



DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 327

[Docket Number MARAD-2025-0089]

RIN 2133-AC02

Deregulatory--Seamen's Claims; Administrative Action and Litigation

AGENCY: Maritime Administration (MARAD), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking, request for comments.

SUMMARY: MARAD is proposing to revise its regulations pertaining to the filing of claims and the administrative allowance or disallowance of claims filed by officers or members of crew employed on vessels owned, operated, or chartered by MARAD. The rule is intended (1) to correct numerous citations in accordance with the codification of Title 46 of the United States Code; (2) to improve accessibility by modernizing text and updating agency contact information; and (3) to remove obsolete references.

DATES: Comments should be filed on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2025-0089 by any of the following methods:

- Federal eRulemaking Portal: www.regulations.gov. Search using the DOT Docket Number (see above) and follow the instructions for submitting comments.
- E-mail: Rulemakings.MARAD@dot.gov. Include the docket number in the subject line of the message.
- Mail/Hand-Delivery/Courier: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, Washington, D.C. 20590. If you

would like to know that your comments reached the facility, please enclose a stamped, self-addressed postcard or envelope. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on federal holidays.

Note: We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission. If you submit your inputs by mail or hand-delivery, they must be submitted in an unbound format, no larger than 8 1/2 by 11 inches, single-sided, suitable for copying and electronic filing. All submissions received should include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking.

Instructions: All comments received will be posted without change to the docket at www.regulations.gov, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the section entitled **Public Participation**.

Privacy Act: Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit <https://www.transportation.gov/privacy>.

FOR FURTHER INFORMATION CONTACT: Mitch Hudson, Office of the Chief Counsel, Division of Legislation and Regulation, (202) 366-9373 or via email at Mitch.Hudson@dot.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during business hours. The FIRS is available twenty-four hours a day, seven days a week, to leave a message or question. You will receive a reply during normal business hours. You may send mail to Department of Transportation, Maritime Administration, Office of the Chief Counsel, Division of Legislation and Regulations, W24-220, 1200 New Jersey Avenue SE, Washington, D.C. 20590-0001.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

As required by 5 U.S.C. 553(b)(4), this document, including a summary of the rule, and all comments may be viewed online through the Federal eRulemaking portal at www.regulations.gov. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: www.federalregister.gov.

Background

Improvement of regulations is a continuous focus for DOT and MARAD. For that reason, DOT/MARAD regularly and deliberately review their rules in accordance with DOT Order 2100.6B, Policies and Procedures for Rulemakings, Executive Order (E.O.) 12866, Regulatory Planning and Review (Oct. 4, 1993), and section 610 of the Regulatory Flexibility Act. That process is summarized in Appendix D of DOT's semi-annual regulatory agenda. In addition, E.O. 14192, Unleashing Prosperity Through Deregulation (Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (Feb. 19, 2025), directed agencies to further scrutinize their regulations to reduce unnecessary costs, clear barriers to emerging technology, and alleviate unnecessary regulatory burdens.

Accordingly, MARAD has identified its Seamen's Claims regulations governing claims and administrative procedures for consideration. In this proposed rule, MARAD seeks comments to ensure that the program remains current, modern, and the least burdensome to the public. MARAD welcomes your comments to ensure that agency programs benefit from current and comprehensive best practices.

Public Participation

How long do I have to submit comments?

We are providing a 60-day comment period.

How do I prepare and submit comments?

To ensure that your comments are correctly filed in the Docket, please include the Docket Number shown at the beginning of this document in your comments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System website at <http://www.regulations.gov>. Search using the docket number and follow the online instructions for submitting comments.

Please note that pursuant to the Data Quality Act, for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the Office of Management and Budget (OMB) and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at http://www.bts.gov/programs/statistical_policy_and_research/data_quality_guidelines.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

Will the agency consider late comments?

MARAD will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing any follow-on action, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to

<http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, MARAD will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the docket for new material.

