

§ 308.512

46 CFR Ch. II (10–1–13 Edition)

by the Maritime Administrator in writing, the assured must file a closing report in duplicate on Form MA-313, prescribed in § 308.533, of all shipments covered by the policy for which closing reports have not been previously filed. The assured shall mark this closing report “Final Closing Report on Cancellation of Policy”, and file a certificate on Form MA-313-B, prescribed in § 308.535, executed by the assured in duplicate. Thereafter, when all unpaid premiums have been paid, the assured will become entitled to a refund of the collateral deposit, or cancellation of the surety bond in accordance with §§ 308.509 and 308.510. If the assured has lost or mislaid the original policy and is unable to produce it for cancellation, the assured shall execute a letter of indemnity and such other documents as may be required by the Maritime Administrator.

§ 308.512 Declaration of shipments under Open Cargo Policy.

(a) *Closing report.* (1) The assured shall file with the underwriting agent, not later than the twenty-fifth day of each month, a closing report for all inward shipments and a closing report for all outward shipments, and pay the premium and fees, for all shipments covered during the preceding calendar month, as required by Clause 19. Each closing report shall be filed in duplicate on Form MA-313, prescribed in § 308.533, supported by a certificate executed by the assured on Form MA-313-A, prescribed in § 308.534. If the assured has no shipments to report during any calendar month, the closing report, Form MA-313, shall, nevertheless, be filed with one or both of the following statements, depending upon their applicability, noted thereon certifying that:

(i) No inward shipment coming within the scope of this policy arrived at destination during the preceding calendar month, and that during the preceding calendar month no knowledge has come to the assured of an inward shipment covered under the terms of the policy which will not arrive by reason of loss, frustration or other similar cause,

(ii) No outward shipment coming within the scope of this policy was

made during the preceding calendar month, and

(iii) Whenever a sea passage is made with respect to cargo covered under the policy by a barge or sailing vessel the assured shall note that fact upon the closing report, unless the Maritime Administrator otherwise agrees.

(2) An assured reporting for one calendar month shall not include therein a report of a shipment due to be reported in the report for the next succeeding calendar month. Thus, the report of January closing shipments filed in February does not include February closings.

(b) *Inward shipments.* The closing report covering inward shipments shall include:

(1) All such shipments which have arrived at the port of destination during the preceding calendar month, and

(2) All such shipments with respect to which inability to so arrive by reason of loss, frustration, or other similar causes has come to the knowledge of the assured during the preceding calendar month.

(c) *Outward shipments.* The closing report covering outward shipments shall include all such shipments which attached under the policy during the preceding calendar month.

(d) *Definition of inward and outward shipments.* A shipment will be classified as an inward shipment or as an outward shipment by reference to the geographical location of the assured with respect to the movement of the shipment. The address of the assured as stated in the application filed by him for the policy shall be deemed to be the assured's geographical location for the purpose of determining whether the shipment is inward or outward. To illustrate, if an assured has stated in his application that his address is in Hawaii, the assured's shipments of goods from the United States to Hawaii would be classified as inward, and his shipments from Hawaii to the United States would be classified as outward. Any shipments that cannot be classified as inward or outward under this definition shall be treated as inward shipments for the purposes of the declaration.

(e) *Supplemental closing report.* If an assured files a closing report and thereafter discovers that one or more additional shipments should have been included in the report, then, even though the assured has executed the certificate on Form MA-313-A, prescribed in § 308.534, or Form MA-313-B, prescribed in § 308.535, in connection with the closing report, the assured must nevertheless amend the closing report by filing a supplemental closing report supported by an appropriate certificate. The supplemental closing report must be accompanied by a statement in writing signed by the assured giving the reasons for the omission of such shipments from the original closing report. If the Maritime Administrator finds that the failure to file the complete closing report was either inadvertent or unintentional or arose by reason of causes beyond the control of the assured, the otherwise automatic termination of the policy by reason of a breach of the warranty embodied in Clause 20 shall be avoided pursuant to the provisions of Clause 23.

§ 308.513 Payment of premiums and fees.

The assured shall pay the premium, when his closing report is filed, for all shipments shown on his closing report for the preceding month, at the rates prescribed by the Maritime Administrator and in effect on the date of the ocean bill of lading, or if an ocean bill of lading was not issued, on the date of the equivalent shipping document, or if no ocean bill of lading or equivalent shipping document was issued, or if such documents were undated, on the date the goods were laden on the overseas vessel, as required by Clause 19. All payments of premium or fees must be made by check or money order payable to the order of the "Maritime Administration, Department of Transportation."

§ 308.514 Return premium.

No premium will be returned to the assured with respect to a shipment of goods that attached under the policy except where there was a declaration of value at variance with Clause 8, or an error in the application of a rate or in the computation of a premium, or the

insured goods were short-shipped. An application for the return of a premium shall be made on Form MA-307, prescribed in § 308.527, filed in duplicate with the Underwriting Agent who will transmit it to the Maritime Administrator for payment.

§ 308.515 Payment in event of loss.

All claims for losses shall be filed by the assured with the Underwriting Agent who issued the policy. Such claims must be supported by the customary documents required in connection with war risk insurance claims, together with appropriate declarations as required by Clause 9, and such further data as may now or hereafter be required by the Maritime Administrator.

§ 308.516 Failure to comply with Clause 21.

(a) If the assured willfully fails to maintain a collateral deposit fund or a surety bond in an amount sufficient to meet the requirements of Clause 21, the policy becomes void from the date the fund or bond was first insufficient, but, if the assured's failure was inadvertent, the policy may be reinstated when the assured complies with Clause 21, and shows to the satisfaction of the Maritime Administrator that his failure was inadvertent and not willful. If the failure was in fact inadvertent, the assured shall file a declaration on Form MA-314, prescribed in § 308.536, executed in duplicate, with the Underwriting Agent within seven (7) days from the time knowledge comes to the assured of the insufficiency of the collateral deposit fund or surety bond unless the time for filing such declaration is extended by permission of the Maritime Administrator. If the space provided in the declaration, Form MA-314, for an explanation of the circumstances whereby the assured first had knowledge that the collateral was not sufficient, the assured shall attach to the declaration a detailed statement and include the same by reference in the declaration.

(b) If any policy becomes void by reason of the failure of the assured to deposit additional collateral or increase the amount of its surety bond under