

CUSTOMS DIRECTIVE

ORIGINATING OFFICE: OA

DISTRIBUTION: See signature page
CUSTOMS DIRECTIVE NO. 3510-005
ISSUE DATE: MAY 17, 1993

SUBJECT: BOND SUFFICIENCY

1. PURPOSE.

The purpose of this issuance is to provide guidelines for the determination of the sufficiency of the limit of liability amount for Activity Code 1, Importer or Broker, Continuous Bonds.

2. BACKGROUND

As provided for in Part 113 of the Customs Regulation (19 C.F.R. 113) district/area directors are responsible for the approval of bond amounts for continuous bonds filed in their district/area, and for periodic review of the sufficiency of those bonds. Guidelines for setting bond amounts were previously issued in Customs Directive 3510-04, "Monetary Guidelines for Setting Bond Amounts", dated July 23, 1991. This issuance coupled with the on-line query capabilities in the ACS bond module will enable district/ area directors to make bond sufficiency determinations in their respective districts/areas. You will be advised as further enhancements to the bond liability module are developed.

A new ACS bond liability module has been developed which will provide Customs with important information needed in the annual review of Activity Code 1, Continuous Bonds, and also to alert Customs to bonds which may have excessive outstanding liabilities. Two types of information will be available for each bond during the bond year: 1) the total amount of overdue bills and Fines, Penalties and Forfeitures (FP&F) demands billed (plus detail information), and 2) the total estimated entered value, duties, taxes and fees at time of entry summary acceptance for all entry summaries entered during the bond year.

3. ACTION

A. On-Line Query Capability

The new queries that have been created as part of the new bond liability module are as follows:

1. ENLS (Bond Liability Locate) - this screen lists all continuous bonds by district, bond number and bond year, and an indicator that the bond is currently in an "alert condition". The estimated liability amount represents a total of any outstanding overdue bills from the

CLE file and FP&F demands billed. (An alert condition is triggered when the amount of outstanding bills plus two times the amount paid by surety is equal to or greater than 80% of the bond amount for a given bond year.)

2. BNLS (Bond Liability Query) - this screen displays bond liability totals (overdue CLE bills and FP&F demands billed) for a bond number for a particular bond year.
3. BNLI (Estimated Accumulated Entry Amounts by Bond) - this screen displays the accumulated monetary amounts for all entry summaries covered by a continuous bond for a particular bond year. Separate amounts are shown for entered value, duty, antidumping/countervailing duty, taxes, and fees and a grand total. In the future, the total entered value will be separated from the total of duties, taxes, and fees.
4. BNL1 (Overdue Bills and FP&F Demands Referred to Surety) - this screen lists, for a continuous bond for a particular bond year, all current associated FP&F demands billed and overdue CLE bills, and if the bill/demand is protested.
5. BNL2 (Bills Paid by Surety) - this screen will list, for a bond number and bond year, all bills, including FP&F bills, which were paid by surety.

B. BOND SUFFICIENCY COORDINATOR

District/area directors are responsible for ensuring that someone is designated as the Bond Sufficiency Coordinator. Please be cognizant of the importance of this responsibility when making this assignment. The Office of Trade operations will maintain a listing of the District Bond Sufficiency Coordinators. The Coordinator is responsible for reviewing the F40, Monthly CF 301 Bond Liability Report, and the B68, CF 301 Bond Report for Anniversary Date Review, and analyzing these reports to determine if a new bond with a higher limit of liability is necessary. These reports are available each month in ACS using function RMTP. The individual who analyzes these reports will obtain input from other branches in the district, such as FP&F, and determine the amount of the bond for the coming year or the need for additional security in the current bond year.

C. F40, MONTHLY CF 301 BOND LIABILITY ALERT REPORT

The amounts on overdue bills (mostly supplemental duty billings) and FP&F demands billed will be totalled for each continuous bond. When the

outstanding liability, as defined by overdue bills and FP&F demands billed, plus two times the amount paid by surety against a bond at any time during a given bond year equals or exceeds 80 percent of the total bond amount, that bond number will print on the Monthly CF 301 Bond Liability Alert Report (F40) for the district where the bond is maintained. The district/area director then can require that the bond coverage be appropriately augmented.

