

Importer Security Filing: U.S Customs and Border Protection's Latest Update on Enforcement Policy

U.S. Customs and Border Protection (CBP) has provided internal guidance regarding the enforcement of ISF. The new revised strategy involves local discretion at the port level based on infrastructure and staffing resources such as holding freight vs. issuing liquidated damage claims. This intention is focused on most severe violations- Significantly late or Missing ISFs. The strategy also includes at least three warnings (*informed compliance outreach*) to importers that violate the rule before CBP pursue liquidated damage claim against importer's bond. This approach allows CBP to see who violates repeatedly, the outreach is made via email, phone call and/or letter. There is internal data base to keep track of these violations. It also exposes ports/areas that will require more focused outreach.



CBP has initiated a 3-strikes rule for all importers. When a shipment arrives without the required ISF, CBP may reach out to the importers to find out what the problem was to work with the importer to correct the problem for future shipments. In its outreach, CBP may determine that treatment as a violation is in order and will issue a "First Strike" record for that importer. An importer is allowed 3 strikes before a liquidated damages case can be issued.

MOST SEVERE VIOLATIONS:

- "Significantly" Late- It could depend on the duration of the voyage and there are some variations on the determination. Therefore, ISF must be filed at least 24 hours before vessel departs at the origin to avoid any issues.
- Failure to file ISF- Upon shipment arrival, no filing has been made and cargo will be placed on manifest hold and exposed to liquidated damage claim

Liquidated damages can be expected within 6 months of the violation; however it does not preclude 6 years statute of limitations for liquidated damage claims.

These enforcement actions are only for ISF-10. ISF-5 Violations are not currently enforced and pending changes to the regulations.