



## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

#### 46 CFR Part 315

[Docket Number MARAD-2025-0090]

RIN 2133-AC03

#### Deregulatory –Revision; Agency Agreements and Appointment of Agents

**AGENCY:** Maritime Administration (MARAD), Department of Transportation DOT)

**ACTION:** Final rule.

**SUMMARY:** MARAD is revising its regulations pertaining to the award and administration of agency agreements in the form of service agreements and ship manager contracts. The rule is intended to correct numerous citations in accordance with the codification of Title 46 of the United States Code; improve accessibility by modernizing text and updating agency contact information; and remove obsolete references.

**DATES:** This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Privacy Act:* Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

*Information Collection:* MARAD will publish a separate *Federal Register* notice notifying the public of Office of Management and Budget (OMB) approval of the information collections in this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** Mitch Hudson, Office of the Chief Counsel, Division of Legislation and Regulation, (202) 366-9373 or via email at [Mitch.Hudson@dot.gov](mailto:Mitch.Hudson@dot.gov). Persons who use a telecommunications device for the deaf (TDD)

may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Department of Transportation, Maritime Administration, Office of the Chief Counsel, Division of Legislation and Regulations, W24-220, 1200 New Jersey Avenue SE, Washington, D.C. 20590-0001.

## **SUPPLEMENTARY INFORMATION:**

### **Electronic Access and Filing**

An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: [www.federalregister.gov](http://www.federalregister.gov).

### **Background**

Improvement of regulations is a continuous focus for DOT and MARAD. For that reason, DOT/MARAD regularly and deliberately review their rules in accordance with DOT Order 2100.6B, Policies and Procedures for Rulemakings, Executive Order (E.O.) 12866, Regulatory Planning and Review (Oct. 4, 1993), and section 610 of the Regulatory Flexibility Act. That process is summarized in Appendix D of DOT's semi-annual regulatory agenda. In addition, E.O. 14192, Unleashing Prosperity Through Deregulation (Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 19, 2025) directed agencies to further scrutinize their regulations to reduce unnecessary costs, clear barriers to emerging technology, and alleviate unnecessary regulatory burdens.

MARAD has identified changes that will improve its regulations governing agency agreements and appointment of agents. This final rule will revise the regulations to ensure that they are current, modern, and the least burdensome to the public.

### **Section by Section Analysis**

*Authority citations*

MARAD proposes to revise the authority citations for accuracy.

*Section 315.1 Purpose*

MARAD proposes to make minor, non-substantive edits to this section for clarity.

*Section 315.3 Definitions*

MARAD proposes adding definitions of general agency agreement and ship manager contract for clarity.

*Section 315.5 Appointment of agents.*

MARAD proposes to update MARAD contact information and made minor, non-substantive edits to this section for clarity.

*Section 315.6 Transferred vessel and contracts.*

MARAD proposes to make minor, non-substantive edits to this section for clarity.

*Section 315.9 Administration of agency agreements.*

MARAD proposes to make minor, non-substantive edits to this section for clarity.

*Section 315.11 Duties of agents.*

MARAD proposes to make minor, non-substantive edits to this section for clarity.

*Section 315.13 Vessel deactivation procedures.*

MARAD proposes to make minor, non-substantive edits to this section for clarity.

*Section 315.15 Marine Protection and Indemnity insurance.*

MARAD proposes this section for the sake of clarity.

**Rulemaking Analysis and Notices**

*Administrative Procedure Act*

MARAD is issuing this final rule without prior notice and the opportunity for public comment and the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA). Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an “agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the

rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

The intent of this action is to provide simple, clerical updates needed to correct numerous citations in accordance with the codification of Title 46 of the United States Code; improve accessibility by modernizing text, update agency contact information, and remove obsolete references. For these reasons, MARAD has determined that there is good cause to waive prior notice and comment because clerical non substantive updates will not benefit from public input.

#### *Executive Order 12866 and DOT Rulemaking Procedures*

This rule is not a significant regulatory action under Executive Order (E.O.) 12866 and DOT Order 2100.6B and, therefore it was not reviewed by the Office of Management and Budget. It is also not considered a major rule for purposes of Congressional review under Public Law 104-121. This rule is limited to updating the citations, addresses, and modernizing text.

#### *Executive Order 14192 (Deregulation)*

E.O. 14192 requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 26, 2025), defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This rule will have total costs less than zero, and therefore is an E.O. 14192 deregulatory action.

#### *Executive Order 13132 (Federalism)*

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”) and has determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. This rulemaking has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials because it was not necessary.

*Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)*

MARAD does not believe that this rulemaking will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 requires MARAD to assess whether this rulemaking would have a significant economic impact on a substantial number of small entities and to minimize any adverse impact. This rule is limited to updating the citations, addresses, and modernizing text. MARAD certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

*Privacy Impact Assessment*

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108-447, div. H, 118 Stat. 2809 at 3268) requires the Department of Transportation and certain other federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals.

*Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 requires agencies to evaluate whether an agency action would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$206 million or more (as adjusted for inflation) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$206 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

### *Regulation Identifier Number (RIN)*

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a federal agency unless the collection displays a valid OMB control number. MARAD will seek approval from OMB for the paperwork collections included in this rulemaking. MARAD will publish a separate *Federal Register* notice notifying the public of OMB's approval and displaying the OMB control number.

### **List of Subjects in 46 CFR Part 315**

Government contracts, National defense, Vessels

For the reasons stated in the preamble, MARAD is revising 46 CFR part 315 to read as follows:

### **Part 315 -AGENCY AGREEMENTS AND APPOINTMENT OF AGENTS**

#### **Sec.**

- 315.1 Purpose.
- 315.3 Definitions.
- 315.5 Appointment of agents.
- 315.7 Transferred vessels and contracts.
- 315.9 Administration of agency agreements.
- 315.11 Duties of agents.
- 315.13 Vessel deactivation procedures.
- 315.15 Marine protection and indemnity insurance.

**Authority:** 46 U.S.C. 57100 et seq., 49 U.S.C. 322(a), 49 U.S.C. 109, 40 U.S.C. 113(e)(15), 49 CFR 1.93, 49 CFR 1.81(a)(3) and (a)(10).

#### **§ 315.1 Purpose.**

This part summarizes the procedures governing the award and administration of agency agreements in the form of Service Agreements and Ship Manager Contracts entered into between the United States of America, acting by and through the Maritime

Administration (MARAD), Department of Transportation. Persons awarded agency agreements will manage or otherwise conduct the business of one or more vessels owned, controlled or time-chartered by the United States, which vessel(s) may be assigned from time to time pursuant to the specific provisions of their general agency agreement as a service provider pro hac vice, or as a ship manager pursuant to the terms of a Ship Manager Contract.

**§ 315.3 Definitions.**

(a) *Agent* includes a General Agent, Berth Agent, or Ship Manager, designated as such under a Service Agreement or Ship Manager Contract to manage and conduct the business of vessels which the United States is owner, pro hac vice, or time charterer.

(b) *Citizen of the United States* means a person (including receivers, trustees and successors or assignees of such persons as provided in 46 U.S.C. 50502), including any person (stockholder, partner or other entity) who has a controlling interest in such person, any person whose stock or equity is being relied upon to establish the requisite U. S. citizen ownership, and any parent corporation, partnership or other entity of such person at all tiers of ownership, who, in both form and substance at each tier of ownership, satisfies the following requirements:

(1) An individual who is a Citizen of the United States, by birth, naturalization or as otherwise authorized by law;

(2) A corporation organized under the laws of the United States or of a State, the controlling interest of which is owned by and vested in citizens of the United States and whose chief executive officer, by whatever title, chairman of the board of directors and all officers authorized to act in the absence or disability of such persons are citizens of the United States, and no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens;

(3) A partnership organized under the laws of the United States or of a State, if all general partners are citizens of the United States and a controlling interest in the partnership is owned by citizens of the United States;

(4) An association organized under the laws of the United States or of a State, whose chief executive officer, by whatever title, chairman of the board of directors (or equivalent committee or body) and all officers authorized to act in their absence or disability are citizens of the United States, no more than a minority of the number of its directors, or equivalent, necessary to constitute a quorum are noncitizens, and a controlling interest in which is vested in citizens of the United States; and

(5) A joint venture, if it is not determined by the Maritime Administrator to be in effect an association or partnership, which is organized under the laws of the United States or of a State, if each co-venturer is a citizen of the United States. If a joint venture is in effect an association, it will be treated as is an association under paragraph (a)(4) of this section, or, if it is in effect a partnership, will be treated as is a partnership under paragraph (a)(3) of this section.

(b) *General agency agreement* means the agreement developed to ensure the availability of qualified and eligible general agents.

(c) *NDRF* means National Defense Reserve Fleet site.

(d) *Ship manager contract* means the agreement developed to establish roles and responsibilities for managing vessels owned by MARAD.

(e) *United States* means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

### **§ 315.5 Appointment of agents.**

(a) *Eligibility.* The appointment as Agent is restricted to qualified applicants. Each applicant must establish eligibility according to MARAD procedures and meet the following criteria:

- (1) Be a Citizen of the United States, as defined in section 315.3(b) of this part;
- (2) Demonstrate the necessary ability, experience, and resources as an operator of vessels or ports, or shoreside husbander of vessels; and

(3) Continue to meet all such requirements throughout the term of the appointment.

