

Frequently Asked Questions

Customs and Border Protection (CBP) Bonds

Importer Security Filing and Additional Carrier Requirements

Customs and Border Protection (CBP) Bonds

What is a CBP bond?

A CBP bond is a contract that is given to insure the performance of an obligation or obligations imposed by law or regulation. A bond is like an insurance policy that guarantees payment to U.S. Customs and Border Protection (CBP) if a required act is not performed. Bonds have a number of uses in CBP. The most common use allows importers to take possession of their goods before all CBP formalities are completed. Another common use allows a carrier to move goods under bond from one place to another before those goods are actually entered for consumption with duties paid.

All parties that import merchandise into the United States for commercial purposes or transport imported merchandise through the United States must have a CBP Bond.

What is CBP's legal authority to require bonds?

CBP has the authority to require bonds under title 19, United States Code, section 1623. Most Customs bonds are taken under that authority. In addition, there are a few statutes that specifically require Customs to get a bond from a person who wants to engage in certain transactions.

Who are the parties to a Customs bond?

There are three parties to a CBP bond: the *principal*, the *surety* and the *beneficiary*. The principal on a bond can be an importer, a broker, a carrier, a bonded warehouse proprietor, a foreign trade zone operator or any one of a number of other parties that seek to do business with CBP. The principal gives the bond to CBP to ensure satisfactory performance of obligations that it undertakes. The surety is normally an insurance company that has been authorized by the Department of the Treasury to write CBP bonds. The surety agrees to pay any liability that might arise from the principal's failure to perform its obligations. The principal and surety are also known as the bond obligors. CBP is the beneficiary on all the bonds it authorizes.

What formalities are associated with a Customs bond?

CBP bonds must be in writing and be signed by the bond obligors. To reduce the possibility of error, the signature of a bond obligor who signs as an individual must be witnessed by two other persons. Since a corporation is a legal person rather than a natural person, a different means of identification is used for a corporation. A corporate officer, whose authority to sign for the corporation is shown by a document known as a power of attorney, may sign a CBP bond for the corporation. No witnesses are required when bonds are executed by properly authorized officers or agents of a corporate principal.

Sometimes the law of the state where the corporate officer signs requires bonds signed for a corporation to have a seal affixed. Some corporate charters require that any bond to which the corporation is a party must have a seal affixed. CBP bonds need not be sealed unless the law of the state or the corporate charter or governing by-laws require one. These requirements apply to bond principals and sureties.

The CBP Form 301 is the bond form that is signed by the bond principal and surety.

What are the main types of bonds?

Continuous Transaction Bond

A continuous bond is normally obtained by importers who have a large number of entries and/or imports through several ports of entry during a given year. They are also obtained by international carriers who frequently arrive and depart the CBP territory and by custodians of merchandise who do business with CBP on a regular basis. It has a term of one year and is automatically renewed each year. A continuous bond is valid until it is terminated by the surety or the principal.

Single Entry Bond

Importers obtain a single entry bond for a single shipment. It covers only the entry or transaction for which it was written.

What are the bond amounts and how are they set?

Continuous Transaction Bond

All Continuous Transaction Bond are set by the Revenue Division of the National Finance Center in Indianapolis, Indiana. Monetary Guidelines for Setting Bond Amounts are on the CBP website at <http://www.cbp.gov/linkhandler/cgov/toolbox/legal/directives/3510-004.ctt/3510-004.txt>.

The minimum bond amount for continuous bonds is generally \$50,000. For importers, the minimum continuous bond amount is \$50,000 or 10 percent of the total taxes and fees paid in the previous 12-month period whichever is greater. Please note that all bond amounts will be rounded up to the next whole dollar amount in multiples of \$1,000.

Single Entry Bond

Single Entry Bond amounts are set by the port director who accepts the bond. The bond amount for a single entry bond generally is not less than the total entered value plus all duties, taxes, and fees. If merchandise is subject to other federal agency requirements or is restricted merchandise, the bond amount set is not less than three times the total entered value of the merchandise.

