

MARAD, Department of Transportation, and its Agents (including Agents' employees as sub-agents). Sub-agents may be insureds only as expressly provided in the agreement. Independent contractors of the Agents are not insureds.

(c) *Reports of accidents and occurrences.* The Agent must report every accident or occurrence of a P&I nature promptly to both MARAD and the contracting officer named in the agreement. If MARAD has obtained P&I insurance through a marine insurance underwriter, the Agent also must concurrently file a report of such accident or occurrence with the underwriter. MARAD will disclose full details as the identity of such underwriter to the Agent.

(d) *Report of claims.* The Agent must submit a quarterly report of all claims of a P&I nature to MARAD. The report must contain all relevant information, e.g., the names of the vessels and of the claimant, the date of the injury or occurrence, the amount claimed, the basis for any payments already disbursed on behalf of the United States, estimated future costs, and an evaluation of the claim of the merits.

(e) *Settlement of claims.* After ascertaining from MARAD the availability of funds, the Agent is authorized to settle individual claims of a P&I insurance nature that do not exceed \$5,000.

(1) For a settlement more than \$5,000, the Agent must obtain MARAD's prior approval. If MARAD has placed the P&I insurance with an insurance underwriter, the Agent must obtain the prior approval of the underwriter to settle claims.

(2) The amount of individual claims that do not exceed the Agent's limit for settlement will be chargeable by the Agent to the vessel expense and must be accounted for in accordance with current MARAD accounting instructions.

(3) When settling any such claim, the Agent must advise the claimant that such settlement will be accounted for in accordance with current accounting instructions and must also advise the claimant that such settlement is not to be construed as an admission of liability

by or on behalf of the United States, the Agent, or any other person.

(4) The Agent must apply sound judgment and follow standard practices of vessel operators in the settlement or other disposition of such P&I insurance claims, and must settle such claims only when the settlement is adequately supported by all the facts and circumstances and is in the best interest of the United States.

(f) *Litigation.* (1) If a court suit of a P&I nature is filed which arises out of the activities of the Agent under its Agreement, wherein the Agent is named as the party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent must immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, DC 20530. No agent or authorized subagent will incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(2) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent must immediately notify MARAD.

(Authority: 49 U.S.C. 109, 49 CFR 1.81)

PART 316-326 [RESERVED]

PART 327—SEAMEN'S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION

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AUTHORITY: 46 U.S.C. Chapters 301–309.

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Subpart A—Clarification Act Claims: Seamen’s Claims; Administrative Action and Litigation.

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 and the adminis-

trative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as “seamen”) employed on vessels as employees of the United States through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor.

§ 327.2 Statutory provisions.

These regulations are enacted to implement the administrative claims procedures set forth in 50 U.S.C. App. 1291(a).

§ 327.3 Required claims submission.

All claims specified in 50 U.S.C. App. 1291(a) shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5, prior to institution of court action thereon.

§ 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

- (1) In writing,
- (2) Designated as a claim,
- (3) Disclose that the object sought is the administrative allowance of the claim,
- (4) Comply with the requirements of this part, and
- (5) Filed as provided in § 327.5.

(6) The claim must be signed or attested to by the claimant. The statements made in the claim should be made to the best of the knowledge of the claimant and are subject to the provision of 18 U.S.C. 287 and 1001 and all other penalty provisions for making false, fictitious, or fraudulent claims, statements or entries, or falsifying, concealing, or covering up a material fact in any matter within the jurisdiction of any department or agency of the United States. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 U.S.C. 30901 *et seq.*), shall not be in compliance with the requirements of this part.

(b) *Contents.* Each claim shall include the following information:

- (1) With respect to the seaman:
 - (i) Name;
 - (ii) Mailing address;
 - (iii) Date of birth;

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- (iv) Legal residence address;
- (v) Place of birth; and
- (vi) Merchant mariner license or document number and social security number.

(2) With respect to the basis for the claim:

(i) Name of vessel on which the seaman was serving when the incident occurred that is the basis for the claim;

(ii) Place where the incident occurred;

(iii) Time of incident—year, month and day, and the precise time of day, to the minute, where possible;

(iv) Narrative of the facts and circumstances surrounding the incident, including a statement explaining why the United States is liable for this claim;

(v) Pictures, video recordings and other physical evidence related to the case and

(vi) The names, addresses, and telephone numbers, if available, of others who can supply factual information about the incident and its consequences.