(b) *Procedures.* Information about general agency agreements for appointment as General Agent, Berth Agent, or Ship Manager Contracts may be obtained from, along with inquiries and other written communications submitted to, the Maritime Administration, Attn: Sealift Operations, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, (202) 366-1943.

(c) *Approval.* After final approval of an Agent, the contracting office will transmit the applicable General Agency Agreement or Ship Manager Contract to the applicant for execution and return to MARAD.

### **§ 315.7 Transferred vessels and contracts.**

The eligibility requirements of section 315.5(a) do not apply to a contractor managing vessels owned by the United States under a contract or contracts previously awarded by another federal agency if the contract, and the vessels managed under such contract, are subsequently transferred to MARAD, provided the period of performance of the transferred contract does not exceed the period of performance of the original contract, including options.

### **§ 315.9 Administration of agency agreements.**

(a) *Amendments.* MARAD will make conforming amendments to all service agreements and ship manager contracts that are required due to changes in the *Federal Acquisition Regulation* or *Transportation Acquisition Regulation*.

(b) *Annual review of general agent representations and certifications.* General agents must certify annually that all representations and certifications incorporated in a general agency agreement are current, complete, and accurate, or provide new representations and certifications.

### **§ 315.11 Duties of agents.**

The agent must perform all duties prescribed in the service agreement or ship manager contract, as such agreement is applicable, and must follow directions, orders, or regulations issued by MARAD.

### **§ 315.13 Vessel deactivation procedures.**

When an agent is responsible as vessel operator to decommission and deliver a vessel to the NDRF, that agent must observe all the terms, procedures, and requirements prescribed by MARAD.

### **§ 315.15 Marine protection and indemnity insurance.**

(a) *Insurer.* MARAD will be responsible for providing or obtaining P&I insurance for all vessels assigned to Agents under an agreement. At its election, MARAD may be a self-insurer of any one or more vessels covered by an agreement or MARAD may obtain P&I insurance coverage under one or more policies written by underwriters of marine insurance. MARAD will determine the amount of coverage to be provided or obtained.

(b) *Insureds.* The United States of America, acting by and through MARAD, Department of Transportation, and its Agents (including Agents' employees as sub-agents). Sub-agents may be insureds only as expressly provided in the agreement. Independent contractors of the Agents are not insureds.

(c) *Reports of accidents and occurrences.* The Agent must report every accident or occurrence of a P&I nature promptly to both MARAD and the contracting officer named in the agreement. If MARAD has obtained P&I insurance through a marine insurance underwriter, the Agent also must concurrently file a report of such accident or occurrence with the underwriter. MARAD will disclose full details as the identity of such underwriter to the Agent.

(d) *Report of claims.* The Agent must submit a quarterly report of all claims of a P&I nature to MARAD. The report must contain all relevant information, e.g., the names of the vessels and of the claimant, the date of the injury or occurrence, the amount claimed, the basis for any payments already disbursed on behalf of the United States, estimated future costs, and an evaluation of the claim of the merits.

(e) *Settlement of claims.* After ascertaining from MARAD the availability of funds, the Agent is authorized to settle individual claims of a P&I insurance nature that do not exceed

\$5,000.

(1) For a settlement more than \$5,000, the Agent must obtain MARAD's prior approval. If MARAD has placed the P&I insurance with an insurance underwriter, the Agent must obtain the prior approval of the underwriter to settle claims.

(2) The amount of individual claims that do not exceed the Agent's limit for settlement will be chargeable by the Agent to the vessel expense and must be accounted for in accordance with current MARAD accounting instructions.

(3) When settling any such claim, the Agent must advise the claimant that such settlement will be accounted for in accordance with current accounting instructions and must also advise the claimant that such settlement is not to be construed as an admission of liability by or on behalf of the United States, the Agent, or any other person.

(4) The Agent must apply sound judgment and follow standard practices of vessel operators in the settlement or other disposition of such P&I insurance claims, and must settle such claims only when the settlement is adequately supported by all the facts and circumstances and is in the best interest of the United States.

(f) *Litigation.* (1) If a court suit of a P&I nature is filed which arises out of the activities of the Agent under its Agreement, wherein the Agent is named as the party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent must immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, D.C. 20530. No agent or authorized subagent will incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(2) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent must immediately notify MARAD.

(AUTHORITY: 49 U.S.C. section 109, 49 CFR 1.81)

By order of the Maritime Administration.

**T. Mitchell Hudson, Jr.**

*Secretary, Maritime Administration.*

[FR Doc. 2025-12101 Filed: 6/27/2025 4:15 pm; Publication Date: 7/1/2025]