

and conditions of the MSP Operating Agreement.

(u) *Ocean Common Carrier*, means a carrier that meets the requirements of the MSA, section 654(3).

(v) *ODS*, means Operating-Differential Subsidy provided by Subtitle A, Title VI, of the Act.

(w) *Operating Day*, means any day during which a vessel is operated in accordance with the terms and conditions of the MSP Operating Agreement.

(x) *Related party*, means:

(1) a holding company, subsidiary, affiliate, or associate of a contractor who is a party to an operating agreement under Subtitle B, Title VI, of the Act; and

(2) an officer, director, agent, or other executive of a contractor or of a person referred to in paragraph (x)(1) of this section.

(y) *Roll-on/Roll-off Vessel*, means a vessel that has ramps allowing cargo to be loaded and discharged by means of wheeled vehicles so that cranes are not required.

(z) *Secretary*, means the Secretary of Transportation.

(aa) *United States Documented Vessel*, means a vessel documented under Chapter 121 of Title 46, United States Code.

§ 295.3 Waivers.

In special circumstances, and for good cause shown, the procedures prescribed in this part may be waived in writing by the Maritime Administration, by mutual agreement of the Maritime Administration and the Contractor, so long as the procedures adopted are consistent with the Act and with the objectives of these regulations.

Subpart B—Establishment of MSP Fleet and Eligibility

§ 295.10 Eligibility requirements.

(a) *Applicant*. Any person may apply to MARAD for Enrollment of Eligible Vessels in MSP Operating Agreements for inclusion in the MSP Fleet pursuant to the provisions of subtitle B, title VI, of the act. Applications shall be addressed to the Secretary, Maritime Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(b) *Eligible Vessel*. A vessel eligible for enrollment in a MSP Operating Agreement shall be self-propelled and meet the following requirements:

(1) *Vessel Type*—(i) *Liner Vessel*. The vessel shall be operated by a person as an Ocean Common Carrier.

(ii) *Specialty vessel*. Whether in commercial service, on charter to the DOD, or in other employment, the vessel shall be either:

(A) a Roll-on/Roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units; or

(B) a LASH vessel with a barge capacity of at least 75 barges; or

(iii) *Other vessel*. Any other type of vessel that is determined by the MARAD to be suitable for use by the United States for national defense or military purposes in time of war or national emergency; and

(2) *Vessel Requirements*—(i) *U.S. Documentation*. Except as provided in paragraph (b)(2)(iv) of this section, the vessel is a U.S.-documented vessel; and

(ii) *Age*. Except as provided in paragraph (b)(2)(iii), on the date a MSP Operating Agreement covering the vessel is first entered into is:

(A) a LASH Vessel that is 25 years of age or less; or

(B) any other type of vessel that is 15 years of age or less.

(iii) *Waiver Authority*. In accordance with section 651(b)(2) of the act, MARAD is authorized to waive the application of paragraph (b)(2)(ii) of this section if MARAD, in consultation with the Secretary of Defense, determines that the waiver is in the national interest.

(iv) *Intent to document U.S.* Although the vessel may not be a U.S.-documented vessel, it shall be considered an Eligible Vessel if the vessel meets the criteria for documentation under 46 U.S.C. chapter 121, the vessel owner has demonstrated an intent to have the vessel documented under 46 U.S.C. chapter 121, and the vessel will be less than 10 years of age on the date of that documentation; and

(3) *MARAD's determination*. MARAD determines that the vessel is necessary to maintain a United States presence in international commercial shipping and the applicant possesses the ability,