(3) A sum certain dollar amount of claim, which includes a total for all amounts sought. The claim shall explain the amounts sought for:

(i) Past loss of earnings or earning capacity;

(ii) Future loss of earnings or earning capacity;

(iii) Medical expenses paid out of pocket;

(iv) Pain and suffering; and

(v) Any other loss arising out of the incident (describe).

(4) All medical and clinical records of physicians and hospitals related to a seaman's claim for injury, illness, or death shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MarAd to obtain all such records. The claim shall also include the number of days the seaman worked as a merchant mariner and the earnings received for the current calendar year, as well as for the two preceding calendar years.

(5) If the claim does not involve a seaman's death, the following information shall be submitted with the claim:

(i) Date the seaman signed a reemployment register as a merchant mariner;

(ii) Copy of the medical fit-for-duty certificate issued to the seaman;

(iii) Date and details of next employment as a seaman; and

(iv) Date and details of next employment as other than a seaman.

(6) If the claim is for other than personal injury, illness or death, the claim shall provide all supporting information concerning the nature and dollar amount of the loss.

§ 327.5 Filing claims.

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) The claimant shall send the claim directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590. A copy of each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose.

§ 327.6 Notice of allowance or disallowance.

MarAd shall give prompt notice in writing of the allowance or disallowance of each claim, in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall contain a brief statement of the reason for such disallowance.

§ 327.7 Administrative disallowance presumption.

If MarAd fails to give written notice of allowance or disallowance of a claim in accordance with § 327.6 within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. App. 1291(a).

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§ 327.8 Court action.

(a) No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. App. 1291(a), their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§327.4 and 327.5 and shall have been administratively disallowed in accordance with §327.6 or §327.7.

(b) This part prescribes rules and regulations pertaining to the filing of claims designated in §327.3 and the administrative allowance, or disallowance (actual and presumed), of such claims, in whole or in part, filed by officers and members of crews (hereafter referred to as “seamen”) employed on vessels through the National Shipping Authority (NSA), Maritime Administration (MarAd), or successor organization.

Subpart B—Admiralty Extension Act Claims; Administrative Action and Litigation

§ 327.20 Admiralty Jurisdiction Extension Claims: Required claims.

(a) Pursuant to 46 U.S.C. 30101(c) of the Admiralty Extension Act (AEA), administrative claims involving the extension of admiralty jurisdiction to cases of damage or injury on land caused by a Maritime Administration vessel on navigable waters must be presented in writing to the Maritime Administration in accordance with §§327.20 through 327.34 prior to institution of a court action thereon.

(b) A civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters may not be brought until the earlier occurrence of either the denial of the claim by the Maritime Administration or the presumptive denial of the claim which arises 6 months after the claim has been presented in writing to the Maritime Administration. 46 U.S.C. 30101(c)(2). Note that the 6 month period of review will not begin until a valid claim is filed pursuant to §327.25.

(c) Proceedings against the United States pursuant to the requirements of

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the AEA and these regulations is the exclusive remedy available against the United States of America, acting by and through the Maritime Administration, with respect to such injuries and damages.

§ 327.21 Definitions.

The following definitions apply to this subpart:

(a) *Accrual date.* The day on which the alleged wrongful act or omission results in injury or damage for which a claim is made.

(b) *Claim.* A written notification of an incident, signed by the claimant, describing the incident and explaining why the United States is liable. The claim shall be accompanied by a demand for the payment of a sum certain of money, with a statement as to how that sum certain was calculated and all documents supporting the amount claimed. Where damages for medical injuries are made, the doctor’s statement relating the injuries to the accident should be attached as well as medical release forms for each treating physician, hospital, and medical care provider.

§ 327.22 Who may present claims.

(a) *General rules.* (1) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.

(2) A claim for personal injury may be presented by the person injured.

(3) A claim based on death may be presented by the executor or administrator of the decedent’s estate, or any other person legally entitled to assert such a claim under local law. The claimant’s status must be stated in the claim.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses.

(b) A joint claim must be presented in the names of and signed by, the joint claimants, and the settlement will be made payable to the joint claimants.

(c) A claim may be presented by a duly authorized agent, legal representative or survivor, if it is presented in the name of the claimant. If the claim

is not signed by the claimant, the agent, legal representative, or survivor shall indicate their title or legal capacity and provide evidence of their authority to present the claim.

