

2133-0522

ATTACHMENT 4—REFERENCES

a. 46 App. U.S.C. 741-752

b. 46 App U.S.C. 781-790

c. 46 CFR Part 327

- (2) to an officer, employee, or agent of the United States Government, a State, or a territory or possession of the United States; or
- (3) to another carrier or its agent to adjust mutual traffic accounts in the ordinary course of business.

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49 U.S.C. 14913 (2004). CONCLUSIVENESS OF RATES IN CERTAIN PROSECUTIONS. When a carrier publishes or files a particular rate under section 13702 or participates in such a rate, the published or filed rate is conclusive proof against that carrier, its officers, and agents that it is the legal rate for that transportation or service in a proceeding begun under section 14902 or 14903. A departure, or offer to depart, from that published or filed rate is a violation of those sections.

49 U.S.C. 14914 (2004). CIVIL PENALTY PROCEDURES.

(a) **In General.** After notice and an opportunity for a hearing, a person found by the Surface Transportation Board to have violated a provision of law that the Board carries out or a regulation prescribed under that law by the Board that is related to transportation which occurs under subchapter II of chapter 135 for which a civil penalty is provided, is liable to the United States for the civil penalty provided. The amount of the civil penalty shall be assessed by the Board by written notice. In determining the amount of the penalty, the Board shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) **Compromise.** The Board may compromise, modify, or remit, with or without consideration, a civil penalty until the assessment is referred to the Attorney General.

(c) **Collection.** If a person fails to pay an assessment of a civil penalty after it has become final, the Board may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) **Refunds.** The Board may refund or remit a civil penalty collected under this section if—

- (1) application has been made for refund or remission of the penalty within 1 year from the date of payment; and
- (2) the Board finds that the penalty was unlawfully, improperly, or excessively imposed.

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ADMIRALTY/MARITIME JURISDICTION

EXTENSION OF ADMIRALTY AND MARITIME JURISDICTION

LIBEL IN REM OR IN PERSONAM; EXCLUSIVE REMEDY; WAITING PERIOD (46 App. U.S.C. 740

(2004)). The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable water, notwithstanding that such damage or injury be done or consummated on land. In any such case suit may be brought in rem or in personam according to the principles of law and the rules of practice obtaining in cases where the injury or damage has been done and consummated on navigable water. Provided, That as to any suit against the United States for damage or injury done or consummated on land by a vessel on navigable waters, the Public Vessels Act or Suits in Admiralty Act, as appropriate, shall constitute the exclusive remedy for all causes of action arising after the date of the passage of this Act and for all causes of action where suit has not been hitherto filed under the Federal Tort Claims Act: Provided further, That no suit shall be filed against the United States until there shall have expired a period of six months after the claim has been presented in writing to the Federal agency owning or operating the vessel causing the injury or damage.

SUITS IN ADMIRALTY ACT

46 App. U.S.C. 741 (2004). Exemption of United States vessels and cargoes from arrest or seizure. No vessel owned by the United States or by any corporation in which the United States or its representatives shall own the entire outstanding capital stock or in the possession of the United States or of such corporation or operated by or for the United States or such corporation, and no cargo owned or possessed by the United States or by such corporation, shall hereafter [after March 9, 1920], in view of the provision herein made for a libel in personam, be subject to arrest or seizure by judicial process in the United States or its possessions: Provided, That this Act shall not apply to the Panama Railroad Company [Panama Canal Commission].

46 App. U.S.C. 742 (2004). Libel in personam. In cases where if such vessel were privately owned or operated, or if such cargo were privately owned or possessed, or if a private person or property were involved, a proceeding in admiralty could be maintained, any appropriate nonjury proceeding in personam may be brought against the United

States or against any corporation mentioned in section 1 of this Act. Such suits shall be brought in the district court of the United States for the district in which the parties so suing, or any of them, reside or have their principal place of business in the United States, or in which the vessel or cargo charged with liability is found. In case the United States or such corporation shall file a libel in rem or in personam in any district, a cross-libel in personam may be filed or a set-off claimed against the United States or such corporation with the same force and effect as if the libel had been filed by a private party. Upon application of either party the cause may, in the discretion of the court, be transferred to any other district court of the United States.

46 App. U.S.C. 743 (2004). Procedure in cases of libel in personam. Such suits shall proceed and shall be heard and determined according to the principles of law and to the rules of practice obtaining in like cases between private parties. A decree against the United States or such corporation may include costs of suit, and when the decree is for a money judgment, interest at the rate of 4 per centum per annum until satisfied, or at any higher rate which shall be stipulated in any contract upon which such decree shall be based. Interest shall run as ordered by the court. Decrees shall be subject to appeal and revision as now [on March 9, 1920] provided in other cases of admiralty and maritime jurisdiction. If the libellant so elects in his libel, the suit may proceed in accordance with the principles of libels in rem wherever it shall appear that had the vessel or cargo been privately owned and possessed a libel in rem might have been maintained. Election so to proceed shall not preclude the libellant in any proper case from seeking relief in personam in the same suit. Neither the United States nor such corporation shall be required to give any bond or admiralty stipulation on any proceeding brought hereunder.

46 App. U.S.C. 744 (2004). Release of privately owned vessel after seizure. If a privately owned vessel not in the possession of the United States or of such corporation is arrested or attached upon any cause of action arising or alleged to have arisen from previous possession, ownership, or operation of such vessel by the United States or by such corporation, such vessel shall be released without bond or stipulation therefor upon the suggestion by the United States, through its Attorney General or other duly authorized law officer, that it is interested in such cause, desires such release, and assumes the liability for the satisfaction of any decree obtained by the libellant in such cause, and thereafter such cause shall proceed against the United States in accordance with the provisions of this Act.

46 App. U.S.C. 745 (2004). Causes of action for which suits may be brought; limitations; exceptions; actions which may not be revived;

interest on claims. Suits as herein authorized may be brought only within two years after the cause of action arises: Provided, That where a remedy is provided by this Act it shall hereafter be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States or of any incorporated or unincorporated agency thereof whose act or omission gave rise to the claim: Provided further, That the limitations contained in this section for the commencement of suits shall not bar any suit against the United States brought hereunder within one year after the enactment of this amendatory Act [enacted December 13, 1950] if such suit is based upon a cause of action wherein a prior suit in admiralty or an action at law was timely commenced and was or may hereafter be dismissed solely because improperly brought against any person, partnership, association, or corporation engaged by the United States to manage and conduct the business of a vessel owned or bareboat chartered by the United States or against the master of any such vessel: And provided further, That after June 30, 1932, no interest shall be allowed on any claim prior to the time when suit on such claim is brought as authorized by section 2 of this Act unless upon a contract expressly stipulating for the payment of interest.

46 App. U.S.C. 746 (2004). Exceptions and limitations of liability. The United States or such corporation shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators, or agents of vessels.

46 App. U.S.C. 747 (2004). Seizures in foreign jurisdictions. If any vessel or cargo within the purview of sections 1 and 4 of this Act is arrested, attached, or otherwise seized by process of any court in any country other than the United States, or if any suit is brought therein against the master of any such vessel for any cause of action arising from, or in connection with, the possession, operation, or ownership of any such vessel, or the possession, carriage, or ownership of any such cargo, the Secretary of State of the United States in his discretion, upon the request of the Attorney General of the United States, or any other officer duly authorized by him, may direct the United States consul residing at or nearest the place at which such action may have been commenced to claim such vessel or cargo as immune from such arrest, attachment, or other seizure, and to execute an agreement, undertaking, bond, or stipulation for and on behalf of the United States, or the Maritime Administration, or such corporation as by said court required, for the release of such vessel or cargo, and for the prosecution of any appeal; or may, in the event of such suits against the master of any such vessel, direct said United States consul to enter the appearance of the United States, or of the Maritime Administration, or of such corporation, and to pledge the credit thereof to the payment of any judgment and cost that may be entered in such suit. The Attorney General is here-

by vested with power and authority to arrange with any bank, surety company, person, firm, or corporation in the United States, its Territories and possessions, or in any foreign country, to execute any such aforesaid bond or stipulation as surety or stipulator thereon, and to pledge the credit of the United States to the indemnification of such surety or stipulator as may be required to secure the execution of such bond or stipulation. The presentation of a copy of the judgment roll in any such suit, certified by the clerk of the court and authenticated by the certificate and seal of the United States consul claiming such vessel or cargo, or his successor, and by the certificate of the Secretary of State as to the official capacity of such consul, shall be sufficient evidence to the proper accounting officers of the United States, or of the Maritime Administration, or of such corporation, for the allowance and payment of such judgments: Provided, however, That nothing in this section shall be held to prejudice or preclude a claim of the immunity of such vessel or cargo from foreign jurisdiction in a proper case.

