

Commercial Customs Operations Advisory Committee (COAC)
Government Issue Paper:
Intelligent Enforcement Subcommittee
Bond Working Group

March 2022



**U.S. Customs and
Border Protection**



Trade Policy and Programs/Office of Trade
Intelligent Enforcement Subcommittee/Bond Working Group
March 2022

Action Required: Informational

Background:

Risk-Based Bonding Initiative

- U.S. Customs and Border Protection (CBP) initiated analysis and development of a statistically valid risk-based bonding framework in July 2016 in response to three items that call on CBP to develop and apply risk assessments to improve collections:
 - Trade Facilitation and Trade Enforcement Act (TFTEA), Section 115 (February 2016)
 - GAO Report (August 2016) - *AD/CVD: CBP Action Needed to Reduce Duty Processing Errors and Mitigate Nonpayment Risk*
 - *Executive Order 13785 (March 2017) - Establishing Enhanced Collection and Enforcement of AD/CVD and Violations of Trade and Customs Laws*
- In May 2021, CBP decided not to proceed with the risk-based bond modeling proposal, in part due to the complexity of the framework in determining if an additional Antidumping/Countervailing Duty risk-based Single Transaction Bond would be required, and in what amount.

Pipeline Operator Bonds

- The Bond Working Group requested a written position from CBP Headquarters regarding whether a pipeline operator needs an Activity Type 2 – Custodial and/or Activity Type 3 – International Carrier bond due to conflicting information from various CBP offices.

Monetary Guidelines on Setting Bond Amounts

- The Bond Working Group recommended that Customs Directive 3510-004, Monetary Guidelines for Setting Bond Amounts, be reviewed and updated.

Issue:

Risk-Based Bonding Initiative

- In May 2021, CBP adjusted our approach for the implementation of to risk-based bonding by leveraging our existing authorities to develop a sustainable approach and focus on near-term deliverables.

Current Status:

Risk-Based Bonding Initiative

- CBP is completing several initiatives in the implementation of risk-based bonding:
 - Issuing bond policy to no longer permit persons suspended or debarred by CBP (or another Federal agency, as applicable) to use a continuous bond to secure customs activities.
 - Updating internal guidance and procedures to better define when to consider use of Single Transaction Bonds (using the existing formula/process) to protect revenue, particularly because of AD/CVD concerns and, fully automating continuous bond sufficiency checks.
 - Publishing a Notice of Proposed Rulemaking (NPRM) to incorporate eBond in 19 CFR 113 Regulations, to update eBond functionality from a test to a requirement, eliminate the majority of paper bond processing, and ensure bonds are on file.
 - Continuing to fulfill the internal communication strategy for bond education by having monthly bond webinars until end of Fiscal Year (FY) 22

- Drafted memorandums that provide CBP field personnel with information about the proper submission of bonds to CBP by eBond and non-eBond participants, for Temporary Importation under Bond (TIB) entries and Informal Entries.

Pipeline Operator Bonds

- CBP issued guidance to clarify that the movement of imported merchandise through a pipeline must be secured by either a basic importation and entry bond or basic custodial bond.

Monetary Guidelines on Setting Bond Amounts

- The COAC Bond Working Group has completed review of Customs Directive 3510-004, Monetary Guidelines for Setting Bond Amounts, and the document has been updated to provide current policies and procedures.
 - CBP is in final stages of review and intends to publish by the end of FY 22.

ACE eBond Enhancements

- CBP is working with the Trade Support Network (TSN) to incorporate remaining bond types into eBond. Recommendations were for four different types of bonds: Importer Security Filing (ISF), Department of Transportation (DOT), International Trade Commission (ITC) and the Intellectual Property Rights (IPR) bonds.

Next Steps:

Monetary Guidelines on Setting Bond Amounts

- CBP intends to publish by the end of FY 22.

Risk-Based Bonding Initiatives

- CBP is engaging with the COAC Bond Working Group and the overarching trade community to discuss each initiative.

ACE eBond Enhancements

- CBP will collaborate with TSN to identify and pursue enhancements to ACE eBond. CBP will need to work with internal stakeholders to prioritize funding for Requests for Development (RFDs).

Submitted by: Shari McCann, Office of Trade, Commercial Operations, Revenue and Entry Division,
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