

Customs Issues “Importer Security Filing” Sanctions and Mitigation Guidelines

U.S. Customs and Border Protection (CBP) has issued mitigation guidelines for violations of the Importer Security Filing (ISF) regulation, which may be viewed in the ISF “Key Information” section [here](#).

The ISF rule requires importers to submit 10 pieces of advance shipping data 24 hours prior to loading at a foreign port, and ocean carriers to provide two sets of information.

Compliance with the Importer Security Filing regulation, which became effective January 26, 2009, is set for January 26, 2010.

Norman G. Jensen Inc. is pleased to offer our customers two service options. [ISF Express](#), a new [NGJ Express](#) module, gives users the ability to submit all required Importers Security Filing information via a secure Internet connection to U.S. Customs and Border Protection. As an alternative to ISF Express, you can have NGJ Customs Brokerage staff enter and file the shipment data for you. Visit our [ISF Services](#) page for complete information.

CBP outlined five situations which may initiate liquidated damages for an ISF importer:

1. Failure to file an ISF – In addition to liquidated damages, CBP will withhold the release or transfer of the cargo until the agency reviews the required ISF information.
2. Late submission of an ISF – liquidated damages will be issued for \$5,000.
3. Inaccurate submission of an ISF – liquidated damages will be issued for \$5,000.
4. Inaccurate updates – liquidated damages will be issued for \$5,000.
5. Failure to withdraw a filing – liquidated damages will be issued for \$5,000.

Mitigating factors

CBP may cancel the liquidated damages claim upon payment of \$1,000 or \$2,000 for the first violation, based on mitigating factors. For the second and subsequent violations, CBP may cancel the liquidated damages case after the payment of \$2,500. CBP outlined six mitigating factors to determine the cancellation of liquidated damages cases:

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Visit our website at www.ngjensen.com

Norman G. Jensen, Inc. is a validated participant in the Customs-Trade Partnership Against Terrorism (C-TPAT).

1. **Evidence of progress in implementing ISF compliance during the twelve month phase-in period. ***
2. A small number of violations compared to total ISF's.
3. C-TPAT Tiers 2 and 3 importers will receive consideration for up to 50 percent of the normal mitigation amount.
4. The importer has demonstrated that remedial actions have been taken to address the circumstances surrounding the violation.
5. Inaccurate filings from circumstances beyond the importer's control, such as vessel diversions from weather.
6. Receiving incorrect information from another party in the supply chain, if this information is found to be incorrect at a date later than allowed under the correction timeline. Under certain circumstances, the liquidated damages may be canceled without payment.

CBP also provided four aggravating factors:

1. Lack of cooperation with CBP.
2. Smuggling attempts or other laws broken in the shipment.
3. Multiple errors on the ISF.
4. A rising error rate on overall ISF's.

* NGJ STRONGLY recommends that all Importers of Ocean Freight begin filing their ISF Transactions IMMEDIATELY and also establish Standard Operating Procedures, which must incorporate methods to address Exceptions.

The Importers Security Filing Rule, and the associated Sanctions & Mitigation Guidelines, are currently applicable only to Ocean Freight shipments entering US Ocean Ports. The ISF Rule is NOT applicable to other modes of transportation (rail, highway, air, or pipeline), and is NOT applicable to Ocean Freight shipments entering Canada and Mexico Ocean Ports.