

## SUBCHAPTER I-A—NATIONAL SHIPPING AUTHORITY

### PART 315—AGENCY AGREEMENTS AND APPOINTMENT OF AGENTS

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SOURCE: 58 FR 44285, Aug. 20, 1993, unless otherwise noted.

#### § 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 Director, National Shipping Authority (NSA) of the Maritime Administration (MARAD), Department of Transportation, and Agents which 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 to Agents from time to time pursuant to the specific provisions of a Service Agreement or Ship Manager Contract.

#### § 315.3 Definitions.

(a) *Agent* includes a General Agent, Berth Agent and Ship Manager, designated as such under a standard form of Service Agreement or Ship Manager Contract to manage and conduct the business of vessels of which the United States is owner, 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 App. U.S.C. 803), 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;

(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 conventurer 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 (b)(4) of this section, or, if it is in effect a partnership, will be treated as is a partnership under paragraph (b)(3) of this section.

(c) *Director, National Shipping Authority, or Director* means the Maritime Administrator. It also means the Associate Administrator for Shipbuilding

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and Ship Operations, or the Associate Administrator for Marketing, respectively, when the NSA is operating under authority delegated by the Maritime Administrator.

(d) *NDRF* means a National Defense Reserve Fleet site.

(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.

[58 FR 44285, Aug. 20, 1993, as amended at 69 FR 34310, June 21, 2004]

## § 315.5 Appointment of agents.

(a) *Eligibility*. The Director shall restrict the appointment as Agent to qualified applicants. Each applicant shall establish that eligibility according to procedures that may be obtained from MARAD and shall:

(1) Be a Citizen of the United States, as defined in § 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 procedures for appointment as General Agent, Berth Agent or Ship Manager may be obtained from, and inquiries and other written communications shall be submitted to, the Maritime Administration, Attn: Office of Acquisition, MAR-383, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, tel. (202)366-1943. Inquiries should be made during normal business hours.

(c) *Approval*. After final approval of an Agent by MARAD, the contracting office shall transmit the Service Agreement or Ship Manager contract to the Agent for execution and return to MARAD.

(d) *Agreements*. The standard text of the Service Agreement and Ship Manager Contract may be obtained from the Office of Acquisition at the address appearing in paragraph (b) of this section, by mail or in person during normal business hours.

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## § 315.6 Transferred vessels and contracts.

The requirements of § 315.5(a)(1) shall 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 the Maritime Administration, provided the period of performance of the transferred contract does not exceed the period of performance of the original contract, including options.

[73 FR 49358, Aug. 21, 2008]

## § 315.7 Administration of agency agreements.

(a) *Amendments*. The MARAD contracting office shall prepare modifications to all Service Agreements and Ship Manager Contracts that are required due to changes in the Federal Acquisition Regulation or Transportation Acquisition Regulation, or changes in MARAD policy or procedure.

(b) *Annual review of General Agent representations and certifications*. The contracting office shall require that each General Agent certify annually that all representations and certifications incorporated in a Service Agreement are current, complete and accurate, or provide new representations and certifications.

## § 315.9 Duties of agents.

The Agent shall perform all duties prescribed in the Service Agreement or Ship Manager Contract and shall be guided by such directions, orders or regulations as may be issued by MARAD.

## § 315.11 Vessel deactivation procedures.

When an Agent is responsible as vessel operator to decommission and deliver a vessel to the NDRF, that Agent shall observe all the procedures and requirements prescribed by MARAD contained in instructions which may be obtained from the MARAD Division of Reserve Fleet (MAR-743) at the address specified in § 315.5(b) of this part. Tel. (202) 366-5752.