46 App. U.S.C. 748 (2004). Payment of judgment, award, or settlement. Any final judgment rendered in any suit herein authorized, and any final judgment within the purview of sections 4 and 7 of this Act, and any arbitration award or settlement had and agreed to under the provisions of section 9 of this Act, shall, upon the presentation of a duly authenticated copy thereof, be paid by the proper accounting officers of the United States out of any appropriation or insurance fund or other fund especially available therefor; otherwise there is appropriated, out of any money in the Treasury of the United States not otherwise appropriated, a sum sufficient to pay any such judgment or award or settlement.

46 App. U.S.C. 749 (2004). Arbitration, compromise, or settlement of claims. The Secretary of any department of the Government of the United States, or the board of trustees of such corporation, are, and each is, authorized to arbitrate, compromise, or settle any claim in which suit will lie under the provisions of sections 2, 4, 7, and 10 of this Act

46 App. U.S.C. 750 (2004). Recovery for salvage services by vessel or crew. The United States, and the crew of any merchant vessel owned or operated by the United States, or such corporation, shall have the right to collect and sue for salvage services rendered by such vessel and crew, and any moneys recovered therefrom by the United States for its own benefit, and not for the benefit of the crew, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of such corporation, having control of the possession or operation of such vessel.

46 App. U.S.C. 751 (2004). Disposition of moneys recovered by the United States. All moneys recovered in any suit brought by the United

States on any cause of action arising from, or in connection with, the possession, operation, or ownership of any merchant vessel, or the possession, carriage, or ownership of any cargo, shall be covered into the United States Treasury to the credit of the department of the Government of the United States, or of such aforesaid corporation, having control of the vessel or cargo with respect to which such cause of action arises, for reimbursement of the appropriation, or insurance fund, or other funds, from which the loss, damage, or compensation for which said judgment was recovered has been or will be paid.

46 App. U.S.C. 752 (2004). Reports as to awards and settlements. The Secretary of any department of the Government of the United States, and the board of trustees of any such aforesaid corporation, shall likewise report the arbitration awards or settlements of claims which shall have been agreed to since the previous session, and in which the time to appeal shall have expired or have been waived.

tional distress, mental suffering, or psychological injury was ---

(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator;

(B) the result of the claimant having been at actual risk of physical injury, and such risk was caused by the negligence or fault of a crewmember or the manager, agent, master, owner, or operator; or

(C) intentionally inflicted by a crewmember or the manager, agent, master, owner, or operator.

(2) Nothing in this subsection is intended to limit the liability of a crewmember or the manager, agent, master, owner, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

46 U.S.C. 3505 (2004). Prevention of departure

Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or embarking passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.

PUBLIC VESSELS ACT

SEC. 1. LIBEL IN ADMIRALTY AGAINST OR IMPLERDER OF UNITED STATES (46 App. U.S.C. 781 (2004)). A libel in personam in admiralty may be brought against the United States, or a petition impleading the United States, for damages caused by a public vessel of the United States, and for compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States: Provided, That the cause of action arose after the 6th day of April, 1920.

SEC. 2. VENUE OF SUIT; APPLICATION OF PROVISIONS OF THE SUITS IN ADMIRALTY ACT (46 App. U.S.C. 782 (2004)). Such suit shall be brought in the district court of the United States for the district in which the vessel or cargo charged with creating the liability is found within the United States, or if such vessel or cargo be outside the territorial waters of the United States, then in the district court of the United States for the district in which the parties so suing, or any of them, reside or have an office for the transaction of business in the United States; or in case none of such parties reside or have an office for the transaction of business in the United States, and such vessel or cargo be outside the territorial waters of the United States, then in any district court of the United States. Such suits shall be subject to and proceed in accordance with the provisions of an Act entitled "An Act authorizing suits against the United States in admiralty, suits for salvage services, and providing for the release of merchant vessels belonging to the United States from arrest and attachment in foreign jurisdictions, and for other purposes," approved March 9, 1920, or any amendment thereof, in so far as the same are not inconsistent herewith, except that no interest shall be allowed on any claim up to the time of the rendition of judgment unless upon a contract expressly stipulating for the payment of interest.