(d) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they must be combined in one claim.

§ 327.23 Insurance and other subrogated claims.

(a) The claims of an insured (subrogor) and an insurer (subrogee) for damages arising out of the same incident constitute a single claim.

(b) An insured (subrogor) and an insurer (subrogee) may file a claim jointly or separately. If the insurer has fully reimbursed the insured, payment will only be made to the insurer. If separate claims are filed, the settlement will be made payable to each claimant to the extent of that claimant's undisputed interest. If joint claims are filed, the settlement will be sent to the insurer.

(c) Each claimant shall include with a claim, a written disclosure concerning insurance coverage including:

- (1) The names and addresses of all insurers;
- (2) The kind and amount of insurance;
- (3) The policy number;
- (4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(d) Each subrogee shall substantiate an interest or right to file a claim by appropriate documentary evidence and shall support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the United States or conclusive evidence of the amount of damages. The Maritime Administration makes an independent determination on the issues of fact and law based upon the evidence of record.

§ 327.24 Actions by claimant.

(a) *Form of claim.* The claim must meet the requirements of this section.

(b) *Presentation.* The claim must be presented in writing to the Office of Chief Counsel, Attn. Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590-0001.

§ 327.25 Contents of a claim.

(a) A valid claim will contain the following:

(1) Identification of the Maritime Administration as the agency whose act or omission gave rise to the claim;

(2) The full name and mailing address of the claimant. If this mailing address is not claimant's residence, the claimant shall also include residence address;

(3) The date, time, and place of the incident giving rise to the claim;

(4) The amount claimed, in a sum certain, supported by independent evidence of property damage or loss, personal injury, or death, as applicable together with supporting medical records and a HIPPA compliant medical waiver for each treating physician or hospital;

(5) A detailed description of the incident giving rise to the claim and the factual basis upon which it is claimed the Maritime Administration is liable for the claim;

(6) A description of any property damage or loss, including the identity of the owner, if other than the claimant, as applicable;

(7) The nature and extent of the injury, as applicable;

(8) The full name, title, if any, and address of any witness to the incident and a brief statement of the witness' knowledge of the incident;

(9) A description of any insurance carried by the claimant or owner of the property and the status of any insurance claim arising from the incident; and

(10) An agreement by the claimant to accept the total amount claimed in full satisfaction and final settlement of the claim, lien or subrogation claim on the claimed amount, or any assignment of the claim.

(b) A claimant or duly authorized agent or legal representative must sign in ink a claim and any amendment to

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that claim. The claim shall include a statement that the information provided is true and correct to the best of the claimant's knowledge, information, and belief. If the person's signature does not include the first name, middle initial, if any, and surname, that information must be included in the claim. A married woman must sign her claim in her given name, *e.g.*, "Mary A. Doe," rather than "Mrs. John Doe."

§ 327.26 Evidence supporting a claim.

(a) The claimant shall present any evidence in the claimant's possession that supports the claim. This evidence shall include, if available, statements of witnesses, accident or casualty reports, photographs and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant shall provide such additional reasonable documents and evidence as requested by the Maritime Administration with respect to the claim. Failure to respond to reasonable requests for additional information and documentation can result in a determination that a valid claim has not been submitted.

§ 327.27 Proof of amount claimed for personal injury.

The following evidence must be presented when appropriate in claims:

(a) Itemized medical, hospital, and burial bills.

(b) A written report by the attending physician including:

(1) The nature and extent of the injury and the treatment;

(2) The necessity and reasonableness of the various medical expenses incurred;

(3) Duration of time injuries prevented or limited employment;

(4) Past, present, and future limitations on employment;

(5) Duration and extent of pain and suffering and of any disability or physical disfigurement;

(6) A current prognosis;

(7) Any anticipated medical expenses;

(8) Any past medical history of the claimant relevant to the particular injury alleged; and

(9) If required by the Maritime Administration, an examination by an independent medical facility or physician to provide independent medical

evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

(1) Age;

(2) Occupation;

(3) Hours of employment;

(4) Hourly rate of pay or weekly salary;

(5) Time lost from work as a result of the incident; and

(6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

(1) The amount of earnings actually lost; and

(2) The Federal tax return if filed for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

§ 327.28 Proof of amount claimed for loss of, or damage to, property.

