

III—FACULTATIVE WAR RISK CARGO
INSURANCE

§ 308.538 General.

The Maritime Administrator is prepared to provide facultative war risk insurance policies covering any cargoes described in §308.501 which are designated by an applicant prior to the attachment of risks, if the applicant does not have an Open Cargo Policy issued by the Maritime Administrator, or if he has a shipment which is not covered by his Open Cargo Policy. However, a person with regular shipments is urged to avail himself of the advantages of the automatic coverage of an Open Cargo Policy. The Maritime Administrator reserves the right to decline to quote rates or bind insurance on shipments of cargo that could be covered by an Open Cargo Policy unless the applicant can show to the satisfaction of the Maritime Administrator that the risk is not one of a series of similar risks forming part of a continual flow of business for the applicant. The policy will be in the standard form of War Risk Facultative Cargo Policy, Form MA-316, prescribed in §308.545. All policies shall be issued by Underwriting Agents appointed by the Maritime Administrator. All Underwriting Agents shall be domestic insurance companies authorized to do a marine insurance business in a State of the United States.

§ 308.539 Application.

(a) *Preliminary request.* Application for a Facultative Cargo Policy shall be made by filing a preliminary request in writing (including telegram) with an Underwriting Agent of the Maritime Administration, setting forth the following information:

- (1) The name and address of the applicant;
- (2) The amount of insurance requested;
- (3) The commodity and quantity to be insured;
- (4) The voyage to be covered;
- (5) The name of the vessel upon which the cargo will be shipped, if known, the name of the steamship line, if known, and the date of shipment, if the applicant is submitting the request to bind war risk in writing; for security

reasons, if the applicant is submitting the order to bind war risk insurance by telefax, neither the name of the vessel nor the name of the steamship line nor the anticipated date of sailing, should be mentioned. Mentioning such information in a telefax may result in a denial of insurance to the applicant. Any envelope transmitting a letter containing such information shall be marked "confidential."

(b) *Binder.* Before the insurance can be bound, the applicant shall provide the Underwriting Agent with a properly prepared binder on Form MA-315 prescribed in §308.544. The binder must be submitted in duplicate, accompanied by check or Money Order payable to the order of the Maritime Administration, Department of Transportation for the full amount of the premium computed on the amount to be insured at the rate set by the Maritime Administrator. Any application for facultative cargo war risk insurance received by an Underwriting Agent later than 4 p.m. (Local War Time) shall be considered the next day's business.

(c) *Optional loss limits clause.* Clause 9 of the standard form of facultative cargo policy, Form MA-316, prescribed in §308.545, limits the amount payable for loss to the fair market value at the place and approximate time of the attachment of risk, plus the cost of marine insurance, transportation and expenses incident thereto, and war risk insurance with respect to the lost or damaged goods, or if it is impossible to determine the fair market value at place and time of attachment of risk, the fair market value at the designated port of arrival on the date of the attachment of the risk, plus the cost of marine insurance, transportation and expenses incidental thereto, and war risk insurance with respect to the lost or damaged goods, or if the goods had been purchased prior to loading, the actual amount paid or payable to the seller for the goods less all discounts, plus the cost of marine insurance, transportation and expenses incidental thereto, and war risk insurance with respect to the lost or damaged goods. In lieu of these loss limits, the Assured may specify in his application, and the binder may have attached to the policy when issued Standard Optional

Endorsement No. 1-A, Form MA-316, prescribed in § 308.546, which limits the amount payable for loss to the actual bona fide pecuniary loss to the Assured, exclusive of any allowance for anticipated or accrued profits arising out of the insured venture.

§ 308.540 Premiums.

(a) *Rates.* Rate Schedules for war risk facultative cargo insurance will be published by the Maritime Administrator from time to time, and may be obtained from an Underwriting Agent. All Rate Schedules are subject to change by the Maritime Administrator without notice. If no rate is published for a voyage on which war risk facultative cargo insurance is available, the Maritime Administrator will name a rate through an Underwriting Agent upon application. Whenever an applicant for war risk facultative cargo insurance receives a definite rate quotation and desires to bind insurance at the quoted rate, an order to bind the insurance in accordance with the procedure set forth in this subpart should be submitted within two business days following the day of quotation accompanied by check or Money Order payable to the order of "Maritime Administration, Department of Transportation" for the full amount of the premium thereon computed on the amount to be insured at the rate set by the Maritime Administrator, or the quotation will expire.

(b) *Return premium.* Where goods are short-shipped, the amount of insurance may be reduced by an amount computed by applying to the original amount of insurance the proportion which the quantity of merchandise short-shipped (i.e., bales, barrels, tons, and other designations of quantity) bears to the total quantity of merchandise originally declared for insurance. Where more than one class of merchandise is insured under one policy (e.g., fuel, oil and gasoline) the reduced amount of insurance must be computed separately on each item. Where the amount of insurance is reduced, the Maritime Administrator will give consideration to requests for proportionate returns of premium. An application for the return of a premium must be submitted to the Underwriting

Agent in quadruplicate on Form MA-317, prescribed in § 308.547.

§ 308.541 Issuance.

(a) *Binder.* The Underwriting Agent is authorized to issue a facultative policy in Form MA-316, prescribed in § 308.545, when there has been presented to him a properly prepared binder on Form MA-315, prescribed in § 308.544, together with the payment of the premium as required, and such policy shall be issued as soon as possible after the binder form has been presented to the Underwriting Agent. Prior to the issuance of the policy, the Underwriting Agent is authorized to accept the risk on behalf of the Maritime Administrator by signing the binder. The Maritime Administrator will provide each Underwriting Agent with a supply of facultative policies which shall not be valid until countersigned by the Underwriting Agent. The Underwriting Agent shall keep a permanent record of all such policies and the Assured to whom the policy is issued.

(b) *Numbering.* Each Facultative Cargo Policy supplied to the Underwriting Agent by the Maritime Administrator shall be numbered by the Maritime Administration before it is supplied to the Underwriting Agent. No two numbers shall be the same. The Underwriting Agent when issuing the policy shall add at the end of the Policy number the agency number assigned to that Underwriting Agent, and where policies are issued by more than one office of an Underwriting Agent the issuing office shall also be identified in the policy number. For example, the policies issued by an office in New York will be designated "NY" and policies issued in San Francisco will be designated by "SF" prefixed to the Underwriting Agent's agency number.

§ 308.542 Warranty re thirty-day shipments.

If, after an effective binding of war risk insurance on a shipment of cargo, the assured believes that it will be impossible to comply with the warranty requiring the goods to be shipped and in transit within thirty days from the effective date of binding, such an assured may apply to the Maritime Administrator, through the Underwriting