Section by Section Analysis

Section 327.1 Purpose

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.2 Statutory provisions

MARAD is proposing to revise the statutory provisions for accuracy.

Section 327.3 Required claims submission.

MARAD is proposing to revise citations for accuracy.

Section 327.4 Claim requirements.

MARAD is proposing to make minor, non-substantive edits to this section for clarity and to improve accessibility.

Section 327.5 Filing claims.

MARAD is proposing to make minor, non-substantive edits to this section for clarity and to improve accessibility.

Section 327.6 Notice of allowance or disallowance.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.7 Administrative disallowance presumption.

MARAD is proposing to revise citations for accuracy.

Section 327.8 Court action.

MARAD is proposing to revise minor, non-substantive edits to this section for clarity.

Section 327.20 Admiralty Jurisdiction Extension Claims: Required claims.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.21 Definitions.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.22 Who may present claims.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.23 Insurance and other subrogated claims.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.24 Actions by claimant.

MARAD is making contact information updates.

Section 327.25 Contents of claim.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.26 Evidence supporting a claim.

No change is being proposed.

Section 327.27 Proof of amount claimed for personal injury.

No change is being proposed.

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

No change is being proposed.

Section 327.29 Effect of other payments to claimant.

No change is being proposed.

Section 327.30 Statute of limitations for AEA and claim requirements.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

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

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.32 Notice of claim acceptance or denial.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.33 Claim denial presumption.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.34 Court action.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.40 Other Admiralty claims.

MARAD is proposing to update citations for accuracy.

Section 327.41 Definitions.

No change is being proposed.

Section 327.42 Who may present claims.

No change is being proposed.

Section 327.43 Insurance and other subrogated claims

No change is being proposed.

Section 327.44 Actions by claimant.

MARAD is proposing to update contact information.

Section 327.45 Contents of a claim.

No change is being proposed.

Section 327.46 Evidence supporting a claim.

No change is being proposed.

Section 327.47 Proof of amount claimed for personal injury.

No change is being proposed.

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

No change is being proposed.

Section 327.49 Effect of other payments to claimant.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

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

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

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

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 327.52 Notice of claim acceptance or denial.

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Rulemaking Analysis and Notices

Executive Orders 12866 and DOT Rulemaking Procedures

This rule is not a significant regulatory action under Executive Order (E.O.) 12866 and DOT Order 2100.6B and, therefore it was not reviewed by the Office of Management and Budget. It is also not considered a major rule for purposes of Congressional review under Public Law 104-121. This rule is limited to updating the citations, addresses, and modernizing text.

Executive Order 14192 (Deregulation)

E.O. 14192 requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.” Implementation guidance for E.O. 14192, issued by OMB (Memorandum M-25-20, March 26, 2025), defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This rule will have total costs less than zero, and therefore is an E.O. 14192 deregulatory action.

Executive Order 13132 (Federalism)

MARAD analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”) and has determined that it has no substantial effect on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. Nothing in this document preempts any State law or regulation. Therefore, MARAD did not consult with State and local officials on this rulemaking and did not prepare a Federalism summary impact statement.

Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

This rulemaking will not significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires MARAD to assess whether this rulemaking would have a significant economic impact on a substantial number of small entities and to minimize any adverse impact. The revisions to the regulations are only clerical and should result in no substantive change to the regulation. MARAD certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108-447, div. H, 118 Stat. 2809 at 3268) requires the Department of Transportation and certain other federal agencies to conduct a privacy impact assessment of each proposed rule that will affect the privacy of individuals.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires agencies to evaluate whether an agency action would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$206 million or more (as adjusted for inflation) in any 1 year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of \$206 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a federal agency unless the collection displays a valid OMB control number. This rulemaking includes no new collection of information.

List of Subjects in 46 CFR Part 327

Administrative practice and procedure, claims, national defense, Seamen.

For the reasons described in the preamble, MARAD proposes to revise 46 CFR part 327 as set forth below:

PART 327—SEAMEN’S CLAIMS; ADMINISTRATIVE ACTION AND LITIGATION **Subpart A—Clarification Act Claims: Seamen's Claims; Administrative Action and Litigation.**

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327.2 Statutory provisions.

327.3 Required claims submission.

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

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327.20 Admiralty Jurisdiction Extension Claims: Required claims.

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

327.29 Effect of other payments to claimant.

327.30 Statute of limitations for AEA and claim requirements.

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

327.32 Notice of claim acceptance or denial.

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Subpart C—Other Admiralty Claims

Sec.

327.40 Other Admiralty claims.

327.41 Definitions.

327.42 Presentation of claims.

327.43 Insurance and other subrogated claims.

327.44 Actions by claimant.

327.45 Contents of a claim.

327.46 Evidence supporting a claim.

327.47 Proof of amount claimed for personal injury.

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

327.49 Effect of other payments to claimant.

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

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

327.52 Notice of claim acceptance or denial.

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

Authority: 46 U.S.C. Chapters 301-309, 49 CFR 1.93(b).

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 section 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 owned, operated, or chartered by the 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.A. 4701 (a).

§ 327.3 Required claims submission. All claims specified in 50 U.S.C.A. 4701 (a) must be submitted for administrative consideration, as provided in sections 327.4 and 327.5, prior to institution of court action thereon.

§ 327.4 Claim requirements.

(a) *Form.* The claim must be in writing, in any form, and must provide the following:

(1) Designated as a claim,

- (2) Disclose that the object sought is the administrative allowance of the claim,
- (3) Comply with the requirements of this part, and
- (4) Filed as provided in section 327.5.
- (5) 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. sections 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.

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

(1) With respect to the seaman:

(i) Name;

(ii) Mailing address;

(iii) Email address;

(iv) Date of birth;

(v) Legal residence address;

(vi) Place of birth; and

(vii) Merchant mariner license or document number and last four digits of the seaman's 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 must 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 must be attached. If the claimant does not have a copy of each record, the claimant must identify every physician and hospital having records relating to the seaman and provide written authorization for MARAD to obtain all such records. The claim must 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 must 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 must 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.

(b) Claims may be filed either by personal delivery or by registered mail to the Maritime Administration, Attn: Marine Insurance, Department of Transportation, 1200 New Jersey Avenue SE, Washington, D.C. 20590.

(c) A copy of each claim must 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 will 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, by personal delivery, or by email to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice will 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 section 327.6 within sixty calendar days following the date of the receipt of such claim by the proper person designated in section 327.5, such claim will be presumed to have been “administratively disallowed,” within the meaning in section 1(a) of 50 U.S.C.A. 4701 (a).

§ 327.8 Court action. No seamen, their surviving dependents and beneficiaries, or their legal representatives may institute a court action unless such claim has been prepared and filed in accordance with sections 327.4 and 327.5 and was administratively disallowed in accordance with section 327.6 or section 327.7.

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 MARAD vessel on navigable waters must be presented in writing to MARAD in accordance with sections 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 MARAD or the presumptive denial of the claim which arises 6 months after the claim has been presented in writing to MARAD. 46 U.S.C. 30101(c)(2). Note that the six month period of review will not begin until a valid claim is filed pursuant to section 327.25.

(c) Proceedings against the United States pursuant to the requirements of the AEA and these regulations is the exclusive remedy available against the United States of America, acting by and through MARAD, 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.

§ 327.22 Presentation of claims.

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

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

(c) 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.

(d) 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.

(e) 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.

(f) 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 must indicate their title or legal capacity and provide evidence of their authority to present the claim.

(g) 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 into 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 must 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 must substantiate an interest or right to file a claim by appropriate documentary evidence and 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. MARAD will made 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 Maritime Administration, Attn: Marine Insurance, 1200 New Jersey Avenue SE, Washington, D.C. 20590- 0001.

