

### § 308.3

### 46 CFR Ch. II (10–1–09 Edition)

(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 the American War Risk Agency, 14 Wall Street, New York, NY 10005.

#### **§ 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 American War Risk Agency or from the Office of Subsidy and Insurance.

(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 Orders T-1 and T-2 (44 CFR parts 401, 402, and 403), or any modifications thereof so long as they remain 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 the Maritime Administration; 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 the Maritime Administration 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 the Maritime Administration 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. Merchant Vessel Locator Filing System (USMER) 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 the American War Risk Agency, 14 Wall Street, New York, New York 10005, underwriting

agent for the Maritime Administration.

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

(i) A contract of commitment, in the form prescribed in §308.5 of this part. In the event the vessel is determined to be ineligible under the terms of this part 308, the applicant will be so advised and the executed contract of commitment and any official foreign government action or approval will be returned to the applicant by the Maritime Administration.

(ii) An executed agreement contained in the application for insurance that any charter or other contract covering the use of the vessel during the period of the binder or any insurance attaching thereunder shall be subject to termination or suspension without notice in the event the United States requires the use of the vessel under the voluntary contract of commitment submitted by the applicant.

(2) *Certification of citizenship.* An application for insurance on such a vessel shall be supported by execution of the citizenship certification, in the format set out in appendix C to Form MA-528, as described in paragraph (a) of this section. That certification shall be required to establish the U.S. citizenship of the majority ownership and control of the vessel-owning corporation, whether that ownership is direct or through intervening corporations.

(3) *Existing long-term charters.* An application for a vessel in this category which is at the time of application under long-term charter or other long-term contract, either to the applicant or from the applicant to a third party, shall be jointly submitted by the owner and the charterer, and in addition to the other materials required under this paragraph, shall be accompanied by a copy of the long-term contract covering the use of the vessel and all addenda thereto, certified to be full and complete copies (except as to rate of hire or freight) and a completed appendix C to Form MA-528, establishing the U.S. citizenship of the majority of the shareholders and control of the charterer. The charterer shall also furnish to MARAD a certified copy of any

amendment to such charter which may be issued subsequent to the issuance of any binder of insurance under this Part 308.

(4) *Foreign government action or approval.* An application for a vessel in this category also shall be accompanied by a certified copy of the evidence of any official action or approval required by the government of the country of registry as a prerequisite to the execution of a contract of commitment with the United States.

(5) *Additional materials.* With respect to a vessel in this category, the applicant shall submit the following additional materials:

(i) A statement describing the service in which the vessel is engaged, including a listing of the vessel's voyages and ports of call during the immediately preceding six (6) month period, indicating the tonnage and type of cargo carried on such voyages and the reasons why such service should be deemed to be in the interest of the national defense or the national economy of the United States;

(ii) Material demonstrating the management and financial capabilities of the applicant; and

(iii) In the case of a new vessel or a vessel which has not for the six (6) months immediately prior to the date of the application been engaged in the foreign commerce of the United States, a statement, signed by a responsible company official, certifying the extent to which the vessel will be engaged in the foreign commerce of the United States for the six (6) months immediately following the issuance of any interim binder of insurance under this part 308.

(e) *Requests for changes in binders.* All requests for changes in binders and inquiries relative to the insurance after the interim binders have been issued shall be directed to the American War Risk Agency, 14 Wall Street, New York, NY 10005.

(f) *Fees.* A check payable in U.S. funds to the "Maritime Administration, Department of Transportation" for the total amount of all binder fees payable by such applicant shall accompany each application. Binder fees are not returnable.

#### § 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 § 308.3), as well as checks for the binder fees prescribed made payable to "Maritime Administration, Department of Transpor-

#### 46 CFR Ch. II (10-1-09 Edition)

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.

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

#### § 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