What are the obligations of the parties and where are the terms and conditions of a bond found?

CBP bond conditions appear in the CBP Regulations at title 19, Code of Federal Regulations (CFR), Subpart G of Part 113. The CBP Form 301 employs a check-off that incorporates the bond text by reference. Bond conditions impose obligations that are otherwise required by statute or regulation.

CBP are intended to reflect the obligations associated with the types of transactions engaged in by the bond principal. An importer of merchandise has different legal obligations to the Government than does a custodian such as a carrier, a cartage operator, or a warehouse proprietor who does not own the merchandise that it stores or transports. A person who makes a claim for drawback under the exporter's summary procedure or who requests accelerated payment of drawback has a different set of obligations to the Government than does a master of a vessel that arrives in the United States from a foreign country.

For example, an importer's bond obligations require him, among other things, to pay duties and submit entry summary documentation at the times required by law, and to redeliver merchandise to CBP upon a lawful demand. The basic custodial bond requires that the custodian of bonded merchandise (which would include bonded carriers, bonded warehouse proprietors, duty-free store operators, container freight station operators, and other custodians of merchandise) comply with regulations relating to the receipt, carriage, safekeeping and disposition of bonded merchandise, maintain all records required by regulations relating to such merchandise and produce the records upon demand by a CBP officer

What happens if the obligations under the bond are not met?

If a principal fails to perform its obligations under the bond, CBP may assess a claim against the principal and surety under the terms and conditions of that bond. The claim may be for breach of an obligation to pay duties. In that case, CBP may make a claim for unpaid duties under the bond. If the principal breaches a different condition of the bond, CBP may issue as claim for liquidated damages. The amount of liquidated damages is established by the conditions of the bond. In no case can a claim for liquidated damages exceed the amount of the bond that appears on the CBP Form 301.

If the bond principal cannot or will not perform its obligations, CBP can make demand for payment on both the principal and the surety. Both the bond principal and surety are "jointly and severally" liable for any claims made under the bond, including claims for liquidated damages. That means CBP will accept payment from either party in satisfaction of the claim. If the surety pays CBP, it can make a claim for payment against its principal, but CBP is not a party to that transaction.

Where can I get a bond?

Treasury Department Circular 570, which is published annually, is a list of Treasury approved, certified surety companies. The most current list of Treasury authorized companies is available through their Website at <http://www.fms.treas.gov/c570/index.html>. An annual version of this list is published in the Federal Register on or about the first of July each year and is updated throughout the year by subsequent notices in the Federal Register. For further information on Circular 570 and for the requirements for corporate sureties, inquiries should be directed to: Surety Bond Branch, Financial Management Service, 3700 East-West Highway, Hyattsville, MD 20782; telephone: 202.874.6850, fax: 202.874.9978.

In addition, applicable laws and regulations are also available at the same site. Customs brokers are often agents of sureties and have authority to provide bonds.

Where are CBP bonds filed?

Single entry bonds should be filed in the port where the transaction will take place. The Continuous Transaction Bond program is being centralized at the Revenue Division in Indianapolis, Indiana. The bond centralization effort will include the filing, approval and maintenance of all Continuous Transaction Bonds. The major objectives of the program are uniformity, bond sufficiency and fair and consistent application of regulations and policies.

The bond which insures the repayment of an erroneous payment of a drawback claim (section 113.65, CBP Regulations, as amended by T.D. 84-213) is filed with the appropriate drawback office for approval. (A list of drawback unit/offices can be found at the end of this brochure under the section listing the CBP Offices.)

Must surety bonds always be used?