The following evidence must be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim for property damage which may result in payment in excess of \$20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

(1) The date the property was damaged;

(2) The name and location of the repair facility;

(3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property

would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

§ 327.29 Effect of other payments to claimant.

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

(1) The military member or civilian employee who caused the incident;

(2) The military member's or civilian employee's insurer; and

(3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

§ 327.30 Statute of limitations for AEA and claim requirements.

A civil suit must be filed within two years of the Accrual Date. No civil suit may be brought until the earlier occurrence of either the denial of a claim or the presumptive denial of the claim after 6 months from the date the claim was properly presented in writing to the Maritime Administration.

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§ 327.31 Statute of limitations not tolled by administrative consideration of claims.

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by MarAd's administrative consideration of a claim.

§ 327.32 Notice of claim acceptance or denial.

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

§ 327.33 Claim denial presumption.

If the Maritime Administration fails to give written notice of acceptance or denial of a claim in accordance with § 327.30 within 6 months following the date of receipt of such a claim by the proper person designated in § 327.24(b), such claim shall be presumed to have been denied by the Maritime Administration.

§ 327.34 Court action.

No person, surviving dependent or beneficiary, or legal representative, having a claim specified under 46 U.S.C. 30101(a) against the Maritime Administration, shall institute a court action against the Maritime Administration unless an administrative claim has previously been properly presented and filed in accordance with §§ 327.22, 327.23, and 327.24, and such administrative claim has been subsequently denied in accordance with § 327.32 or § 327.33.

Subpart C—Other Admiralty Claims

§ 327.40 Other Admiralty claims.

(a) Admiralty claims caused by United States owned and operated vessels on navigable waters or otherwise that are not covered under the Clarification Act (50 U.S.C. app. 1291(a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41

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U.S.C. 601 *et. seq.*) may be filed with the Maritime Administration in accordance with §§ 327.40 through 327.52.

(b) A civil action against the United States for admiralty claims caused by United States owned and operated vessels on navigable waters or otherwise that are not covered under the Clarification Act (50 U.S.C. App. 1291(a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41 U.S.C. 601 *et. seq.*) may be brought without the filing of an administrative claim. This Part III sets forth the optional procedure for filing such claims with the Maritime Administration in advance of litigation. Once litigation is filed, the authority to handle such claims is vested with the Justice Department, not the agency.

(c) Proceeding against the United States pursuant to the requirements this Part III is not a requirement for filing suit against the United States of America, acting by and through the Maritime Administration, with respect to such admiralty claims.

§ 327.41 Definitions.

The following definitions apply to this subpart:

(a) *Accrual date.* The day on which the alleged wrongful act or omission results in injury or damage for which a claim is made.

(b) *Claim.* A written notification of an incident, signed by the claimant, describing the incident and explaining why the United States is liable. The claim shall be accompanied by a demand for the payment of a sum certain of money, with a statement as to how that sum certain was calculated and all documents supporting the amount claimed. Where damages for medical injuries are made, the doctor's statement relating the injuries to the accident should be attached as well as medical release forms for each treating physician, hospital, and medical care provider.

§ 327.42 Who may present claims.

(a) *General rules.* (1) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.

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(2) A claim for personal injury may be presented by the person injured.

(3) A claim based on death may be presented by the executor or administrator of the decedent's estate, or any other person legally entitled to assert such a claim under local law. The claimant's status must be stated in the claim.

(4) A claim for medical, hospital, or burial expenses may be presented by any person who by reason of family relationship has, in fact, incurred the expenses.

(5) A joint claim must be presented in the names of and signed by, the joint claimants, and the settlement must be made payable to the joint claimants.

(b) A claim may be presented by a duly authorized agent, legal representative or survivor, if it is presented in the name of the claimant. If the claim is not signed by the claimant, the agent, legal representative, or survivor shall indicate their title or legal capacity and provide evidence of their authority to present the claim.

(c) Where the same claimant has a claim for damage to or loss of property and a claim for personal injury or a claim based on death arising out of the same incident, they must be combined in one claim.

§ 327.43 Insurance and other subrogated claims.

(a) The claims of an insured (subrogor) and an insurer (subrogee) for damages arising out of the same incident constitute a single claim.

