

**§ 282.2 Definitions.**

When used in this part:

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

(b) *Board* means the Maritime Subsidy Board of the Maritime Administration (MARAD).

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

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

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

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

(g) *Operating day* means any day or part of a day during which a subsidized vessel is operated in accordance with the terms and conditions of an operating-differential subsidy agreement.

(h) *Operating-differential subsidy (ODS)* means, except as the operator and the United States Government should agree upon a lesser amount, the excess of 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.

(i) *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.

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

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

(l) *Reduced crew period* means a period in port between or during voyages

when the subsidized vessel's approved crew complement is reduced by 10 percent or more and division of wages (wages of an absent seaman are divided among the seamen who provide the absent seaman's work) is not paid for the missing men.

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

(n) *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.

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

(p) *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.

(q) *Vessel* means subsidized vessel, unless otherwise specified.

**§ 282.3 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, so long as the procedures adopted are consistent with the Act and with the intent of these regulations.

**Subpart B—Foreign-Flag Competition****§ 282.10 Basis for determining foreign-flag competition.**

The foreign-flag competition shall form the basis for determining the cost disadvantage of operating the subsidized vessels in the essential service. The Maritime Administrator shall determine the foreign-flag competition from those countries that have carried a significant amount of cargo in the service by using the following procedures:

(a) The primary source of information shall be commodity import/export data compiled by the Bureau of the Census. Cargo data shall be compiled in long tons. Trade publications which show advertised sailings shall be used