§ 327.25 Contents of a claim.

- (a) A valid claim will contain the following:
 - (1) Identification of MARAD as the agency whose act or omission gave rise to the claim;
 - (2) The full name, mailing address, and email address of the claimant. If the mailing address is not claimant's residence, the claimant must also include a 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 MARAD 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 must 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 must present any evidence in the claimant's possession that supports the claim. This evidence must include, if available, statements of witnesses, accident or casualty reports, photographs, and drawings.

(b) Notwithstanding anything in the regulations in this part, the claimant must provide such additional reasonable documents and evidence as requested by MARAD 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 injury alleged; and

(9) If required by MARAD, 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. If MARAD determines the need for this examination, it will make mutually convenient arrangements for such an examination and will bear 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 because 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 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.

MARAD 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 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. MARAD 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 must be performed as soon as practicable after the damage accrues, and, unless waived in writing, be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it must 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 must submit a statement of operating expenses that were, or would have been, incurred. This statement must 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 six months from the date the claim was properly presented in writing to MARAD.

§ 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. MARAD will 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, by personal delivery to, or by email to the claimant or the claimant's legal representative. In the case of denial, such notice will contain a brief statement of the reason for such a denial.

§ 327.33 Claim denial presumption. If MARAD fails to give written notice of acceptance or denial of a claim in accordance with section 327.30 within six months following the date of receipt of such a claim by the proper person designated in section 327.24(b), such claim will be presumed to have been denied by MARAD.

§ 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 MARAD, may institute a court action against MARAD unless an administrative claim has previously been properly presented and filed in accordance with sections 327.22, 327.23, and 327.24, and such administrative claim has been subsequently denied in accordance with section 327.32 or section 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.A. 4701 (a)), the Admiralty Extension Act (46 U.S.C. 30101) or the Contracts Disputes Act (41 U.S.C. 601 *et. seq.*) may be filed with MARAD in accordance with sections 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.A. 4701 (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

MARAD 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 MARAD, 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 must 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 Presentation of claims.

- (a) A claim for property loss or damage may be presented by anyone having an interest in the property, including an insurer or other subrogee.
- (b) A claim for personal injury may be presented by the person injured.
- (c) 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.
- (d) 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.
- (e) 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.

(f) 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 must indicate their title or legal capacity and provide evidence of their authority to present the claim.

(g) 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 must 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 must substantiate an interest or right to file a claim by appropriate documentary evidence and 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. MARAD will make 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 section 327.44.
- (b) *Presentation.* The claim must be presented in writing to the Maritime Administration, Attn: Marine Insurance, 1200 New Jersey Avenue SE, Washington, D.C. 20590- 0001.

§ 327.45 Contents of a claim.

- (a) A properly filed claim must include the following, however, any of the following requirements may be waived by MARAD:
 - (1) Identification of MARAD as the agency whose act or omission gave rise to the claim;
 - (2) The full name, mailing address, and email address of the claimant. If this mailing address is not claimant's residence, the claimant must also include a 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 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 must 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 must include, if available, statements of witnesses, accident or casualty reports, photographs, and drawings.

(b) Notwithstanding anything in the regulations in this subpart, the claimant must provide such additional documents and evidence as requested by MARAD 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.

§ 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 injury alleged; and
 - (9) At the request of MARAD, 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. If MARAD determines the need for this examination, it will make 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 because 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 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. MARAD 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 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. MARAD 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, must be performed jointly with a government representative.

(d) If the item is so severely damaged that it cannot be economically repaired or used, it must 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 must submit a statement of operating expenses that were, or would have been, incurred. This statement must 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.

§ 327.49 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 such statute of limitations determinations must 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 MARAD's administrative consideration of a claim.

§ 327.52 Notice of claim acceptance or denial. MARAD will 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 will contain a brief statement of the reason for such a denial.

By order of the Maritime Administration.

T. Mitchell Hudson, Jr.

Secretary, Maritime Administration.

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