(b) An insured (subrogor) and an insurer (subrogee) may file a claim jointly or separately. If the insurer has fully reimbursed the insured, payment will only be made to the insurer. If separate claims are filed, the settlement will be made payable to each claimant to the extent of that claimant's undisputed interest. If joint claims are filed, the settlement will be sent to the insurer.

(c) Each claimant shall include with a claim, a written disclosure concerning insurance coverage including:

(1) The names and addresses of all insurers;

(2) The kind and amount of insurance;

(3) The policy number; and

(4) Whether a claim has been or will be presented to an insurer, and, if so, the amount of that claim; and whether the insurer has paid the claim in whole or in part, or has indicated payment will be made.

(d) Each subrogee shall substantiate an interest or right to file a claim by appropriate documentary evidence and shall support the claim as to liability and measure of damages in the same manner as required of any other claimant. Documentary evidence of payment to a subrogor does not constitute evidence of liability of the United States or conclusive evidence of the amount of damages. The Maritime Administration makes an independent determination on the issues of fact and law based upon the evidence of record.

§ 327.44 Actions by claimant.

(a) *Form of claim.* The claim should meet the requirements of § 327.44.

(b) *Presentation.* The claim must be presented in writing to the Office of Chief Counsel, Attn: Chief Counsel, Maritime Administration, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590-0001.

§ 327.45 Contents of a claim.

(a) A properly filed claim shall include the following, however, any of the following requirements may be waived by the Maritime Administration:

(1) Identification of the Maritime Administration as the agency whose act or omission gave rise to the claim;

(2) The full name and mailing address of the claimant. If this mailing address is not claimant's residence, the claimant shall also include residence address;

(3) The date, time, and place of the incident giving rise to the claim;

(4) The amount claimed, in a sum certain, supported by independent evidence of property damage or loss, personal injury, or death, as applicable together with supporting medical records and a HIPPA compliant medical waiver for each treating physician, hospital, or medical provider;

(5) A detailed description of the incident giving rise to the claim and the factual basis upon which it is claimed

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the United States is liable for the claim;

(6) A description of any property damage or loss, including the identity of the owner, if other than the claimant, as applicable;

(7) The nature and extent of the injury, as applicable;

(8) The full name, title, if any, and address of any witness to the incident and a brief statement of the witness' knowledge of the incident;

(9) A description of any insurance carried by the claimant or owner of the property and the status of any insurance claim arising from the incident; and

(10) An agreement by the claimant to accept the total amount claimed in full satisfaction and final settlement of the claim, lien, or subrogation claim on the claimed amount, or any assignment of the claim.

(b) A claimant or duly authorized agent or legal representative must sign in ink a claim and any amendment to that claim. The claim shall include a statement that the information provided is true and correct to the best of the claimant's knowledge, information, and belief. If the person's signature does not include the first name, middle initial, if any, and surname, that information must be included in the claim. A married woman must sign her claim in her given name, *e.g.*, "Mary A. Doe," rather than "Mrs. John Doe."

§ 327.46 Evidence supporting a claim.

(a) The claimant should present any evidence in the claimant's possession that supports the claim. This evidence shall include, if available, statements of witnesses, accident or casualty reports, photographs and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant shall provide such additional documents and evidence as requested by the Maritime Administration with respect to the claim. Failure to respond to reasonable requests for additional information and documentation can result in a determination that a proper claim has not been submitted.

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§ 327.47 Proof of amount claimed for personal injury.

The following evidence must be presented when appropriate in claims:

(a) Itemized medical, hospital, and burial bills.

(b) A written report by the attending physician including:

(1) The nature and extent of the injury and the treatment;

(2) The necessity and reasonableness of the various medical expenses incurred;

(3) Duration of time injuries prevented or limited employment;

(4) Past, present, and future limitations on employment;

(5) Duration and extent of pain and suffering and of any disability or physical disfigurement;

(6) A current prognosis;

(7) Any anticipated medical expenses;

(8) Any past medical history of the claimant relevant to the particular injury alleged; and

(9) At the request of the Maritime Administration, an examination by an independent medical facility or physician may be required to provide independent medical evidence against which to evaluate the written report of the claimant's physician. The Maritime Administration determines the need for this examination, makes mutually convenient arrangements for such an examination, and bears the costs thereof.

(c) All hospital records or other medical documents from either this injury or any relevant past injury.

