

Maritime Administration, DOT

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which sum will be retained to recover the cost of processing the application.

(Sec. 4; 5 U.S.C. 553)

[G.O. 106, 31 FR 3397, Mar. 4, 1966]

PART 252—OPERATING-DIFFERENTIAL SUBSIDY FOR BULK CARGO VESSELS ENGAGED IN WORLD-WIDE SERVICES

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AUTHORITY: 46 app. U.S.C. 1114(b), 1117, 1121, 1171, 1172, 1173, and 1175; 49 CFR 1.66.

SOURCE: 40 FR 43490, Sept. 22, 1975, unless otherwise noted.

Subpart A—Introduction

§ 252.1 Purpose.

This part prescribes regulations implementing provisions in Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171–1176 and 1178–1181) governing operating-differen-

tial subsidy for bulk cargo vessels engaged in carrying bulk cargo in essential services in the foreign commerce of the United States.

[51 FR 40425, Nov. 7, 1986, as amended at 61 FR 32706, June 25, 1996]

§ 252.2 Policy.

The policy of the Merchant Marine Act, 1936, as amended, is set forth in section 101 thereof, as follows:

It is necessary for the national defense and development of its foreign and domestic commerce that the United States shall have a merchant marine (a) sufficient to carry its domestic water-borne commerce and a substantial portion of the water-borne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval and military auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. It is hereby declared to be the policy of the United States to foster the development and encourage the maintenance of such a merchant marine.

§ 252.3 Definitions.

When used in this part:

(a) *Act* means the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101–1294).

(b) *Maritime Administrator* means the Maritime Administrator, Department of Transportation of the Department of Transportation.

(c) *Board* means the Maritime Subsidy Board of the Maritime Administration.

(d) *Bulk cargo vessel* means a vessel built to carry solid, liquid or gaseous commodities that in normal shipment are contained only by the vessel's structure.

(e) *Citizen of the United States* includes a corporation, if all directors of the corporation are citizens of the United States, partnership or association but only if it is deemed a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802).

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(f) *Contracting Officer* means the Associate Administrator for Maritime Aids.

(g) *Fiscal year* means any annual period beginning on July 1 and ending on June 30.

(h) *Foreign-flag competition* means those foreign-flag vessels deemed by the Board to be competitive with the subsidized vessel.

(i) *Gross revenue* means the operator's total gross receipts from cargoes or fixtures of a vessel or both.

(j) *Operating-differential subsidy agreement (ODSA)* means the agreement entered into by the operator and the United States government for the payment of operating-differential subsidy.

(k) *Operating-differential subsidy (ODS)* means, except as the operator and the United States government should agree upon a lesser amount, the excess of the cost of subsidizable items of expense incurred in the operation under United States registry of a vessel over the estimated fair and reasonable cost of the same items of expense (excluding any increase in the cost of such items necessitated by features incorporated for national defense), if such vessel were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel, or such sums as the Board may determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country.

(l) *Operator* means any individual, partnership, corporation or association that contracts with the United States government under Title VI of the Act to receive ODS.

(m) *Reduced crew period* means any period in port beginning on the day that a vessel's normal crew complement is reduced by 4 or more men and division of wages is not paid for the missing men and ending on the day prior to the day that the vessel's crew complement is restored to not more than 3 men less than the normal crew complement, or division of wages is paid for the missing men, or the vessel is temporarily or permanently withdrawn from subsidized service, whichever occurs first.

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(n) *Region Director* means the Region Director of the Maritime Administration within whose region the principal office of the operator is located.

(o) *Subsidized service* means the operation of a vessel other than in the coastal or intercoastal trade in accordance with the terms and conditions of the ODSA.

(p) *Subsidy rate* means the method adopted by the Board for determining the amount of ODS that is to be paid for an item of subsidizable expense.

(q) *Subsidized vessel* means a vessel covered by an ODSA.

(r) *U.S. foreign commerce* means the commerce or trade between the United States, its territories or possessions, or the District of Columbia and a foreign country.

(s) *Vessel* means subsidized vessel unless otherwise specified.

(t) *Voyage day* means any day or part of a day during which a subsidized vessel is operated in accordance with the terms and conditions of the ODSA.

[40 FR 43490, Sept. 22, 1975, as amended at 45 FR 30442, May 8, 1980; 51 FR 40425, Nov. 7, 1986]

§ 252.4 Waivers.

In special circumstances and for good cause shown, the procedures prescribed in this part may be waived, in writing, by mutual agreement of the parties, in keeping with the circumstances then present, provided that the procedures adopted are consistent with the Act and with the intent of these regulations.

[51 FR 40425, Nov. 7, 1986]

Subpart B—Eligibility and Agreement

§ 252.10 Eligibility.

Any citizen of the United States may apply to the Board for the payment of ODS for the operation of a bulk cargo vessel in an essential service in the U.S. foreign commerce.

§ 252.11 Application forms.

Application forms may be obtained from the Secretary, Maritime Administration, Department of Transportation, Washington, DC 20590.