Form MA-790, Schedules A and B, shall be submitted to the Director, Office of Ship Operating Costs, Maritime Administration, 400 Seventh Street, SW., Washington, DC 20590.

(e) *Example Calculation.* The following is a sample calculation of CBC and WC:

ABC BULK CO.		
Jan. 1, 1985, Collective Bargaining Costs (CBC) and U.S. Wage Cost (WC)		
	Per diem	
	WC	CBC
Crew Complement .....	135	231
Fixed Costs as of January 1, 1985:		
Base Wages and non-watch pay .....	\$1,789.79	\$1,571.60
Allowances (radio, telephone, clothing, etc.) .....	\$5.75	\$5.75
Vacation Pay .....	\$1,189.60	\$1,109.65
Pension, Welfare, Training, Unemployment Fund Contributions .....	\$280.80	\$1,171.75
Total Fixed .....	\$4,265.94	\$3,858.75
Variable Costs as of January 1, 1985:		
Variable Cost Factor (based on 1984 cost experience) (pct) .....	104.69	104.69
Total Variable Costs (January 1, 1985 base wages × variable cost factor) .....	\$1,873.73	\$1,645.31
Total wage costs as of January 1, 1985 .....	\$6,139.67	\$5,504.06

<sup>1</sup> Normal manning complement.  
<sup>2</sup> Approved manning complement.

(f) *Method of calculating foreign wage costs.* The foreign wage cost (FC) of the

§ 252.31

46 CFR Ch. II (10-1-10 Edition)

principal foreign-flag competitor and the comparable WC of the subsidized vessel are matched as of January 1 of the last fiscal year preceding the subsidized fiscal year for purposes of determining the wage cost of the principal foreign flags. The following procedures are used:

(1) *Manning.* The foreign manning complement in number and nationality for the principal foreign-flag competitor shall be constructed for the subsidized vessel type using the manning scales and practice of the competitor as developed through an examination of alien crew manifests, payrolls, and other reliable information. The commonly used crew complement of the competitor shall be adjusted to fit the predominant vessel type, in recognition of differences in physical characteristics that would affect manning scales. Where the manning complement cannot be estimated with reasonable substantiation, it will be deemed to be identical with that of the subsidized vessel.

(2) *Method.* The method of calculating FC shall be the same as that used for WC, provided that it is possible to obtain foreign cost data on the same basis as wage cost data. Preference shall be given to pricing out for fixed costs and to cost experience for variable costs. Where applicable, foreign currencies shall be converted into U.S. currency equivalents by using the average of end-month exchange rates for the period July through June that includes the January 1 for which FC is calculated. The exchange rates shall be obtained from the publication, "International Financial Statistics", published monthly by the International Monetary Fund. If exchange rates for particular foreign currencies are not available in this publication, they shall be obtained from the United States Department of the Treasury.

(3) *Foreign wage costs.* The per diem composite foreign wage cost is determined by multiplying the per diem WC for the U.S. ship type, calculated as of January 1 of the subsidized fiscal year, by the ratio of FC to WC, calculated as of January 1 of the last fiscal year preceding the subsidized fiscal year. The following is a sample calculation of the foreign percentage.

ABC BULK COMPANY, INC.  
[Jan. 1, 1985—Foreign Wage Cost (FC)]

	United States	Liberia
Crew Complement .....	26	26
Base Wages .....	<sup>1</sup> \$53,687	<sup>1</sup> \$24,779
Allowances .....	\$1,074	\$4,584
Vacation Pay (leave) .....	<sup>1</sup> \$35,681	<sup>1</sup> \$13,009
Pension and Welfare .....	<sup>3</sup> \$38,407	<sup>1</sup> \$2,065
Social Security .....	<sup>2</sup> \$6,608	<sup>2</sup> \$7,227
Overtime and other variable costs (not elsewhere included) .....	<sup>2</sup> \$48,732	<sup>2</sup> \$10,944
Repatriation.		
Total wage costs .....	\$184,189	\$62,608
Percentage FC to WC .....		33.99

<sup>1</sup> Based on Jan. 1 priced out cost.

<sup>2</sup> Based on cost experience.

<sup>3</sup> Excludes training costs—foreign data not available.

(g) *Determination of daily wage rate.* The foreign wage cost is deducted from subsidizable wage costs to determine the daily wage subsidy rate. Table 1 is an example calculation of a daily wage subsidy rate using the procedures described in this section.