(d) If the claimant is employed, a written statement by the claimant's employer certifying the claimant's:

(1) Age;

(2) Occupation;

(3) Hours of employment;

(4) Hourly rate of pay or weekly salary;

(5) Time lost from work as a result of the incident; and

(6) Claimant's actual period of employment, full-time or part-time, and any effect of the injury upon such employment to support claims for lost earnings.

(e) If the claimant is self-employed, written statements, or other evidence showing:

(1) The amount of earnings actually lost, and

(2) The Federal tax return, if filed, for the three previous years.

(f) If the claim arises out of injuries to a person providing services to the claimant, statement of the cost necessarily incurred to replace the services to which claimant is entitled under law.

§ 327.48 Proof of amount claimed for loss of, or damage to, property.

The following evidence should be presented when appropriate:

(a) For each particular lost item, evidence of its value such as a bill of sale and a written appraisal, or two written appraisals, from separate disinterested dealers or brokers, market quotations, commercial catalogs, or other evidence of the price at which like property can be obtained in the community. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any appraisal may be included as an element of damage if not deductible from any bill submitted to claimant.

(b) For each particular damaged item which can be economically repaired, evidence of cost of repairs such as a receipted bill and one estimate, or two estimates, from separate disinterested repairmen. The Maritime Administration may waive these requirements when circumstances warrant. The reasonable cost of any estimate may be included as an element of damage if not deductible from any repair bill submitted to claimant.

(c) For any claim which may result in payment in excess of \$20,000.00, a survey or appraisal shall be performed as soon as practicable after the damage accrues, and, unless waived in writing, shall be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it shall be treated as a lost item.

(e) If a claim includes loss of earnings or use during repairs to the damaged property, the following must also be furnished and supported by competent evidence:

(1) The date the property was damaged;

(2) The name and location of the repair facility;

(3) The beginning and ending dates of repairs and an explanation of any delay between the date of damage and the beginning date;

(4) A complete description of all repairs performed, segregating any work performed for the owner's account and not attributable to the incident involved, and the costs thereof;

(5) The date and place the property was returned to service after completion of repairs, and an explanation, if applicable, of any delay;

(6) Whether or not a substitute for the damaged property was available. If a substitute was used by the claimant during the time of repair, an explanation of the necessity of using the substitute, how it was used, and for how long, and the costs involved. Any costs incurred that would have been similarly incurred by the claimant in using the damaged property must be identified;

(7) Whether or not during the course of undergoing repairs the property would have been used, and an explanation submitted showing the identity of the person who offered that use, the terms of the offer, time of prospective service, and rate of compensation; and

(8) If at the time of damage the property was under charter or hire, or was otherwise employed, or would have been employed, the claimant shall submit a statement of operating expenses that were, or would have been, incurred. This statement shall include wages and all bonuses which would have been paid, the value of fuel and the value of consumable stores, separately stated, which would have been consumed, and all other costs of operation which would have been incurred including, but not limited to, license and parking fees, personnel expenses, harbor fees, wharfage, dockage, shedding, stevedoring, towage, pilotage, inspection, tolls, lockage, anchorage and moorage, grain elevation, storage, and customs fees.

(f) For each item which is lost, actual or constructive, proof of ownership.

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§ 327.49 Effect of other payments to claimant.

The total amount to which the claimant may be entitled is normally computed as follows:

(a) The total amount of the loss, damage, or personal injury suffered for which the United States is liable, less any payment the claimant has received from the following sources:

(1) The military member or civilian employee who caused the incident;

(2) The military member's or civilian employee's insurer; and

(3) Any joint tort-feasor or insurer.

(b) No deduction is generally made for any payment the claimant has received by way of voluntary contributions, such as donations of charitable organizations.

§ 327.50 Statute of limitations for other admiralty claims and claim requirements.

A civil suit must be filed within the statute of limitations of the specific admiralty claim. The start date for

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such statute of limitations determinations shall be the Accrual Date.

§ 327.51 Statute of limitations not tolled by administrative consideration of claims.

The statute of limitations for filing a civil action under 46 U.S.C. 30101(b) is not tolled by the Maritime Administration's administrative consideration of a claim.

§ 327.52 Notice of claim acceptance or denial.

The Maritime Administration shall give prompt notice in writing of the acceptance or denial of each claim in whole or in part, by mail to the last known address of, or by personal delivery to, the claimant or the claimant's legal representative. In the case of denial, such notice shall contain a brief statement of the reason for such a denial.

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