No. Another alternative to employing an authorized corporate surety is for the bond principal to *pledge cash or other United States Government obligations* (Treasury bills, notes, or bonds other than U.S. Savings Bonds). The bond form is modified to reflect the change from a surety to a pledge of assets. If U.S. Treasury bills, notes, or bonds are pledged, the bond principal/pledgor is entitled to the interest or discount. No interest is paid on pledged cash.

A disadvantage of this alternative is that CBP must hold the pledge until the bond is satisfied or canceled. On a bond given to satisfy entry requirements, this pledge period does not end until two years after the entry is last liquidated. In the case of entries of merchandise valued at \$500 or less, the pledge is returned after liquidation, assuming that the bond was not breached. In the case of merchandise that is temporarily imported under Chapter 98, Subchapter XIII, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), the pledge is returned to the bond principal/pledgor upon showing that the merchandise was exported or destroyed properly.

What does "termination" of a bond mean?

Termination of a bond means that the term of the bond has ended. No further liability can be claimed against that bond for new transactions, but termination of the bond would have no effect on any obligation arising under any transaction occurring prior to termination. A bond may be terminated by the surety or the principal and appropriate notifications must be given to CBP. See the provisions of section 113.27 of the CBP Regulations for more information.

Where are CBP offices located?

(* Denotes a drawback unit/office)

Baltimore, MD 21202 / 103 South Gay Street

Boston, MA 02222-1056 / 10 Causeway Street

Buffalo, NY, 14225 / 4455 Genesee Street

Chicago, IL 60607 / 610 South Canal Street, Room 602 *

College Park, GA 30349 / 1691 Phoenix Blvd.

Detroit, MI 48226 / 613 Abbott Street

El Paso, TX 79925 / 9400 Viscount Blvd.

Houston, TX 77032 / 2350 N. Sam Houston Parkway East, Suite 1000*

Los Angeles/Long Beach, CA 90802/ 301 E Ocean Boulevard *

Laredo, TX 78044 / PO Box 3130, Bldg. #2, Lincoln-Juarez Bridge

New Orleans, LA 70130/ 423 Canal Street *

New York/ Newark, NJ 07102/ 1100 Raymond Boulevard, Room 310 *

Miami, FL 33131 / 909 SE First Avenue

Portland, OR 97209 / 511 NW Broadway

San Diego, CA 92101 / 610 West Ash Street

San Francisco, CA 94126 / 555 Battery Street, Room 107 *

San Juan, PR 00901 / #1 La Puntilla Street

Seattle, WA 98104 / 1000 Second Avenue

Tampa, FL 33605 / 1624 East Seventh Avenue

Tucson, AZ 85705 / 4740 North Oracle Road

CBP Port Offices

The addresses of CBP port offices can be found in the government pages of your local telephone directory. Addresses and telephone numbers can also be found on the CBP Website at www.cbp.gov.

Where can further information be obtained?

Questions on the legal effects of a CBP bond or the scope or meaning of the language in a bond should be sent to:

Chief, Entry Process and Duty Refunds Branch
Office of Regulations and Rulings
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, NW
Mint Annex
Washington, DC 20229
Telephone: 202.572.8770
www.cbp.gov

Report suspicious behavior
1-800 BE-ALERT
Revised – November 2006
CBP Pub. No. 0000-0590

Importer Security Filing and Additional Carrier Requirements

On January 26, 2009, the new rule titled Importer Security Filing and Additional Carrier Requirements (commonly known as “10+2”) went into effect. This new rule applies to import cargo arriving to the United States by vessel. **Failure to comply with the new rule could ultimately result in monetary penalties, increased inspections and delay of cargo.** The information submitted in Importer Security Filings improves U.S. Customs and Border Protection’s (CBP) ability to identify high-risk shipments in order to prevent smuggling and ensure cargo safety and security.

What is an Importer Security Filing?

Under the new rule, before merchandise arriving by vessel can be imported into the United States, the “Importer Security Filing (ISF) Importer,” or their agent (e.g., licensed customs broker), must electronically submit certain advance cargo information to CBP in the form of an Importer Security Filing. This requirement only applies to cargo arriving in the United States by ocean vessel; it does not apply to cargo arriving by other modes of transportation.

