

§ 272.21

(b) Comply with provisions of § 272.14(c)(1) with respect to repair specifications, or to make the vessel reasonably available for inspection before its next sailing; or

(c) Comply with any other requirement specified in this subpart B.

Subpart C—Eligibility Criteria for M&R Subsidy; Substantiation of M&R Expenses

§ 272.21 General eligibility criteria.

(a) *Eligible maintenance and repairs.* Costs of maintenance and repair are eligible for M&R subsidy participation if they are:

- (1) Performed on an Eligible Vessel;
- (2) Necessary, because of subsidized operation, for the M&R or replacement of damaged or worn parts of the vessel's hull, machinery, or Permanent Equipment;
- (3) Uncompensated by insurance;
- (4) Considered fair and reasonable by the Board;
- (5) Of Domestic Origin; and
- (6) Otherwise eligible in accordance with provisions of this part.

(b) *Off-subsidy survey items.* Any M&R contained in an executed off-subsidy survey report is eligible maintenance and repair if:

- (1) Paragraphs (a) (1) through (6) of this section are met;
- (2) The work is accomplished by the Operator before or during the next drydocking period (periodic or otherwise); and
- (3) The vessel is either owned by the same Operator who owned it at the time of the off-subsidy survey, or ownership was transferred to the Federal Government pursuant to section 510 of the Act (46 App. U.S.C. 1160).

(c) *Operator furnished items.* In addition to the general requirements of paragraph (a) of this section, the cost of the Operator's materials, supplies, or both, furnished by the Operator which are necessary to the performance of eligible M&R, is eligible for M&R subsidy if:

- (1) The items for which the cost was incurred are issued by the Operator from ship's inventory or the Operator's shoreside inventory, or are issued by direct purchase to the ship repair yard,

other independent contractor, or shore gang labor; and

(2) No subsidy, whether M&R or otherwise, has previously been paid for such material, supplies, or both; and

(3) The items are of Domestic Origin.

(d) *Costs associated with shore gang labor.* In addition to the general requirements of paragraph (a) of this section, the costs incurred with respect to the Operator's employment of U.S. shore gang labor necessary for the performance of eligible M&R are eligible for M&R subsidy participation only if such costs are:

- (1) For direct labor charges;
- (2) For eligible Spare Parts, as described in paragraph (e) of this section; or
- (3) Incidental to the payment of wages for the direct labor, to the extent that such costs are required by State or Federal law or by collective bargaining agreements.

(e) *Spare parts.* Spare parts are eligible for M&R subsidy if they are:

- (1) Necessary for eligible M&R;
- (2) Issued by the Operator from the Operator's shoreside inventory or issued by direct purchase to a U.S. ship repair yard, U.S. independent contractor, or U.S. shore gang labor; and
- (3) Placed aboard an Eligible Vessel, and
- (4) Of Domestic Origin.

§ 272.22 Improvements and other similar work.

(a) *Eligible expenditures.* Any expenditure not in excess of \$200,000 for work effected during any one or a series of repair periods, which the Operator and MARAD consider to be an Improvement, is eligible for M&R subsidy if otherwise eligible for such subsidy pursuant to provisions of this Part.

(b) *Capital expenditures.* An expenditure in excess of \$200,000 for work effected during any one or a series of repair periods, which is not necessary for maintenance or repair shall be considered to be a capital expenditure, ineligible for M&R subsidy, except that work on an Eligible Vessel which the operator considers to be an Improvement is eligible for M&R subsidy if, before awarding this work:

- (1) The Operator submits a written request to the Director, Office of Ship