

§ 308.2

46 CFR Ch. II (10–1–14 Edition)

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

operation in the approved service of vessels described in §308.1(c) shall terminate the insurance. In the event of the sale, demise charter, requisition, confiscation, change of flag, total loss, any other change in status or change in operation of the vessel in the approved service prompt notice shall be given to MARAD's underwriting agent MARAD's underwriting agent and to MARAD at the address in paragraph (d) of this section.

§ 308.3 Applications for insurance; warranties; supporting documents; payment of binder fees.

(a) Application, binder forms. A single application for War Risk Insurance shall be filed on Form MA-528, specifying the types of insurance coverages for which the applicant is applying. A single application may be submitted for several vessels, if the application identifies each vessel to be insured and the coverage(s) required, by completing appendices A and B to that form. An interim binder for war risk insurance coverage, of the types described in subparts B, C and D of this part, shall be on Form MA-942, which may be obtained from the MARAD's underwriting agent or from MARAD.

(b) *Warranties*—

(1) *In general.* Applications for war risk hull and protection and indemnity insurance in any eligible category of this Part 308 shall include a warranty that, at all times during the effective period of the binder and any insurance attaching thereunder, the insured vessel, regardless of its nation of registry, will comply with Department of Commerce Transportation Order T-1 (44 CFR Parts 401 and 402), or any modifications thereof so long as it remains in force and that the vessel will not be chartered, unless in accordance with the provisions of §§221.11 and 221.13 of this chapter, which requirement is applicable to any charter in existence at the time the applicant applies for insurance.

(2) Vessels described in §308.1(a). Applications for war risk insurance on a vessel described in §308.1(a) shall contain the warranty that at, and from the date of issuance of the interim binder, and for and during the term of any insurance attaching thereunder, such

vessel will remain eligible within its category.

(3) Vessels described in §308.1(b). Applications for war risk insurance on a vessel described in §308.1(b) shall contain the warranties that at all times the vessel will remain eligible within its applicable category; that the vessel will be made available for use by the United States pursuant to the signed Contract of Commitment submitted with the insurance applications, as required by MARAD; that the vessel will remain in the approved service; and that no controlling interest in the vessel shall be transferred by a subsequent sale or long-term charter, except on the condition that the successor in interest agrees to be bound by the terms of the applicant's Contract of Commitment. All instruments transferring any controlling interest in the vessel, including long-term charter or merger agreements, shall be submitted to MARAD for prior approval.

(4) Vessels described in §308.1(c). Applications for war risk insurance on a vessel described in §308.1(c) shall contain warranties that the vessel will remain in the approved service and that any change in flag or service will be reported in advance to MARAD for a new determination as to whether the vessel's service is 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.

(5) Vessel locator filing requirements. Applications for insurance on vessels in all categories, except tugs and barges and vessels used exclusively in the fishing trade or industry, described in §308.1(a), shall contain a warranty that at all times the vessel will file reports as required under the U.S. Coast Guard's Automated Mutual-Assistance Vessel Rescue System (AMVER) as prescribed in §308.2(c) of this section.

(c) *Filing applications for insurance.* All applications for insurance on a vessel shall be made to MARAD's underwriting agent and to MARAD at the address in §308.2(d).

(d) *Required submissions with*—

(1) *In general.* An application for insurance on a vessel described in §308.1(b) shall be accompanied by: