

#### § 308.4

(g) *Availability of Application Forms.* Form MA-528 may be obtained from either the American War Risk Agency (Underwriting Agent), at the address in paragraph (e) of this section, or the Maritime Administration, Attention: Director, Office of Subsidy and Insurance, 400 Seventh Street, SW., Washington, DC 20590.

(Approved by the Office of Management and Budget under control number 2133-0011)

#### § 308.4 [Reserved]

#### § 308.5 Voluntary contract of commitment.

Applications for insurance on vessels described in § 308.1(b) shall be accompanied by a contract of commitment, in triplicate originals, executed by the owner (or by the owner and the charterer where required by § 308.3). Contracts of commitment to make the vessel available to the United States during any period in which vessels may be requisitioned under section 902 of the Act (46 App. U.S.C. 1242) shall be submitted on standard contract form which may be obtained from the American War Risk Agency or MARAD. The effective date of the contract of commitment will be the effective date of the binder and will be inserted in the contract of commitment by MARAD.

#### § 308.6 Period of interim binders, updating application information and new applications.

(a) All existing interim binders remain in full force and effect without the necessity of re-application or the payment of additional fees so long as the Secretary of Transportation's authority to provide such insurance has been extended and is continuous.

(b) Assureds under interim binders are required to notify the American War Risk Agency annually, by June 30th, of any change in the information provided in their original binder applications including, but not limited to, change of address, vessel name or vessel characteristics.

(c) New applications for interim binders on U.S.-flag vessels, with necessary attachments (as specified in S 308.3), as well as checks for the binder fees prescribed made payable to "Maritime Administration, Department of Transpor-

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tion," shall be filed with the American War Risk Agency, 14 Wall Street, New York, New York 10005. All interim binders on U.S.-flag vessels shall become effective as of the date of determination of eligibility by the Maritime Administration.

(d) New applications for interim binders on U.S. citizen-owned or controlled foreign-flag vessels, with necessary attachments (as specified in § 308.3), as well as checks for the binder fees prescribed made payable to "Maritime Administration, Department of Transportation," shall be filed for review in accordance with eligibility requirements specified in § 308.2, and mailed to the American War Risk Agency, 14 Wall Street, New York, New York 10005. All interim binders on foreign-flag vessels will become effective on the date the owner's contract of commitment is executed by the Maritime Administration.

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#### § 308.7 Premiums and payment thereof.

Rate to be fixed promptly upon the happening of the event causing the American Institute Hull War Risks and Strikes Clauses dated December 1, 1977 (including Automatic Termination and Cancellation Provisions) for attachment to American Institute Hull Clauses dated June 2, 1977 of any war risk policies to become operative and premium shall be payable within ten days after receipt of notice of the amount thereof by the assured. Premiums shall be paid to the Underwriting Agent that issued the binders by check payable to the order of "Maritime Administration, Department of Transportation." In the event that it is subsequently determined that insurance under interim binders did not attach, premiums paid will be refunded by the Maritime Administrator.

#### § 308.8 War risk insurance underwriting agency agreement.

Standard form MA-355 of underwriting agency agreement applicable shall be executed by the Maritime Administrator and domestic insurance

companies or groups of domestic insurance companies authorized to do a marine insurance business in any States of the United States, appointing such companies or groups of companies as Underwriting Agents to issue binders and policies covering hull, protection and indemnity, and Second Seamen's war risk insurance under subparts B, C, and D of this part. It shall contain provisions including, but not limited to the appointment of the agent, duties of the agent, books and records, compensation, standard of performance, indemnification effective date, amendment and termination, and non-discrimination.

#### **Subpart B—War Risk Hull and Disbursements Insurance**

##### **§ 308.100 Insured amount.**

An applicant for war risk hull insurance shall state the amount of insurance desired but any payment of claim for damage to or actual or constructive total loss of the vessel insured shall be made as provided in § 308.103(a). An applicant desiring disbursements insurance may at his option obtain such additional insurance but any claim for loss of disbursements as a consequence of the actual or constructive total loss of the vessel insured shall be made as provided in § 308.103(c).

##### **§ 308.101 [Reserved]**

##### **§ 308.102 Issuance of interim binder; terms and conditions; fees.**

Upon acceptance of an application, an interim binder in the form set forth in § 308.106, will be issued and there shall be deemed to be incorporated therein by references all the terms, conditions, and warranties contained in the application for war risk hull and disbursements insurance and the standard war risk hull insurance policy (set forth in § 308.107), to the same extent as if such application and policy were made a part of the binder. The binder fee (not refundable) for U.S.-flag vessels shall be \$25 per application for vessels under 500 gross tons; \$100 per application for vessels 500 gross tons or over; and \$100 per LASH or similar type barge application. The binder fee (not refundable) for foreign-flag vessels

shall be \$50 per application for vessels under 500 gross tons; \$200 per application for vessels 500 tons or over; and \$200 per LASH or similar type barge application. All fees are payable in U.S. funds by check to order of the "Maritime Administration, Department of Transportation."

##### **§ 308.103 Insured amounts under interim binder.**

(a) *Valuation.* The valuation in the policy for damage to, or actual or constructive total loss of the vessel insured shall be a stated valuation (exclusive of National Defense features paid for by the Government) determined by the Secretary of Transportation which shall not exceed the amount that would be payable if the vessel had been requisitioned for title under section 902(a) of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1242(a)) at the time of the attachment of the insurance under said policy: Provided, however, That in the case of a construction subsidized vessel, for the period of insurance prior to requisition for title or use, the valuation so determined shall be reduced by such proportion as the amount of construction subsidy paid with respect to the vessel bears to the entire construction cost and capital improvements thereof (excluding the cost of national defense features), and for the period of insurance after requisition for use the valuation so determined shall not exceed the amount which would be payable under 46 App. U.S.C. 1242(a) in the case of requisition for title or use: Provided, further, that the insured shall have the right within sixty days after the attachment of the insurance under said policy, or within sixty days after determination of such valuation by the Secretary of Transportation, whichever is later, to reject such valuation, and shall pay, at the rate provided for in said policy, premiums upon such asserted valuation as the insured shall specify at the time of rejection, but such asserted valuation shall not operate to the prejudice of the Government in any subsequent action on the policy. In the event of the actual or constructive total loss of the vessel, if the insured has not rejected such valuation the amount of any claim therefor