

any period of subsidized service while subject to that charter shall be deemed to be operation in an essential service. The payment of ODS for such period shall not be reduced because of any amendment to this section or any other provision in this part 252 made prior to expiration of the charter. ODSA default provisions shall be applicable to noncompliance with this requirement. Charters that do not exceed 5 years and do not provide for extension beyond 5 years do not have to be submitted for approval by the Maritime Administrator, unless otherwise required by the ODSA. Charters previously approved by the Maritime Administration under existing procedures are deemed approved for purposes of this section.

(c) *Modification of requirement.* The Board shall have the authority to modify prospectively the provisions of this section as future circumstances may dictate. However, any such modification made by the Board shall apply only to charters that are executed on or after the date of the Board action, and the Board shall have discretion in determining whether such modification shall have general or limited applicability.

(d) *Applicability.* This is a general requirement applicable to the payment of ODS to operators of all types of bulk cargo vessels. The provisions of any ODS regulations pertaining specifically to dry bulk cargo vessels as may be finally adopted by the Maritime Administration and set forth in title 46, Code of Federal Regulations, shall govern as to dry bulk cargo vessels where such provisions are inconsistent with those contained in this section.

[45 FR 30442, May 8, 1980]

§ 252.22 Substantiality and extent of foreign-flag competition.

(a) *Type and tonnage groupings.* Foreign-flag competition shall be determined, as of January 1 of the year preceding January 1 of the subsidized year, by surveying a data file known as "Merchant Fleets of the World" that is maintained by MARAD. All foreign-flag bulk cargo vessels included in this data file are divided by type and category, and further subdivided by class. Classes include, but are not limited to

general tanker, chemical tanker, OBO, general dry bulk carrier and wood chip carrier. Each vessel class is further divided into deadweight tonnage ranges as follows:

(1) Range A-vessels of less than 25,000 DWT;

(2) Range B-vessels of 25,000 but less than 50,000 DWT;

(3) Range C-vessels of 50,000 but less than 100,000 DWT; and

(4) Range D-vessels of 100,000 or more DWT.

(b) *Competitive classes and range.* The following classes of foreign-flag vessels in the same tonnage range as the subsidized vessel shall be deemed to be competitive with the subsidized vessel:

Subsidized Vessels and Foreign-flag Class

(1) General tanker—general tanker

(2) Chemical tanker—general and chemical tankers

(3) OBO—general dry bulk carriers and tankers, OBO, bulk/oil, ore/oil and ore carriers

(4) General dry bulk carrier—general dry bulk carriers

(c) *Grouping and ranking competitive foreign-flags.* The foreign-flag vessels deemed to be competitive with the subsidized vessel shall be grouped by nationality and ranked according to the total deadweight tonnage under each foreign-flag.

(d) *Competitive foreign flag.* The competitive foreign flag shall be the flag with the greatest total tonnage in the range.

(e) *Largest foreign flag not competitor.* In the event that the Board believes that the competitive foreign-flag so determined pursuant to this § 252.22 is not a substantial competitor of any particular operator, the Board may determine the foreign-flag competition in a manner that more accurately reflects the true competition of the particular operator. In making this determination, the Board shall consider the written views of the operator and any other interested parties.

[40 FR 43490, Sept. 22, 1975, as amended at 45 FR 8024, Feb. 6, 1980; 51 FR 40426, Nov. 7, 1986]

§ 252.23 Financial and other reporting requirements.

(a) *Voyage report.* The operator shall submit a voyage report to the Director,