

4. Document upon which a claim of conditionally free or reduced duty entry is based:
 - a. Filed late - Cancel upon payment of \$100 plus 0.1 percent per calendar day late of duty that would have been due had the entry been liquidated as fully dutiable. This mitigation is not affected by the fact that the late-filed documents substantiated the conditionally free or reduced duty claim.
 - b. Non-filing.
 - i. For the first violation cancel upon payment of \$200 plus liquidation of the entry as fully dutiable.
 - ii. For second or subsequent violation, cancel upon payment of \$400 plus liquidation of the entry as fully dutiable.

E. Continuous course of conduct.

1. By an importer. If there is a continuing course of conduct by an importer where conditionally free entry is claimed, but documents supporting such claim are regularly missing from the entry and are not provided, the presumption after the fourth violation shall be one of bad faith in the filing of the entry as conditionally free. No relief from the claim should be afforded.
2. By a customs broker. If the violator is a Customs broker, a civil monetary penalty for violation of the provisions of title 19, United States Code, section 1641, may be appropriate.

F. Second or subsequent offenses.

Except as noted in subparagraph E above, second or subsequent offenses will not be considered in cancellation of claims other than as relating to importers' past record in consideration of petitions for relief.

VI. Guidelines for Cancellation of Claims Arising From Failure to Timely File Shipper's Export Declarations (15 C.F.R. 30.24) and Other Export Documents (19 C.F.R. 113.64(c)) (T.D. 94-38)

- A. Notification of liquidated damages; modified CF-5955A. Notices of liquidated damages incurred may be issued on a modified CF-5955A. The modified form shall specify two options from which the petitioner may choose to resolve the demand.

1. Option 1. He may pay a specified sum within 60 days and the case will be closed. By electing this option in lieu of petitioning, he waives his right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.
2. Option 2. Petition for relief. The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The FP&F Officer shall grant full relief when the petitioner demonstrates that the violation did not occur or that the violation occurred solely as a result of Customs error. If the petitioner fails to demonstrate that the violation did not occur or that the violation occurred solely as a result of Customs error, the FP&F Officer may cancel the claim upon payment of an amount no less than \$100 greater than the Option 1 amount; however, in no case can the amount afforded in mitigation exceed the amount of the original claim.

B. Assessment amounts.

1. \$50 per day for each of first three days late.
2. \$100 per day for each day late beyond three.
3. Maximum assessment is \$1,000.

C. Mitigation guidelines.

1. For each offense, the claim for liquidated damages may be canceled upon payment of an amount between 25 and 50 percent of the claim, but not less than \$100.
2. **NOTE:** All claims assessed for \$50 or \$100 (1 or 2 days late) will receive no mitigation.
3. If a carrier has a poor record of compliance with shipper's export declaration filing requirements as compared to other carriers in a port, and mitigation in accordance with subparagraph (B)(1) above has had no deterrent effect, relief from the claim for liquidated damages may be denied.

D. Slot Charters.

There is nothing in the regulations which bars the holder of a slot charter from obligating his bond in lieu of that submitted by the arriving or

departing carrier or agent of that carrier for any liquidated damages that may arise due to his (the holder of the slot charter's) malfeasance.

- E. These guidelines should also be used for claims for liquidated damages arising from violation of the provisions of 19 C.F.R. 113.64(c) for late filing of export documents (e.g., bills of lading) in order to complete the outward manifest.

VII. Guidelines for Cancellation of Claims for Shortage, Irregular Delivery, Non-Delivery or Delivery Directly to the Consignee of In-bond Merchandise (19 C.F.R. 18.8) (T.D. 99-29)

A. Assessment.

All claims for liquidated damages assessed for breach of the provisions of 19 C.F.R. 18.8 for shortage, irregular delivery, non-delivery or delivery directly to the consignee of in-bond merchandise will be assessed for the value of the merchandise or three times the value of the merchandise if the merchandise is restricted or is alcoholic beverages.

B. Documents filed late or merchandise delivered late.

- 1. Modified CF 5955A. Notices of liquidated damages incurred for this violation may be issued on a modified CF-5955A. If a modified form is issued, it shall specify two options from which the petitioner may choose to resolve the demand.

- a. Option 1. The bond principal or surety may pay a specified sum within 60 days and the case will be closed. By electing this option in lieu of petitioning, the principal or surety waives the right to file a petition. He may, however, file a supplemental petition, if he does so in accordance with the Customs Regulations and has some new fact or information which merits consideration in accordance with these guidelines.

- b. Option 2. The bond principal or surety may file a petition for relief. By filing a petition for relief, the petitioner will no longer be afforded the Option 1 mitigation amount. The Fines, Penalties and Forfeitures Officer shall grant full relief when the petitioner demonstrates that the violation did not occur or that the violation occurred solely as a result of Customs error. If the petitioner fails to demonstrate that the violation did not occur or that the violation occurred solely as a result of Customs error, the Fines, Penalties and