

§ 172.0 Scope.

This part contains provisions relating to the giving of notice of liquidated damages incurred under the terms of any bond posted with Customs, the filing of petitions for relief from liquidated damages incurred, and the consideration of such petitions.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970]

Subpart A—General Provisions**§ 172.1 Notice of liquidated damages incurred and right to petition for relief.**

(a) *Notice of liquidated damages incurred.* When there is a failure to meet the conditions of any bond posted with Customs, the principal shall be notified in writing of any liability for liquidated damages incurred by him and a demand shall be made for payment. The sureties on such bond shall also be advised in writing, at the same time as the principal, of the liability for liquidated damages incurred by the principal.

(b) *Notice of right to petition for relief.* The notice shall also inform the principal and his sureties on the bond that application may be made for relief from payment of liquidated damages under section 623(c), Tariff Act of 1930, as amended (19 U.S.C. 1623(c)), or any other applicable statute authorizing the cancellation of any bond or of any bond charge that may have been made against such bond.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970]

§ 172.2 Failure to petition for relief.

(a) *Referral of claim to Department of Justice.* If any party liable for liquidated damages fails to petition for relief or to pay or make arrangements to pay the liquidated damages within 30 days from the date of mailing of the notice of the liquidated damages incurred, as provided in § 172.1 (except for sureties who are provided a separate petitioning period under § 172.12(b)), or within such additional time as may have been granted, the Fines, Penalties, and Forfeitures Officer shall promptly refer the claim to the Department of Justice.

(b) *Absence from the U.S.* If it appears that the parties liable for liquidated

damages are absent from the U.S. or were absent for more than 20 days during the 30-day period referred to in paragraph (a) of this section, the Fines, Penalties, and Forfeitures Officer may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

[T.D. 87-51, 52 FR 12151, Apr. 15, 1987, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

Subpart B—Application for Relief**§ 172.11 Petition for relief.**

(a) *To whom addressed.* Petitions for relief shall be addressed to the Commissioner of Customs.

(b) *Form.* A petition for relief need not be in any particular form. Such petition shall set forth the facts relied upon by the petitioner to justify cancellation of the claim for liquidated damages, and shall be signed by the petitioner, his attorney at law, or a customhouse broker representing the petitioner. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory employee thereof, an attorney at law, or a customhouse broker representing the corporation.

[T.D. 70-249, 35 FR 18267, Dec. 1, 1970, as amended by T.D. 73-141, 38 FR 13556, May 23, 1973]

§ 172.12 Filing of petition for relief.

(a) *Where filed.* A petition for relief shall be filed with the Fines, Penalties, and Forfeitures Officer for the port where the liability for liquidated damage is incurred.

(b) When filed.

(1) Except with respect to sureties, a petition for relief shall be filed within 60 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the Fines, Penalties, and Forfeitures Officer.

(2) The surety will receive notice to pay the liquidated damages if the principal fails to either timely file a petition or to pay or make arrangements to pay the liquidated damages. The notice will be sent to the surety within 10