SEC. 3. CROSS LIBEL, SET-OFF, OR COUNTERCLAIM (46 App. U.S.C. 783 (2004)). In the event of the United States filing a libel in rem or in personam in admiralty for damages caused by a privately owned vessel, the owner of such vessel, or his successors in interest, may file a cross libel in personam or claim a set-off or counterclaim against the United States in such suit for and on account of any damages arising out of the same subject matter or cause of action: Provided, That whenever a cross libel is filed for any cause of action for which the original libel is filed by authority of this Act, the respondent in the cross libel shall give security in the usual amount and form to respond to the claim set forth in said cross libel unless the court, for cause shown, shall otherwise direct; and all proceedings on the original libel shall be stayed until such security shall be given.

SEC. 4. SUBPOENAS TO OFFICERS OR MEMBERS OF CREWS (46 App. U.S.C. 784 (2004)). No officer or member of the crew of any public vessel of the United States may be subpoenaed in connection with any suit authorized under this Act without the consent of the Secretary of the department or the head of any independent establishment of the Government having control of the vessel at the time the cause of action arose, or of the master or commanding officer of such vessel at the time of the issuance of such subpoena.

SEC. 5. SUITS BY NATIONALS OF FOREIGN GOVERNMENTS (46 App. U.S.C. 785 (2004)). No suit may be brought under this Act by a national of any foreign government unless it shall appear to the satisfaction of the court in which suit is brought that said government, under similar circumstances, allows nationals of the United States to sue in its courts.

SEC. 6. ARBITRATION, COMPROMISE, OR SETTLEMENT (46 App. U.S.C. 786 (2004)). The Attorney General of the United States is authorized to arbitrate, compromise, or settle any claim on which a libel or cross libel would lie under the provisions of this Act, and for which a libel or cross libel has actually been filed.

SEC. 7. PAYMENT OF JUDGMENTS OR SETTLEMENTS (46 App. U.S.C. 787 (2004)). Any final judgment rendered on any libel or cross libel herein authorized, and any settlement had and agreed to under the provisions of section 6 of this Act, shall, upon presentation of a duly authenticated copy thereof, be paid by the proper accounting officer of the United States out of any moneys in the Treasury of the United States appropriated therefor by Congress.

SEC. 8. LIEN NOT CREATED AGAINST PUBLIC VESSELS (46 App. U.S.C. 788 (2004)). Nothing contained in this Act shall be construed to recognize the existence of or as creating a lien against any public vessel of the United States.

SEC. 9. EXEMPTIONS AND LIMITATIONS OF LIABILITY (46 App. U.S.C. 789 (2004)). The United States shall be entitled to the benefits of all exemptions and of all limitations of liability accorded by law to the owners, charterers, operators or agents of vessels.

SEC. 10. REPORTS BY ATTORNEY GENERAL (46 App. U.S.C. 790 (2004)). The Attorney General of the United States shall report to the Congress at each session thereof all claims which shall have been settled under this act.

RECENT TAX PROVISIONS REDUCED TAXES FOR CERTAIN INLAND WATERWAYS FUEL.

Section 241(b) of Public Law 108-357, approved October 22, 2004 (118 STAT. 1438), the American Jobs Creations Act of 2004, amended 26 U.S.C. 4042(b)(2), effective January 1, 2005, to phase out the 4.3 cents-per-gallon tax on diesel fuel used in trains and barges operating on designated inland waters. As so amended, 26 U.S.C. 4042 provides:

26 U.S.C. 4042 (2004). Tax on fuel used in commercial transportation on inland waterways.

(a) In general. There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in a vessel in commercial waterway transportation.

(b) Amount of tax.

(1) In general. The rate of the tax imposed by subsection (a) is the sum of--

- (A) the Inland Waterways Trust Fund financing rate,
- (B) the Leaking Underground Storage Tank Trust Fund financing rate, and

(C) the deficit reduction rate.

(2) Rates. For purposes of paragraph (1)--

(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs: The tax per gallon is:

Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents

(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon.

