

## § 308.510

## 46 CFR Ch. II (10–1–13 Edition)

become effective upon the date of the receipt of the application by the underwriting agent as shown on Form MA-305.

(h) *Refund of collateral.* Whenever the assured becomes entitled to a refund of the collateral deposit, in whole or in part, by reason of a request for a partial return of such collateral, or the cancellation of the policy and the payment in full of all premiums then or thereafter due, or the waiver by the Maritime Administrator of the requirements of maintaining the collateral deposit fund because the assured is a department or agency of the United States or is acting on behalf of such a department or agency, or the substitution of a surety bond in the place and stead of the collateral deposit fund, as provided in §308.510(j), the Maritime Administrator will refund to the assured the amount of the collateral deposit to which the assured is entitled; provided, however, that the repayment of such collateral shall not be made by the Maritime Administrator until the assured has filed a closing report and paid in full all premiums with respect to all shipments which had attached at the time of the receipt by the underwriting agent of the application for the refund, Form MA-305, and a certificate executed in duplicate on Form MA-306, prescribed in §308.526, and, in the event of the substitution of a surety bond for the collateral deposit fund, the receipt by the underwriting agent of the surety bond properly executed, in accordance with §308.510.

### § 308.510 Surety bond.

(a) *Requirements.* An assured electing to post a surety bond pursuant to §308.507 shall comply with the provisions of this section and Clause 21 of the Open Cargo Policy, Form MA-300, prescribed in §308.517.

(b) *Amount of bond.* An applicant who wishes to post a surety bond shall deliver to the underwriting agent a surety bond on Form MA-308, prescribed in §308.528, executed by the assured as principal, and by the surety, in such amount as the assured determines to be necessary to comply with Clause 21. Such amount shall be a multiple of \$500 but shall not be less than \$1,000. Upon receipt of the surety bond, the under-

writing agent shall assign a serial number to it and transmit it to the Maritime Administration, Attention: Director, Office of Financial Approvals, Washington, DC 20590. It shall be the responsibility of the assured to provide that the amount of the bond is sufficient at all times to cover the premium payable on all risks which have attached under the policy, so as to prevent the termination of the insurance under the provisions of Clause 21.

(c) *Surety.* The sufficiency of the surety executing the bond shall be subject to approval by the Maritime Administrator. The underwriting agent may accept on behalf of the Maritime Administrator a surety bond executed by a surety named on the United States Treasury Department's approved list of sureties whose bonds are acceptable to the United States Treasury Department to secure obligations due the United States, provided the bond is within the maximum amount for which the surety is so authorized to write bonds as shown by the approved list.

(d) *Overdue premiums.* Pursuant to Clause 20, if the assured fails to pay any premium when it becomes due and payable, he thereby breaches the policy and it automatically ceases to insure any shipments which would otherwise have attached after the expiration of fifteen (15) days following the due date of the premium, unless within the fifteen (15) day period the premium has been paid and the assured has otherwise complied with the requirements of the policy, including the filing of the closing report required by Clause 19 and the payment of the reinstatement fee of \$25 required by Clause 20. If the assured fails to pay the premium within the fifteen (15) day period, all amounts due shall become a liability collectible under the surety bond and from the assured.

(e) *Increase in amount of bond as required by Clause 21.* If the assured fails to increase the amount of the surety bond within seven (7) days from the time knowledge comes to the assured that the amount of the bond is insufficient to meet the requirements of Clause 21, the policy shall be void except as to risks which have attached prior to the expiration of the seven (7) day period.

(f) *Changes in amount of bond.* The assured may increase or decrease the amount of the surety bond by amounts of not less than \$500 or multiples thereof, provided that the amount of the bond shall not be less than the amount required by Clause 21, or the required minimum of \$1,000, whichever is greater. The effect of any change in the amount of the bond shall be the sole responsibility of the assured, and the permission granted by this paragraph to change the amount of the bond shall in no manner relieve the assured of the responsibility imposed by Clause 21.

(g) *Increase in amount of bond.* To increase the surety bond the assured shall transmit to the underwriting agent, on Form MA-310, prescribed in § 308.530, an endorsement duly executed by the assured and the surety company on Form MA-311, prescribed in § 308.531. The increase shall become effective upon the date of the receipt of the endorsement by the underwriting agent as shown on Form MA-311.

(h) *Decrease in amount of bond.* To decrease the amount of the bond, the assured shall transmit to the underwriting agent, on Form MA-310, prescribed in § 308.530, an endorsement duly executed by the assured and the surety on Form MA-311, prescribed in § 308.531. The decrease shall become effective upon the date of the receipt of the endorsement by the underwriting agent as shown on Form MA-311, except as to shipments which on that date are known or reported to the assured to be in transit and which have attached under the policy and upon which premium has not been paid in full.

(i) *Termination of bond.* Whenever the assured becomes entitled to a termination of a surety bond by reason of the cancellation of the policy and the payment in full of all premiums then or thereafter due, or the waiver by the Maritime Administrator of the requirements of maintaining the surety bond by an assured which is a department or agency of the United States or is acting on behalf of such a department or agency, or the substitution of a collateral deposit fund in the place or stead of the surety bond, the underwriting agent shall execute a release on Form

MA-312, prescribed in § 308.532. The release shall be made effective as of:

(1) The effective date of the cancellation of the policy when the bond is terminated for that reason, or

(2) The date of the Maritime Administrator's directive waiving the requirement of a surety bond when the bond is terminated for that reason, or

(3) The effective date of the establishment of a collateral deposit fund when the bond is terminated for that reason.

(j) *Substitution of bond for collateral deposit.* An assured may substitute a surety bond for a collateral deposit fund by delivering to the underwriting agent a surety bond on Form MA-309, prescribed in § 308.529, executed by the assured as principal, and by the surety, in such amount as the assured determines to be necessary to comply with Clause 21. Such amount shall be a multiple of \$500, but shall not be less than \$1,000. The collateral deposit fund will be refunded to the assured after the bond has been posted, in accordance with the provisions of § 308.509(h).

#### **§ 308.511 Cancellation of Open Cargo Policy.**

An assured may cancel an Open Cargo Policy by delivering to the underwriting agent, at least fifteen (15) days prior to the requested date of cancellation, an application for cancellation executed by the assured on Form MA-304, prescribed in § 308.524, together with the original policy. The policy shall be cancelled as of the effective date requested in the application, which, unless otherwise agreed by the Maritime Administrator in writing, shall not be a date earlier than fifteen (15) days following the date of the receipt of the application as acknowledged by the underwriting agent on Form MA-304, with respect to all risks that have not attached prior to said effective date. Such cancellation shall not relieve the assured of the obligation to file closing reports with respect to all risks which attached prior to the effective date of the cancellation and to pay all unpaid premiums. Within four (4) months of the effective date of cancellation, unless otherwise agreed