

Maritime Administration, DOT

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FACULTATIVE WAR RISK CARGO INSURANCE

- 308.538 General.
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GENERAL

- 308.548 Standard form of underwriting agency agreement for cargo, Form MA-318.
- 308.549 Application for appointment of Cargo Underwriting Agent, Form MA-319.
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- 308.551 War risk insurance clearing agency agreement for cargo, Form MA-321.
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Subpart G—Records Retention

- 308.600 Records retention requirement.

SOURCE: 79 FR 17898, Mar. 31, 2014, unless otherwise noted.

Subpart A—General

§ 308.1 Eligibility for vessel insurance.

Any vessel within one of the following categories shall be eligible for

insurance, but shall remain eligible only while meeting the qualifications criteria in one of said categories. An eligible vessel is not insured unless and until an application is submitted as required in subpart B, C, or D of this part 308 and the Maritime Administrator, Department of Transportation, (Maritime Administrator) Maritime Administration (MARAD), approves said application.

(a) A vessel registered, enrolled, or licensed under the laws of the United States of America (United States); any undocumented vessel owned or chartered by or made available to the United States or any department or agency thereof; any tug or barge or other watercraft (documented under the laws of the United States, or undocumented) owned by a citizen of the United States and used in essential water transportation; and United States citizen-owned watercraft used in the fishing trade or industry, except when used exclusively in or for sport fishing.

(b) Any vessel, other than a vessel described in paragraph (a) of this section determined by the Maritime Administrator to be engaged in the national defense or the national economy of the United States and subject to an unqualified Contract of Commitment with the United States in a form required by the Maritime Administrator, and which is:

(1) Owned by a United States corporation, or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, the ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States as defined 46 U.S.C. 50501(a);

(2) Owned by a foreign corporation which is not directly or beneficially owned by a citizen or citizens of the United States, but which vessel is under a long-term charter or other long-term contract covering the use of the vessel on terms deemed by the Maritime Administrator to subject the vessel to United States control in the

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event of an emergency. The charterer of such vessel must be either a citizen or citizens of the United States or a foreign corporation in which a majority of the stock is owned and controlled by a citizen or citizens of the United States, whether direct or indirect through intervening corporations, foreign or domestic. Where such intervening corporations are foreign, ultimate majority ownership and control of the stock of such corporations must be vested in a citizen or citizens of the United States, as defined in 46 U.S.C. 50501(a).

(c) Any other vessel, at the sole discretion of the Maritime Administrator, but only while engaged in a service which has been determined by the Maritime Administrator to be in the interest of the national defense or the national economy of the United States. Vessels in this category are not eligible for war risk insurance interim binders.

§ 308.2 Requirements for eligible vessels.

(a) *Restrictions—foreign-flag vessels.* Interim insurance is available on any vessel described in § 308.1(a) and (b), provided application for interim insurance is submitted as required in subparts B, C, or D of this part 308, and the Maritime Administrator approves said application: Provided, that only vessels of Panamanian, Honduran, Bahamian, Republic of the Marshall Islands or Liberian registry not more than 20 years old will be considered eligible under § 308.1 (b) for interim insurance, subject at all times to the determination specified in paragraph (b) of this section.

(b) *Special rules—foreign-flag vessels.* For the purpose of providing interim insurance on vessels described in § 308.1(b), the Maritime Administrator shall consider the characteristics, employment, and general management of the vessel. The Maritime Administrator formally determines that the following vessels are engaged in a service in the interest of the national defense or the national economy of the United States and qualify for an interim binder:

(1) Vessels substantially engaged in the foreign commerce of the United States or which would be required in

the event of war or national emergency;

(2) Tankers of not less than 2,000 deadweight tons;

(3) Dry cargo vessels, including containerships, break-bulk, and dry bulk vessels;

(4) Heavy lift vessels;

(5) Refrigerated vessels and other classes of ships in short supply in the United States-flag fleet;

(6) Passenger vessels; and

(7) Other vessels with special capabilities, as determined by the Maritime Administrator.

(c) *Vessel Position Reports.* All vessels for which war risk insurance interim binders have been issued shall file a Vessel Position Report. The purpose of this report is to inform U.S. agencies of vessel arrivals, departures, and at-sea locations. Failure to make required regular reports will cause MARAD to issue a one-time notice of default. If failure to report continues, MARAD shall cancel the interim binder for the subject vessel and any insurance attaching thereunder. MARAD will issue reporting instructions and formats with the binders.

(d) *Notice of change in status of vessel after binder issued.* Any breach of the warranty prescribed hereunder as to vessels in all categories with respect to Department of Commerce Transportation Order T-1 (44 CFR Parts 401 and 402), as well as the additional warranties as to vessels in categories (b)(1) and (b)(2) of this section, with respect to maintenance of eligibility for insurance and availability of the insured vessels to the U.S. Government in time of emergency, shall terminate the binders and any insurance attaching thereunder. In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, or any other change in status which, by the terms of the binder causes the binder to terminate, prompt notice shall be given in writing to MARAD's underwriting agent and to MARAD at: Division of Marine Insurance, Maritime Administration, Department of Transportation, 1200 New Jersey Avenue SE., MAR-712, Washington, DC 20950.

(e) *Nature of change in status of other vessels.* It is the intention of the parties that any breach of the warranty as to