(C) The deficit reduction rate is--

- (i) 3.3 cents per gallon after December 31, 2004, and before July 1, 2005,
- (ii) 2.3 cents per gallon after June 30, 2005, and before January 1, 2007, and
- (iii) 0 after December 31, 2006.

* * *

party defendant or one of the parties' defendant irrespective of whether the risk is covered by P&I insurance, the Agent shall immediately forward copies of the pleading and all other related legal documents, by first class mail, to the Chief Counsel, Maritime Administration, Department of Transportation, Washington, DC 20590, and to the Attorney General, Attn: Civil Division, Torts Branch, Department of Justice, Washington, DC 20530. No agent or authorized subagent shall incur any legal expenses in connection with any claim of a P&I nature, unless approved in advance by MARAD, and by the underwriter, where applicable. However, the Agent may incur legal expenses if the mission of the vessel will be frustrated or impeded and/or time will not permit such prior approval.

(b) In the event of any attachment or seizure of a vessel, whether or not the risk is of a P&I nature, the Agent shall immediately notify the Chief Counsel, Maritime Administration, Washington, DC 20590, Tel. (202) 366-05711, by telegram, radio, or cable.

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

Sec.

- 327.1 Purpose.
- 327.2 Statutory provisions.
- 327.3 Required claims submission.
- 327.4 Claim requirements.
- 327.5 Filing of claims.
- 327.6 Notice of allowance or disallowance.
- 327.7 Administrative disallowance presumption.
- 327.8 Court action.

AUTHORITY: 46 app. U.S.C. sections: 1114(b), 1214a; 50 U.S.C. app. 1291(a).

SOURCE: 56 FR 50275, Oct. 4, 1991, unless otherwise noted.

§ 327.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of claims designated in § 327.3 of this part 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 as employees of the United States through the National Shipping

Authority (NSA). Maritime Administration (MARAD), or successor.

§ 327.2 Statutory provisions.

(a) In connection with the Vessel Operations Revolving Fund created for the purpose of carrying out the vessel operating functions of the Secretary of Transportation, the Third Supplemental Appropriation Act, 1961 (46 app. U.S.C. 1241a), provides, in part:

That the provisions of sections 1(a), 1(c), 3(c) and 4 of Public Law 17, Seventy-eighth Congress (57 Stat. 45), as amended, shall be applicable in connection with such operations and to seamen employed through general agents as employees of the United States, who may be employed in accordance with customary commercial practices in the maritime industry, notwithstanding the provisions of any law applicable in terms to the employment of persons by the United States.

(b) Section 1(a) of Public Law 17 (50 U.S.C. app. 1291(a)), as amended, provides that:

(a) Officers and members of crews (hereinafter referred to as "seamen") employed on United States or foreign flag vessels as employees of the United States through the War Shipping Administration shall, with respect to (1) laws administered by the Public Health Service and the Social Security Act, as amended by subsection (b) (2) and (3) of this section; (2) death, injuries, illness, maintenance and cure, loss of effects, detention, or repatriation, or claims arising therefrom not covered by the foregoing clause (1); and (3) collection of wages and bonuses and making of allotments, have all of the rights, benefits, exemptions, privileges, and liabilities, under law applicable to citizens of the United States employed as seamen on privately owned and operated American vessels. * * * Claims arising under clause (1) hereof shall be enforced in the same manner as such claims would be enforced if the seamen were employed on a privately owned and operated American vessel. Any claim referred to in clause (2) or (3) hereof shall, if administratively disallowed in whole or in part, be enforced pursuant to the provisions of the Suits in Admiralty Act, notwithstanding the vessel on which the seaman is employed is not a merchant vessel within the meaning of such Act. * * *. When used in this subsection the term "administratively disallowed" means a denial of a written claim in accordance with rules or regulations prescribed by the Administrator, War Shipping Administration. When used in this subsection the terms "War Shipping Administration" and "Administrator, War Shipping Administration" shall be deemed to include the United

Maritime Administration, DOT

States Maritime Commission with respect to the period beginning October 1, 1941, and ending February 11, 1942, and the term "seaman" shall be deemed to include any seaman employed as an employee of the United States through the War Shipping Administration on vessels made available to or subchartered to other agencies or departments of the United States.

(c) The functions of the War Shipping Administrator and War Shipping Administration were transferred for liquidation purposes by title II of Public Law 492, 79th Congress (60 Stat. 501) to the United States Maritime Commission and, on August 20, 1949, by Reorganization Plan No. 6 of 1949 (63 Stat. 1069) to the Chairman of said Commission; certain of the functions of the United States Maritime Commission and of its Chairman were transferred on May 24, 1950, by part II of Reorganization Plan No. 21 of 1950 (64 Stat. 1273, 1276; 46 U.S.C. 1111-1114) to the Secretary of Commerce, and thereafter redelegated by the Secretary of Commerce to the Maritime Administrator (Department Order No. 117 (Amended), Manual of Orders, Department of Commerce); vessel operating functions were redelegated by the Maritime Administrator to the Director, National Shipping Authority, Maritime Administration (Administrator's Order No. 11 (Amended), Manual of Orders, Federal Maritime Board/Maritime Administration). In 1981, Public Law 96-31 (95 Stat. 165) transferred the Maritime Administration from the Department of Commerce to the Department of Transportation. By DOT Order 1100.60A, the Secretary of Transportation has delegated to the Maritime Administrator the authority to carry out the Act of June 2, 1951 (46 app. U.S.C. 1241a), regarding the Vessel Operations Revolving Fund (49 CFR 1.66). The Maritime Administrator has redelegated that authority to the Associate Administrator for Shipping Building and Ship Operations (Maritime Administrative Order 70-1).

§ 327.3 Required claims submission.

All claims specified in 50 U.S.C. app. 1291(a) (2) and (3), quoted in § 327.2(b) of this part, shall be submitted for administrative consideration, as provided in §§ 327.4 and 327.5 of this part, prior to institution of court action thereon.

§ 327.4

§ 327.4 Claim requirements.

(a) *Form.* The claim may be in any form and shall be

- (1) In writing;
- (2) Designated as a claim;
- (3) Disclose that the object sought is the administrative allowance of the claim.

- (4) Comply with the requirements of this part, and
- (5) Filed as provided in § 327.5 of this part.

The claim need not be sworn or attested to by the claimant. However, the statements made in the claim are subject to the provision of 18 U.S.C. 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. Any lawsuits filed contrary to the provisions of section 5 of the Suits in Admiralty Act, as amended by Public Law 877, 81st Congress (64 Stat. 1112; 46 app. U.S.C. 745), shall not be in compliance with the requirements of this part.

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

- (i) With respect to the seaman:
 - (i) Name;
 - (ii) Mailing address;
 - (iii) Date of birth;
 - (iv) Legal residence address;
 - (v) Place of birth; and
 - (vi) Merchant mariner license or document number and 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; and
 - (v) The names of others who can supply factual information about the incident and its consequences.
- (3) The dollar amount of claim for:
 - (i) Past loss of earnings or earning capacity;

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- (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 shall be attached. If the claimant does not have a copy of each record, the claimant shall identify every physician and hospital having records relating to the seaman and shall provide written authorization for MARAD to obtain all such records. The claim shall 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 shall 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 shall provide all supporting information concerning the nature and dollar amount of the loss.

§ 327.5 Filing of claims.

(a) Claims may be filed by or on behalf of seamen or their surviving dependents or beneficiaries, or by their legal representatives. Claims shall be filed either by personal delivery or by registered mail.

(b) Each claim shall be filed with the Ship Manager or General Agent of the vessel with respect to which such claim arose. The claimant shall send a copy directly to the Chief, Division of Marine Insurance, Maritime Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

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§ 327.6 Notice of allowance or disallowance.

MARAD shall 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, or by personal delivery to, the claimant or the claimant's legal representative. In the case of administrative disallowance, in whole or in part, such notice shall 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 § 327.6 of this part within sixty (60) calendar days following the date of the receipt of such claim by the proper person designated in § 327.5 of this part, such claim shall be presumed to have been "administratively disallowed," within the meaning in section 1(a) of 50 U.S.C. app. 1291(a), quoted in § 327.2(b) of this part.

§ 327.8 Court action.