For each bond that appears on the F40, the BNL file should be queried (BNLL, BNLS) to determine the current liability of the principal and/or bond user (BNLS will show any payments received after the date of the monthly report). In addition, the BNLS screen will indicate whether it is overdue bills, Fines, Penalties and Forfeitures (FP&F) demands, or a combination of the two which triggered the alert.

Please note - If an importer has received written approval from the district director to defer payment of the importer's internal revenue tax and to pay those amounts by Electronic Funds Transfer (EFT), this process may result in a premature liability alert status. Since EFT deferred tax bill payments are made directly to the National Finance Center (NFC), only EFT deferred tax bills having a bill date more than 60 days old should be considered an outstanding liability. The Bond Sufficiency Coordinator should contact the National Finance Center-EFT/BCA Cashier Unit at 317-298-1348, to verify current liability for those EFT deferred tax bills having a bill date more than 60 days old.

The office, e.g., FP&F and Commercial Operations, generating the bills/demands (other than EFT deferred tax bills) which triggered the alert should be consulted by the Bond Sufficiency Coordinator by memorandum (Attachment C) for a recommendation in determining if a higher bond amount is needed to provide sufficient liability coverage for the remainder of the bond year. Since continuous bonds can cover activity in various Customs locations, it may be necessary for each respective office to contact the other district offices by telephone or email for their input. Also note, the outstanding liabilities for any given bond are not necessarily for the principal shown, but may be for other users of the bond.

Function BNLI will provide detail information for all current associated FP&F demands billed and overdue supplemental duty bills, and show if the demand/bill has been protested. The receiving office will have 5-working days from the date of the memorandum (Attachment C) to notify the Bond Sufficiency Coordinator of his/her recommendation. For audit purposes, the memorandum should remain part of the bond file.

In the case of supplemental duty bills, Supervisory Import Specialists should look at factors such as whether the liability alert was triggered by

bills generated as a result of the liquidation of entry summaries which were held for a countervailing/ antidumping duty investigation. In this case, the total increase in duties resulting from the liquidation of the entry summaries which is applicable to the bond year should be considered in determining the required bond amount, not just those bills which have become overdue and shown on the BNLS screen. FP&F Officers should keep in mind that, while FP&F demands billed may be responsible for triggering the bond alert, such demands are often settled for less than the billed amount.

When necessary, the principal on the bond will be notified by the Bond Sufficiency Coordinator that the bond is insufficient and that additional security must be provided within 30 days of the notice (19 CFR 113.13 (a)). A form letter for notification to the principals of Activity Code 1, Importer or Broker, Continuous Bonds is provided as Attachment A. Note that the principal has the option of providing a new continuous bond in the required amount, or filing a single transaction bond with each entry. However, in either case, the importer must terminate the existing continuous bond. This is necessary to prevent the existing insufficient bond from being used to effect the release of future shipments.

In the event that the principal does not request termination of the existing insufficient bond within 30 days of notification, the Bond Sufficiency Coordinator will notify the local OAS Division, who in turn will contact the National OAS Division to input national cargo selectivity criteria under the principal's importer of record number requiring entry documents be accompanied by a single transaction bond. An example of the message to be used is included as Attachment E.

The individual reviewing the cargo selectivity insufficient bond message must check the importer of record number on the entry, because the ultimate consignee number is a cargo selectivity data element and the importer of record number is not, and in some instances the ultimate consignee and importer of record are not the same. If the importer of record number matches the number shown on the cargo selectivity message, the entry must be rejected back to the filer requiring entry be accompanied by a single entry bond.

If the principal requests termination of the insufficient bond after the thirty day time frame, the bond will be terminated and the Bond Sufficiency Coordinator will contact local OAS to have the cargo selectivity message deleted. (Please note that establishing cargo selectivity records is an interim step until the proper edits are added the bond file to automatically check to see if a bond shown on the entry transaction has been determined to be insufficient. You will be notified when this enhancement has been added.)

D. B68, CF 301 BOND REPORT FOR ANNIVERSARY DATE REVIEW

In order to provide information for the annual review of Activity Code 1, Importer or Broker, Continuous Bonds, the total entered value, duties, taxes and fees for each summary will be captured when the entry summary is placed in Customs accepted status, whether that occurs through collection or on-line summary processing. A total of this information is included on the monthly B68, CF 301 Bond Report for Anniversary Date Review. A breakdown of the entered value, duties, taxes and fees is available using function BNLI in AQS; to help in the determination of sufficiency of individual continuous bond amounts.

