

I. In General

- A. Claims for liquidated damages are contractual in nature arising from breaches of the terms of bonds.
- B. By statute, CBP has the authority to require bonds to ensure protection of the revenue or to assure compliance with any provision of law that CBP is authorized to enforce. See, 19 U.S.C. 1623(a).
- C. CBP Bond Conditions – Most bond provisions are set forth in 19 C.F.R. Part 113, Subpart G.

II. Mitigation

Although CBP is not required to grant relief in any specific case, CBP may reference these guidelines when deciding whether to grant relief in a specific case and, if CBP deems that relief is appropriate, to determine the mitigation, remission, or cancellation amount. CBP reviews the specific facts and circumstances of each case individually and may deviate from these guidelines if CBP determines that such deviation is appropriate. Pursuant to 19 U.S.C. 1618, 1623, as well as other applicable regulatory authorities, duly authorized CBP officials are entitled to grant relief under such terms and conditions as they deem appropriate, sufficient, reasonable and/or just.

III. Petitions for Relief

Petitions for relief from liquidated damages claims shall be considered timely if they are filed within 60 calendar days of the date of issuance of the CF-5955A. See, 19 C.F.R. 172.3(b). Extensions may be granted by the FP&F Officer when the circumstances so warrant.

- A. Pursuant to 19 C.F.R. 172.1(a), sureties are notified of liability for liquidated damages at the same time as principals. The concurrent notice shall be construed as a courtesy copy for sureties.
- B. If the principal does not respond to the initial notice within 60 days, a demand on the surety is issued as soon thereafter as possible. The surety will then have 60 days from the date of the demand to file a petition. See, 19 C.F.R. 172.4.
- C. Supplemental petitions must be filed within 60 days of the decision on the original petition for relief, or within 60 days following an administrative or judicial decision with respect to issues serving as the basis for the claim for liquidated damages, (whichever is later) unless another time to file such a supplemental petition is prescribed in the original decision. See, 19 C.F.R. 172.41.

- D. Carnet Cases. The petitioning process for carnet cases differs from all other cases. For more information on carnets, see the guidelines applicable to carnets, which are posted separately.

IV. Protests

Claims for liquidated damages are not protestable by the bond principal. See, United States v. Toshoku America, Inc., 879 F.2d 815 (Fed. Cir. 1989). A surety may protest a claim for liquidated damages.

V. Defenses

The surety stands in the shoes of the principal and may raise any defense or issue that the principal could raise. The surety will receive the same mitigation that would have been due the principal.