No seamen, having a claim specified in subsections (2) and (3) of section 1(a) of 50 U.S.C. 1291(a), quoted in § 327.2(b) of this part, their surviving dependents and beneficiaries, or their legal representatives shall institute a court action for the enforcement of such claim unless such claim shall have been prepared and filed in accordance with §§ 327.4 and 327.5 of this part and shall have been administratively disallowed in accordance with § 327.6 or 327.7 of this part.

PART 328—SLOP CHESTS

Sec.

- 1. What this order does.
- 2. General Agent's requirements.
- 3. Master's requirements.
- 4. General provisions.

AUTHORITY: Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114. Interpret or apply sec. 11, 23 Stat. 56; 46 U.S.C. 670.

Section 1 What this order does.

In accordance with the provisions of section 11 f the act of Congress approved June 26, 1894, 23 Stat. 56; 46 U.S.C. 670, this order requires all vessels operated by the National Shipping

Maritime Administration, DOT

Authority under General Agency Agreement 3-19-51, Amendment 8-65, to be provided with a slop chest subject to all limitations contained in said act.

[OPR-1, 16 FR 4137, May 5, 1951, as amended at 33 FR 5952, Apr. 18, 1968. Redesignated at 45 FR 44587, July 1, 1980]

Sec. 2 General Agent's requirements.

The General Agent shall:

(a) Obtain from the Master, a requisition for slop chest items required for the intended voyage. Purchase for the account of the NSA, from recognized bona fide slop chest suppliers, at prices not in excess of the fair and reasonable level prevailing at the respective domestic ports, only such items and quantities reflecting past experience of actual requirements.

(b) Arrange for delivery on board to the custody of the Master all slop chest items purchased, together with a copy of the vendor's invoice showing items, units, unit cost and totals.

(c) Furnish the Master with a Slop Chest Statement showing on hand at the beginning of each voyage the items, units, unit cost, totals and selling price per unit of each item. The selling price shall approximate but not exceed 110 percent of the reasonable wholesale value of the same at the port at which the voyage commenced. The Slop Chest Statement shall also provide spaces for:

- (1) Quantities and total value sold.
- (2) Quantities and total cost value on hand, end of voyage.
- (3) Quantities of each item required for next voyage.

(d) Submit to the Coast Director in the district in which the General Agent is located, upon termination of each voyage a copy of the Slop Chest Statement obtained from the Master as provided for in section 3(b) of this order and a copy of all invoices for slop chest purchases showing items by brand or trade name, unit cost and total.

(e) Account to the cognizant Coast Director for the purchase, delivery to the Master, receipts from sales, condemnations, transfers and all other transactions in connection with slop chests.

[OPR-1, 16 FR 4137, May 5, 1951, as amended by Amdt. 1, 33 FR 6475, Apr. 27, 1968. Redesignated at 45 FR 44587, July 1, 1980]

Sec. 4

Sec. 3 Master's requirements.

The Master shall:

(a) Receive and receipt for the quantities of slop chest items delivered on board.

(b) Upon the termination of each voyage complete the Slop Chest Statement referred to in section 2(c) of this order, as to quantities and total value sold, quantities and total cost value on hand at end of voyage and quantities of each item required for the next voyage.

(c) Sell, from time to time as specified by him, any of the contents of the slop chest to any or every seaman applying therefor, at the unit price, specified by the Slop Chest Statement furnished by the Master by the General Agent as provided in section 2(c) of this order.

(d) Account to the General Agent for all slop chest items received on board, for all receipts and for all other slop chest transactions engaged in during the voyage.

(e) Cause entry to be made in the ship's log authenticated by the person designated by the Master to be in charge of the slop chest, together with signatures of two other witnesses, for all losses sustained due to fire, water or other damage which renders articles unsalable. Such log entries shall itemize the quantities damaged and the cost thereof.

(f) Submit a detailed written report to the General Agent covering losses incurred due to damage, theft or pilferage of slop chest items. The report shall be submitted at the termination of the voyage during which the damage, theft or pilferage occurred.

(g) Retain on board, all damaged slop chest items, for survey, removal and disposition by the General Agent at a domestic port.

[OPR-1, 16 FR 4137, May 5, 1951. Redesignated at 45 FR 44587, July 1, 1980]

Sec. 4 General provisions.

(a) All slop chest items, damaged or otherwise, shall be removed or transferred only in compliance with applicable regulations dealing with Property Removals.

(b) In the transfer of a vessel from one General Agent to another General