(h) *Unpredictably timed costs (UTC)* are subsidized by calculating costs incurred during the previous six months and converting them into a daily rate. A lump sum amount would be paid for special lump sum assessments or for per man-day increases to benefits plans which become effective during the six months following the establishment of the daily rate. In either case, the percentage subsidy rate—which is the differential percentage between the subsidizable wage cost and the foreign wage cost—is used to establish the amount of subsidy payable for UTC incurred.

(1) UTC expenses such as severance pay and area bonuses shall be eligible for subsidy payment without obtaining prior approval and subsidy shall be paid as a lump sum amount.

(2) Expenses such as shortfalls in benefit fund contributions, special assessments for benefits funds, and retroactive wage increases may be treated as UTC if the cost increase was not negotiated. Such costs must be approved as UTC by the Director, Office of Ship Operating Costs. To the extent such expenses qualify for UTC, the Director shall determine the appropriate method of paying subsidy—added to the per diem wage subsidy rate and/or as a lump sum amount treated separately.

TABLE 1—ABC BULK COMPANY, INC.  
[Calculation of Wage Subsidy Rates<sup>1</sup>]

Base period (1)	Interim period (2)	U.S. wage cost (3)	Collective bargaining cost (4)	Application of BLS index to base period cost (5)	Averaging in base periods (4)+(5)	Appropriate limits (7)
					2 (6)	
1981	1982	\$4,162.60 \$4,578.24	\$3,850.29 \$4,230.15	\$3,850.29 × 1.0845 = \$4,175.64		.9 × (4) = \$3,807.14 1.1 × (4) = \$4,653.17
	1983	\$4,578.24	\$4,230.15	\$3,850.29 × 1.1816 = \$4,549.50		.9 × (4) = \$4,104.34 1.1 × (4) = \$5,016.42
	1984	\$5,539.40	\$4,966.90	\$3,850.29 × 1.2992 = \$5,002.30		.9 × (4) = \$4,470.21 1.1 × (4) = \$5,463.59
	1985	\$6,139.57	\$5,504.06	\$3,850.29 × 1.4044 = \$5,407.35		.95 × (4) = \$5,228.86 1.05 × (4) = \$5,779.26

<sup>1</sup>This computation is based on a new vessel entering subsidized service in May 1981.

Base period cost	Subsidizable wage cost	Foreign cost percentage	Foreign wage cost	Wage subsidy daily rate	Wage subsidy percentage rate (12)+(9)
\$3,850.9	\$3,850.29	32.99	\$1,373.24	\$2,477.05	64.33
	\$4,175.64	32.98	\$1,509.90	\$2,665.74	63.84
	\$4,549.50	32.15	\$1,812.49	\$2,737.01	60.16
	\$5,002.30	34.77	\$1,926.05	\$3,076.25	61.50
\$5,455.71	\$5,455.71	33.99	\$2,086.84	\$3,368.87	61.75

[51 FR 40426, Nov. 7, 1986, as amended at 54 FR 5086, Feb. 1, 1989]

**§ 252.32 Maintenance (upkeep) and repairs.**

(a) *Subsidy items.* The fair and reasonable maintenance and repair costs not compensated by insurance, if eligible for subsidy under the ODSA and the regulations in 46 CFR part 272, incurred by the operator during the calendar year.

(b) *Subsidy rate.* The subsidy rate for maintenance and repair shall be the U.S.-foreign cost differential determined from price estimates of representative items of maintenance and repair work and by using the repair practices of the foreign-flag competition. See paragraph (b)(4) of this section for an example calculation.

(1) *Cost survey.* MARAD shall select a sample of jobs which are representative of the various types of maintenance and repair work—drydocking and underwater repairs, machinery repairs, hull and deck repairs, electrical repairs, exterior painting and interior painting, etc. The jobs shall be described fully and combined into a standard set of specifications based on a particular type of vessel. The same

specifications shall be used for obtaining all price estimates. MARAD shall request reliable and mutually acceptable ship repair cost experts to ascertain the U.S. and foreign M&R prices. MARAD shall survey foreign countries during a three-year cycle. The survey year prices shall be adjusted in the years between surveys by price adjustments estimated by the ship repair cost experts.

(2) *Country cost differential.* A country cost differential shall be determined for each country where work was performed on the competitive vessels. The country cost differential shall be 100 percent minus the ratio of the estimated foreign price to the U.S. price estimate. The U.S. price estimate shall be representative of the coastal area included in the subsidized service (for example East Coast) or, if more than one coast is served, the coast where the company is home based. For example: