

CUSTOMS DIRECTIVE

ORIGINATING OFFICE: CO:T:F:F

DISTRIBUTION: See signature page
CUSTOMS DIRECTIVE NO. 4410-012
OLD NUMBER: 4400-12A
DATE: DECEMBER 1, 1989

SUBJECT: BOND SUFFICIENCY ACTIONS AGAINST BONDED CARRIERS

1. Purpose

To set forth actions to be taken by Regional Commissioners/District/Area Directors in cases in which the amount of delinquent liquidated damages claims against a bonded carrier exceed the amount of the carrier's custodial bond.

2. Background

In the past, certain bonded carriers have not responded to Customs liquidated damages claims involving violations of 19 CFR 18.8. This has led to actions to collect the amounts due from their surety companies. In many cases, the amounts of claims far exceed the amount of the custodial bond.

The Customs Regulations (19 CFR 113.13(c) and (d)) require, Regional Commissioners and District Directors to review bond sufficiency on a periodic basis and to notify the principal in writing of a need for a bond increase if the bond is not adequate to protect the revenue and to insure compliance with the law and regulations. *Hera Shipping Company v. Harry Carnes* (CIT Slip Opinion 86-75) reaffirmed the right of Customs to demand increased bond coverage for just cause.

As we have taken action against other principals and their sureties for delinquent claims, we should also take action against bonded carriers.

3. Action

District/Area Directors should review the liquidated damages claims against a bonded carrier whose bond is on file in their district using the automated FP&F system. Any liquidated damages claim which has not been petitioned or paid within 90 days may be considered a delinquent claim. When the amount of delinquent claims substantially exceeds the amount of the bond a written notice should be issued to the bonded carrier under 19 CFR 113.13 demanding increased bond coverage. If the carrier fails to respond satisfactorily to the letter listing the delinquencies and the demand for increased bond coverage, the district should issue a notice to all other districts using facsimile or ACS E-Mail informing them that they should not accept additional liabilities against the

existing bond. The Office of Trade Operations in Headquarters should be notified.

District/Area Directors who are aware of situations in which the amount of unpaid or unpetitioned claims exceeds a carrier's bond filed in another district should bring this matter to the attention of the appropriate District/Area Directors for action under this directive.

4. Responsibilities

Regional Commissioners are responsible for ensuring that District/Area Directors effectively implement this directive. District/Area Directors should ensure that their Fines, Penalties, and Forfeitures Officers are aware of the requirements of this Directive.

5. Effective Date

Since this directive merely states the authority already contained in the Customs Regulations for action to be taken in cases of bond insufficiency, it should be implemented immediately.

Acting Commissioner of Customs

Distribution:

R-01 All Regional Commissioners

F-01 All District Directors

F-02 All Port Directors

F-10 All PP&F Officers