



**Advanced Topics in Customs  
Compliance Conference  
Effective Responses to CF-28's, 29's  
and Penalty Notices**

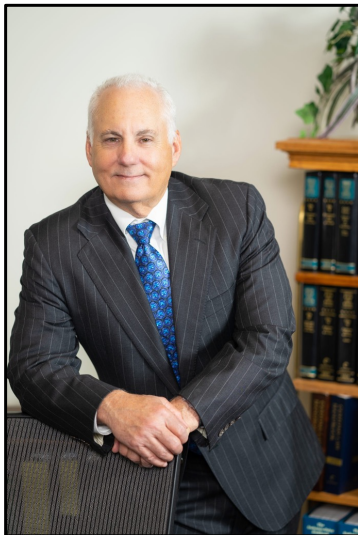
PRESENTED BY

GEORGE R. TUTTLE, III  
GEORGE R. TUTTLE LAW OFFICES  
SAN FRANCISCO  
PHONE (415) 986-8780  
[GEO@TUTTLELAW.COM](mailto:GEO@TUTTLELAW.COM)  
WEB [WWW.TUTTLELAW.COM](http://WWW.TUTTLELAW.COM)





# About your Speaker



George Tuttle, III is an attorney with the law firm of George R Tuttle Law Offices in San Francisco. He has been in practice for over 37 years. George's practice emphasis is on Customs, international trade regulation, and export compliance. He works importers, as well as customs brokers and freight forwarders on import and export related matters.

He assists companies with compliance audits, including broker compliance and penalty cases, develop effective compliance programs; determine correct customs duties, values, product classifications, and duty preference eligibility; obtain rulings, file protests; and resolve penalty, seizure and enforcement cases.

Mr. Tuttle was the editor and a principal author for the American Bar Association's publication U.S. Customs Law: A Practitioner's Guide: Chapter 9 "Focused Assessments" and Customs Audits. He has also contributed materials for the ABA's annual publication Customs Law Committee Year in Review.

He and the firm litigate matters before the United States Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit (CAFC) in Washington D.C., on matters such as tariff classification and customs valuation.

Additional information about Mr. Tuttle can be found at [www.tuttlelaw.com](http://www.tuttlelaw.com).



## Effective Responses to CF-28's & 29's



The CF-28 (**Request for Information**) and the CF-29 (**Notice of Action**) are the backbone of CBP's Compliance and Enforcement Program.



The lack of a response or, the lack of an effective response, will without a doubt, lead to

- Exclusion of Merchandise/ Demands for Redelivery
- Increases in duties
- Initiation of CBP Audits and/or investigations
- Assessment of penalties.



ENSURE YOU ARE READY WITH PROPER DOCUMENTATION TO RESPOND TO CBP

DEPARTMENT OF HOMELAND SECURITY  
U.S. Customs and Border Protection

OMB No. 1651-0023  
Exp. 09-30-2019

**REQUEST FOR INFORMATION**  
19 CFR 151.11

3. Manufacturer/Seller/Shipper [REDACTED]		4. Carrier ASIANA AIRLINES		1. Date of Request 06/25/2019	
5a. Invoice Description of Merchandise Sandals		5b. Invoice No.		2. Date of Entry and Importation 07/01/2016 06/30/2016	
7. Country of Origin/Exportation CN IT		8. CBP Broker and Reference or File No. [REDACTED]		5. Entry No. [REDACTED]	
9. TO: [REDACTED]		10. FROM: [REDACTED]		6. HTSUS Item No. 6406200000	
Production of Documents and/or Information Required by Law: If you have provided the information requested on this form to U.S. Customs and Border Protection at other ports, please indicate the port of entry to which it was supplied, and furnish a copy of your reply to this office, if possible.		11a. Port 2801		11b. Date Information Furnished	
<b>General Information and Instructions</b>					
12. Please Answer Indicated Question(s)			13. Please Furnish Indicated Item(s)		
<input type="checkbox"/> A. Are you related (see reverse) in any way to the seller of this merchandise? If you are related, please describe the relationship, and explain how this relationship affects the price paid or payable for the merchandise.		<input type="checkbox"/> A. Copy of contract (or purchase order and seller's confirmation thereof) covering this transaction, and any revisions thereto.			
<input type="checkbox"/> B. Identify and give details of any additional costs/expenses incurred in this transaction, such as: <input type="checkbox"/> (1) packing <input type="checkbox"/> (2) commissions <input type="checkbox"/> (3) proceeds that accrue to the seller <input type="checkbox"/> (4) assists <input type="checkbox"/> (5) royalties and/or license fees		<input type="checkbox"/> B. Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates. <input type="checkbox"/> C. Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article. <input type="checkbox"/> D. Submit samples: Article number and description _____ _____ from container _____ mark(s) and number _____ Samples consumed in analysis, and other samples whose return is not specifically requested, will not normally be returned. <input checked="" type="checkbox"/> E. See item 14 below.			
14. CBP Officer Message See continuation sheet					
15. Reply Message (Use additional sheets if more space is needed.)					
16. It is required that an appropriate corporate/company official execute this certificate and/or endorse all correspondence					



- The CF-28 is designed to gather specific information about Entry(ies) listed
  - ❖ goods being entered
  - ❖ The customs value
  - ❖ The relationship between the parties



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was supplied, and furnish a copy of your reply to this office, if possible.

