

any period of subsidized service while subject to that charter shall be deemed to be operation in an essential service. The payment of ODS for such period shall not be reduced because of any amendment to this section or any other provision in this part 252 made prior to expiration of the charter. ODSA default provisions shall be applicable to noncompliance with this requirement. Charters that do not exceed 5 years and do not provide for extension beyond 5 years do not have to be submitted for approval by the Maritime Administrator, unless otherwise required by the ODSA. Charters previously approved by the Maritime Administration under existing procedures are deemed approved for purposes of this section.

(c) *Modification of requirement.* The Board shall have the authority to modify prospectively the provisions of this section as future circumstances may dictate. However, any such modification made by the Board shall apply only to charters that are executed on or after the date of the Board action, and the Board shall have discretion in determining whether such modification shall have general or limited applicability.

(d) *Applicability.* This is a general requirement applicable to the payment of ODS to operators of all types of bulk cargo vessels. The provisions of any ODS regulations pertaining specifically to dry bulk cargo vessels as may be finally adopted by the Maritime Administration and set forth in title 46, Code of Federal Regulations, shall govern as to dry bulk cargo vessels where such provisions are inconsistent with those contained in this section.

[45 FR 30442, May 8, 1980]

§ 252.22 Substantiality and extent of foreign-flag competition.

(a) *Type and tonnage groupings.* Foreign-flag competition shall be determined, as of January 1 of the year preceding January 1 of the subsidized year, by surveying a data file known as "Merchant Fleets of the World" that is maintained by MARAD. All foreign-flag bulk cargo vessels included in this data file are divided by type and category, and further subdivided by class. Classes include, but are not limited to

general tanker, chemical tanker, OBO, general dry bulk carrier and wood chip carrier. Each vessel class is further divided into deadweight tonnage ranges as follows:

(1) Range A—vessels of less than 25,000 DWT;

(2) Range B—vessels of 25,000 but less than 50,000 DWT;

(3) Range C—vessels of 50,000 but less than 100,000 DWT; and

(4) Range D—vessels of 100,000 or more DWT.

(b) *Competitive classes and range.* The following classes of foreign-flag vessels in the same tonnage range as the subsidized vessel shall be deemed to be competitive with the subsidized vessel:

Subsidized Vessels and Foreign-flag Class

(1) General tanker—general tanker

(2) Chemical tanker—general and chemical tankers

(3) OBO—general dry bulk carriers and tankers, OBO, bulk/oil, ore/oil and ore carriers

(4) General dry bulk carrier—general dry bulk carriers

(c) *Grouping and ranking competitive foreign-flags.* The foreign-flag vessels deemed to be competitive with the subsidized vessel shall be grouped by nationality and ranked according to the total deadweight tonnage under each foreign-flag.

(d) *Competitive foreign flag.* The competitive foreign flag shall be the flag with the greatest total tonnage in the range.

(e) *Largest foreign flag not competitor.* In the event that the Board believes that the competitive foreign-flag so determined pursuant to this § 252.22 is not a substantial competitor of any particular operator, the Board may determine the foreign-flag competition in a manner that more accurately reflects the true competition of the particular operator. In making this determination, the Board shall consider the written views of the operator and any other interested parties.

[40 FR 43490, Sept. 22, 1975, as amended at 45 FR 8024, Feb. 6, 1980; 51 FR 40426, Nov. 7, 1986]

§ 252.23 Financial and other reporting requirements.

(a) *Voyage report.* The operator shall submit a voyage report to the Director,

§ 252.24

46 CFR Ch. II (10-1-06 Edition)

Office of Subsidy Administration, Maritime Administration, Washington, DC 20590, upon the completion of each subsidized voyage. Each voyage report shall include the following:

- (1) Name of vessel and voyage number.
- (2) Subsidy contract number.
- (3) Vessel activity, including the following:
 - (i) Ports of voyage commencement and termination, including dates and times.
 - (ii) Loading ports, including dates of arrival and departure and long tons of cargo loaded (specify commodity).
 - (iii) Discharge ports, including dates of arrival and departure and long tons of cargo discharged.
 - (iv) Other ports, ports of bunkering, emergency calls, etc., including dates of arrival and departure (specify reason for call).
- (4) All reduced crew periods, all periods of idleness, lay-up and delay, and all related correspondence with the Region Director.

(b) *Condition of vessels, inspection and repairs.* In order that the Maritime Administration may participate in the inspection of vessels, in compliance with part 272 of this subchapter, the operator shall give at least 24 hours notice to the Region Director as to the time and place of vessel inspections.

(c) *Vessel insurance*—(1) *Policies.* Upon the binding of any insurance policy with respect to a subsidized vessel, the operator shall submit promptly to the Director, Office of Marine Insurance, Maritime Administration, Washington, DC 20590, for approval of the Maritime Administration, a signed copy of each cover note issued by the operator's brokers, which, to the extent applicable, shall set forth as to such vessel the amounts covered by hull, increased value and other forms of total loss protection, as well as protection and indemnity insurance. Such cover notes shall include the rates, the amounts placed in the different markets, the participating underwriters, the amount underwritten by each underwriter, and the amounts of the deductibles. Upon request, copies of the policy shall be submitted to the Maritime Administration for examination.

(2) *Cancellation and policy changes.* The operator shall advise the Maritime Administration promptly of the cancellation of any policy of insurance, any changes in the terms or underwriters of any policy of insurance, any period of lay-up that permits the collection of return premiums, and the occurrence of any major casualty or total loss covered by a policy of insurance.

(d) *Financial statements.* The operator shall submit, in triplicate, to the Director, Office of Financial Approvals, Maritime Administration, Washington, DC 20590, the following reports, including management footnotes where necessary to make a fair financial presentation:

(1) Not later than 120 days after the close of the operator's semiannual accounting period, a Form MA-172 on a semiannual basis, in accordance with 46 CFR 232.6.

(2) Not later than 120 days after the close of the operator's annual accounting period an audited annual financial statement, in accordance with 46 CFR 232.6.

(Reporting requirements for paragraph (a) were approved by the Office of Management and Budget under control number 2133-0024 and reporting requirements for paragraph (d) were approved by the Office of Management and Budget under control number 2133-005)

[40 FR 43490, Sept. 22, 1975, as amended at 45 FR 30443, May 8, 1980; 47 FR 25530, June 14, 1982. Redesignated and amended at 51 FR 40426, Nov. 7, 1986]

§ 252.24 Continued eligibility for subsidy.

Operators shall remain eligible for ODS so long as they are engaged in service which would, under this part and sections 601(a), 602, and 605(c) of the Act, qualify for approval of an ODSA. The payment of ODS will be made only for carriage of commercial cargoes for which U.S.-flag vessels are in direct competition with foreign-flag vessels. An example of cargo that is excluded is bulk cargo reported by a shipper as the U.S.-flag share of cargoes subject to an agreement (including a unilateral commitment by a foreign government which has the effect of reserving cargoes for U.S.-flag vessels), between the United States and a foreign government in connection with