

## **Frequently Asked Questions (FAQs) for Guidelines for Cancellation of Claims for Liquidated Damages When Petitions for Relief Are Filed Untimely**

**1. Question:** If I file a petition for relief for a liquidated damages claim within the time period prescribed by regulation or any extension that has been granted by a Fines, Penalties, & Forfeitures Officer (FPFO), will this new guideline apply to my petition?

**Answer:** No. The new guideline only applies to petitions that are filed outside the 60-day regulatory time frame to respond to a claim for liquidated damages or any extension granted to that 60-day period by an FPFO.

**2. Question:** Does the new guideline affect Option 1 amounts that are offered in late filing of entry summary and late payment of estimated duty cases? (An Option 1 mitigated amount is an amount that CBP makes available to resolve a claim, and that amount will appear on the liquidated damages claim notice. That amount is available for a limited period of time and can be paid in satisfaction of the claim in lieu of filing a petition for relief.)

**Answer:** Not if you timely pay the Option 1 amount or timely petition for relief. Option 1 amounts will continue to be made available in the same fashion. If you either pay the Option 1 amount or petition for relief within the 60-day period to comply, this new guideline does not apply. However, if you don't timely pay the Option 1 amount or timely petition for relief, the new guideline will apply to any late petition filed or attempted late payment of an Option 1 amount.

**3. Question:** Does the new guideline apply to a late petition that was filed prior to the effective date of the CBP Bulletin Notice (insert date)?

**Answer:** No. The new guideline does not apply to any late petition that was filed prior to the effective date of the Notice.

**4. Question:** If I filed a late petition prior to the effective date of the Notice and my liquidated damages claim for the late filing of an entry summary or late payment of estimated duties was mitigated to an amount calculated consistent with the formula articulated in the new guideline, can I seek to have my late petition reconsidered consistent with the prior guideline?

**Answer:** Yes, but only if the mitigated amount offered (whether paid or not) by CBP related to a late petition filed subsequent to July 2011 and prior to the effective date of the new guideline. Furthermore, if you wish for CBP to revisit a late petition in this manner, you must send such a request in writing to the appropriate FP&F Officer within six months from the effective date of the Notice. CBP will not revisit any matter where

CBP declined to accept or consider a late petition and/or decided to grant no relief in response to a late petition.

**5. Question:** Does publication of this guideline work the same way as publication of a regulation? Can I file a comment on the guideline?

**Answer:** No, publication of this guideline does not work the same way as publication of a regulation. Pursuant to 19 U.S.C. § 1623(c), CBP publishes guidelines establishing standards for setting the terms and conditions for cancellation of bond charges (i.e., claims for liquidated damages.) CBP has published guidelines for the cancellation of bond claims many times in the past (collectively and commonly known as the mitigation guidelines). Notice of this guideline is being published in a similar manner as CBP's other previously published mitigation guidelines. Decisions made on petitions for relief are not subject to review by the courts. CBP is not required to solicit public comment nor is it required to analyze those comments. Economic impact statements are not required.

**6. Question:** Does the new guideline affect liquidated damages assessed amounts?

**Answer:** No. Amounts will continue to be assessed in accordance with CBP regulations.

**7. Question:** Does the new guideline cover offers in compromise?

**Answer:** No. Offers in compromise submitted in accordance with 19 U.S.C. § 1617 are not covered by the new guideline. Any offer in compromise previously accepted or rejected by CBP, currently under review by CBP, or submitted subsequent to the effective date of the new guideline will not be impacted or otherwise affected by the new guideline.