Who is Responsible for the Filing?

The ISF Importer is required to submit the Importer Security Filing. The ISF Importer is the party causing the goods to arrive within the limits of a port in the United States by vessel. Typically, the ISF Importer is the goods’ owner, purchaser, consignee, or agent such as a licensed customs broker. However, for foreign cargo remaining on board (FROB), the ISF Importer is the carrier. For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a foreign trade zone (FTZ), the ISF Importer is the party filing the IE, T&E, or FTZ documentation.

What Must Be Filed?

Shipments Consisting of Goods Intended to be entered into the United States and Goods Intended to be delivered to a Foreign Trade Zone ISF Importers, or their agent, must provide eight data elements, no later than 24 hours before the cargo is laden aboard a vessel destined to the United States. Those data elements include:

- Seller
- Buyer
- Importer of record number / FTZ applicant identification number
- Consignee number(s)
- Manufacturer (or supplier) *
- Ship to party *
- Country of origin *
- Commodity Harmonized Tariff Schedule of the United States (HTSUS) number*

** ISF Importers have flexibility with respect to the submission of these four data elements. For these data elements, importers may submit a range of acceptable responses based on facts available to the ISF Importer at the time of submission. The Importer Security Filing must be updated as soon as more accurate or precise data becomes available and no later than 24 hours prior to the ship’s arrival at a U.S. port.*

Two additional data elements must be submitted as early as possible, but no later than 24 hours prior to the ship’s arrival at a U.S. port. These data elements are:

- Container stuffing location; and
- Consolidator

FROB, IE Shipments, and T&E Shipments

For shipments consisting entirely of FROB and shipments consisting entirely of goods intended to be transported in-bond as an IE or T&E, the Importer Security Filing must consist of five elements. Importer Security Filings for IE and T&E shipments must be submitted no later than 24 hours before the cargo is laden aboard a vessel destined to the United States and Importer Security Filings for FROB must be submitted any time prior to lading. The following five data elements must be submitted for FROB, IE and T&E shipments:

- Booking party
- Foreign port of unloading
- Place of delivery
- Ship to party
- Commodity HTSUS number

Bulk and Break Bulk Cargo

An Importer Security Filing is not required for bulk cargo. For break bulk cargo that is exempt from the 24-hour prior to lading timing requirement for 24 Hour Rule purposes, the Importer Security Filing is required 24 hours prior to arrival.

How Will the Rule be Enforced?

The interim final rule includes a delayed enforcement date of 12 months after the interim final rule takes effect. During this 12-month period, CBP will show restraint in enforcing the rule. CBP will take into account difficulties that importers may face in complying with the rule ***as long as importers are making a good faith effort and satisfactory progress toward compliance. The flexible enforcement period will end January 26, 2010.*** CBP may issue liquidated damages of \$5,000 per violation for the submission of an inaccurate, incomplete or untimely filing. If goods for which an ISF has not been filed arrive in the U.S., CBP may withhold the release or transfer of the cargo; CBP may refuse to grant a permit to unlade for the merchandise; and if such cargo is unladen without permission, it may be subject to seizure. Additionally, noncompliant cargo could be subject to “do not load” orders at origin or further inspection on arrival.

Where Can I Find More Information?

For more detailed information about the Importer Security Filing, please visit the CBP website at http://www.cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing/.

The website includes fact sheets, FAQs, and other public outreach sources. Additionally, questions may be sent to Security_Filing_General@cbp.dhs.gov.

Additional assistance may be available from your licensed customs broker, freight forwarders, trade associations and local trade centers.

U.S. Customs and Border Protection Office of Field Operations
1300 Pennsylvania Avenue, NW, Suite 5.5B, Washington, DC 20229
www.cbp.gov
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