The section of Customs Directive 3510-04, Monetary Guidelines for Setting Bond Amounts, dated July 23, 1991, concerning the bond limit of liability amount should be the guideline for the Bond Sufficiency Coordinator to determine bond sufficiency. It specifically states in the guidelines for determining amounts of bonds, "... that the bond limit of liability amount shall be fixed in an amount the district/area director may deem necessary to accomplish the purpose for which the bond is given. The non-discretionary minimum bond amount is \$50,000. To assist in fixing the limit of liability amount, the following formula shall be used:

None to \$1,000,000 duties, taxes and fees - the bond limit of liability amount shall be fixed in multiples of \$10,000 nearest to 10 percent of all duties, taxes and fees paid by the importer, or broker acting as importer of record, during the previous bond year but in no case shall be fixed in an amount less than \$50,000.

Over \$1,000,000 duties, taxes and fees - the bond limit of liability amount shall be fixed in multiples of \$100,000 nearest to 10 percent of all duties, taxes and fees paid by an importer, or broker acting as importer of record, during the previous bond year.

Bond amounts computed with this 10 percent formula also apply to importations of restricted merchandise unless specific instructions issued mandate otherwise.

However, when little or no duties, taxes and fees are involved and the \$50,000 bond minimum is not deemed sufficient, as an option, the bond limit of liability amount may be fixed at one-half of 1 percent of the value of importations made during the previous bond year."

When reviewing the monthly B68 report, the Bond Sufficiency Coordinator shall query through ACS the bond activity of each bond using function BNLI, Estimated Accumulated Entry Amounts by Bond (Attachment D).

This screen will display estimated accumulated totals of entered value, duty, antidumping/ countervailing duty, internal revenue tax and all fees for a specific bond year. Using the formula outlined in Customs Directive 3510-04, the Bond Sufficiency Coordinator will make a determination whether an increase in the limit of liability is warranted.

In certain circumstances, the Bond Sufficiency Coordinator should consult with other Customs officers for their recommendations when the activity of the principal/bond user has exceeded the liability limits on their current continuous bond. For example, Principal XYZ has an Activity Code 1, continuous bond on file with a limit of liability of \$50,000. At the time of bond anniversary review, it is determined that this principal's and/or bond user's activity resulted in \$660,000 in duties, taxes and fees being paid during the principal's bond year. The Bond Sufficiency Coordinator will send a memorandum to the Supervisory Import Specialist for further review and comments from the import specialists regarding the bond limit of liability (Attachment B). The Supervisory Import Specialist will have 5-working days from the date of the memorandum to notify the Bond Sufficiency Coordinator of his/her recommendation.

Whenever the activity of the principal warrants an increase in the limit of liability, the Bond Sufficiency Coordinator will follow the same procedural steps as outlined in Section C of this Directive.

4. RESPONSIBILITIES

District and area directors are responsible for following these guidelines within their jurisdiction. Regional Commissioners are responsible for seeing that the guidelines are applied consistently within their respective regions.

5. EFFECTIVE DATE

These guidelines are effective on the issue date of this directive.

Acting Assistant Commissioner
Office of Commercial Operations

Attachment

Distribution:

R-01 Regional Commissioners

F-01 District/Area Directors

F-02 Port Directors

G-07 All Entry Personnel
G-19 All Customs Inspectors
G-20 All Import Specialists

ATTACHMENT A

Date:

Dear Sir or Madam:

You have the following Activity Code 1, Importer or Broker, Continuous Bond on file in this district:

Bond Number	:
Principal's Importer of Record Number	:
Surety	:
Amount	:
Anniversary Date	:

Pursuant to Customs Regulation 113.13 (19 CFR 113.13), this bond has been determined to be inadequate to ensure compliance with Customs law and regulations. Within 30 days from the date of this letter, you must terminate this bond and either replace it with a continuous bond with a minimum limit of liability of \$_____ or be subject to those requirements as outlined below.

When the termination request is sent to Customs, please include a copy of this letter to ensure that Customs will be aware that the conditions of this letter have been followed. Failure to terminate the current continuous bond and provide a new bond within the prescribed time period will require that at the time of entry before the merchandise is released, the entry summary documentation be filed with a single transaction bond and estimated duties, if any, be deposited.

If you have any questions, please contact _____ at _____.

Sincerely,

District Director

cc: Surety Company on Bond

ATTACHMENT B

DATE :

TO : Supervisory Import Specialist

FROM : Bond sufficiency Coordinator

SUBJECT: B68, CF 301 Bond Report for Anniversary Date Review

The yearly review of the bond limit of liability amount for bond number _____ for principal, _____ is presently being conducted. According to ACS, the estimated accumulated duties, taxes and fees for the current bond year is \$ _____. Please check one of the boxes below to indicate whether the present limit of liability is sufficient or the limit of liability should be increased, and return the form within 5 working days from the date of this memorandum.

_____ Present Limit of Liability Acceptable.

_____ Current Limit of Liability Insufficient for the Upcoming Bond Year. New Bond with a Limit of Liability of \$_____ should be Requested.

Reason limit of liability has been determined to be insufficient: _____

Supervisory Import Specialist Signature and Date

ATTACHMENT C

DATE :
TO :
FROM : Bond Sufficiency Coordinator
SUBJECT: F40, Monthly CF 301 Bond Liability Report

The outstanding liability, as defined by overdue bills and FP&F demands billed, against bond number _____ for principal, _____, for the current bond year, equals or exceeds 80 percent of the total bond limit of liability amount. The alert condition, which can be queried using function BNLI, was triggered by:

Overdue CLE bill (s) in the amount of \$_____

FP&F demand (s) billed in the amount of \$_____

Please check one of the boxes below to indicate whether the present limit of liability is sufficient or the limit of liability should be increased, and return the form within 5 working days from the date of this memorandum.

- Present Limit of Liability Acceptable.
- Current Limit of Liability Insufficient. New Bond with a Limit of Liability of \$_____ should be requested.
Reason limit of liability has been determined to be insufficient: _____

Signature/Title/Date

Attachment D

BNLI 399101566/030192

ACS BOND QUERY: ESTIMATED ACCUMULATED ENTRY AMOUNTS BY BOND

BOND NUMBER 399101566 BOND YEAR: 03/01/92 - 02/28/93
DISTR MAINTND: 39 CURRENT STATUS: VALID SURETY1: 413
EFFECTIVE DT: 03/01/91 ACTIVITY CODE: 1 IMPOR-BRKER

BOND AMOUNT: \$ 200,000

ESTIMATED ACCUMULATED ENTRY AMTS FOR BOND DURING THIS BOND
YEAR:

ENT VALUE:	\$	119,765,108.00
DUTY:	\$	431,739.76
ADD/CVD:	\$.00
IR TAX:	\$	11,296,681.67
FEES.	\$	48,837.41
TOTAL:	\$	131,542,366.84

PF1: NEXT BNLI RECORD
PF3: BOND LIAB LOCATE (BNLL)
PF6: OVERDUE BILLS/DEMANDS (BNLI)

PF2: BOND LIAB QUERY (BNLS)
PF5: MASTER BOND QUERY (BNDS)

ATTACHMENT E

ACS SELECTIVITY CRITERIA REFERRAL FORM
FOR INSUFFICIENT BOND LIABILITY

_____ ADD NATIONAL CRITERIA, DOCUMENT REVIEW
_____ DELETE NATIONAL CRITERIA, DOCUMENT REVIEW

IMPORTER NUMBER

IMPORTER NAME

REMARKS:

ENTRY/ENTRY SUMMARY WITH DEPOSIT OF ESTIMATED DUTY/TAXES/FEEES
ALONG WITH SINGLE TRANSACTION BOND REQUIRED FOR RELEASE OF
CARGO. CONTINUOUS BOND ON FILE HAS BEEN DETERMINED TO BE
INADEQUATE TO ENSURE COMPLIANCE WITH CUSTOMS LAWS- FOR INFO
CONTACT: (District contact name and phone number).

SUBMITTED BY DATE

PROCESSED BY OAS DATE