General Information and Instructions	
Please Answer Indicated Question(s)	Please Furnish Indicated Item(s)
<input checked="" type="checkbox"/> A. Are you related (see reverse) in any way to the seller of this merchandise? If you are related, please describe the relationship, and explain how this relationship affects the price paid or payable for the merchandise.	<input checked="" type="checkbox"/> A. Copy of contract (or purchase order and seller's confirmation thereof) covering this transaction, and any revisions thereto.
<input checked="" type="checkbox"/> B. Identify and give details of any additional costs/ expenses incurred in this transaction, such as: <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> (1) packing</li> <li><input checked="" type="checkbox"/> (2) commissions</li> <li><input checked="" type="checkbox"/> (3) proceeds that accrue to the seller</li> <li><input checked="" type="checkbox"/> (4) assists</li> <li><input checked="" type="checkbox"/> (5) royalties and/or license fees</li> </ul>	<input checked="" type="checkbox"/> B. Descriptive or illustrative literature or information explaining what the merchandise is, where and how it is used, and exactly how it operates.
	<input checked="" type="checkbox"/> C. Breakdown of components, materials, or ingredients by weight and the actual cost of the components at the time of assembly into the finished article.
	<input type="checkbox"/> D. Submit samples: Article number and description _____ _____ from container _____ mark(s) and number _____ Samples consumed in analysis, and other samples whose return is not specifically requested, will not normally be returned.
	<input type="checkbox"/> E. See item below.

CRP Officer Message

Related Parties

Value or Origin

Additions to value

Purchase Price

Classification



# CF-28 Example



DEPARTMENT OF HOMELAND SECURITY U.S. Customs and Border Protection		OMB No. 1651-0023 Exp. 06-30-2016	
<b>REQUEST FOR INFORMATION</b> Continuation Page 19 CFR 151.11			
3. Manufacturer/Seller/Shipper [REDACTED]		4. Carrier ASIANA AIRLINES	
5a. Invoice Description of Merchandise Sandals		5b. Invoice No.	5. Entry No. [REDACTED]
7. Country of Origin/Exportation CN IT		6. HTSUS Item No. 6406200000	
8. CBP Broker and Reference or File No. [REDACTED]			
14. CBP Officer Message I am performing a review for [REDACTED] for which you are listed as their broker. Please provide Entry Packages (commercial invoices, packing lists, house bills of lading and <b>proof of payment</b> ) for the above entries.  [REDACTED] Import date - 06/27/2018 [REDACTED] Import date - 07/16/2018 [REDACTED] Import date - 08/03/2018			



# CF-28 as a Tool for Compliance



- Customs routinely issues CBP Form 28 (CF 28)
- Significant increase on the number of CF 28s for
  - ❖ Appraised value
  - ❖ HTS classification
  - ❖ AD/CVD
  - ❖ Country of origin Marking
  - ❖ FTA or Special Tariff Rate (9801/9802)
  - ❖ Trade Remedy Compliance (Section 301, 232, 201)
- A CF 28 is not a voluntary request, an importer has **30 days to response**, or request an extension of time to reply



## How to respond to a CF-28?



- When responding to the CF 28, the first steps involve:
  - ❖ gaining an understanding as to why the agency is asking these questions, and
  - ❖ evaluating the facts and law involved to answer that question.
- **Note:** The CF 28 questions are always targeted to zero in on a material issue (i.e., a potential liability).
- Even though Customs may be asking the question for one entry, the determination may also potentially impact future entries, and past entries (typically for 5 years).
  - ❖ Assess the situation to determine the potential liability
  - ❖ Quantify the size of the potential liability
  - ❖ Strategize on how to address these legal issues
- It is possible to obtain an extension to response, if necessary. Importer may either contact the import specialist in writing or have its broker or attorney do so.





# Responding to Your CF-28



If CBP asks about the relationship between the Parties

- Questioning if Transaction Value applies. If you are related, was the box checked on the CE-7501?
- Support your position and be prepared to **provide details why** the relationship does not affect price

If CBP asks about additional costs/ expenses

- Asking about statutory Additions to Value & supplemental payments
- Verify answers with purchasing, production, Legal /contracts, etc.

Asking for descriptive information on product

- Use opportunity to verify accuracy of tariff classification before responding
- Good idea to verify with Broker or legal

Product/cost breakdown

- Don't normally provide unless parties are related



# Common Mistakes and Foo-pahs



Importer ignores request or never receives it

Provides incomplete response or unknowingly reveals error

Provides unsupported response

Broker submits response without sharing, notifying or copying IOR

If response identifies (possible) error, omission or mistake IOR does not take immediate responsive action

- Is Internal Advice Request or ruling needed?
- Is a prior disclosure needed?



## Possible Outcomes to the CF-28?



- If Customs does not receive the information timely or the information is marginal or incomplete:
  - ❖ Issue a CF-29 informing the importer of the action that will be taken.
  - ❖ Note likely that I/S will unseat liquidation of entry
- Depending on what the CF-29 states:
  - ❖ a Supplemental Duty Bill is issued and the entry moved to liquidation (opportunity for protest?)
  - ❖ If the Notice of Action states “proposed action” I/S is inviting IOR to request Internal Advice or submit additional information (See 19 CFR 177.11) **Caution**
  - ❖ **IOR is given 20 days to respond. In some cases I/S will agree to an extension**
  - ❖ Refer the matter to Regulatory Audit for a **Risk Analysis and Survey Assessment (RASA)** or for investigation



**DEPARTMENT OF HOMELAND SECURITY**  
U.S. Customs and Border Protection  
**NOTICE OF ACTION**  
19 CFR 152.2

<b>This is NOT A Notice of Liquidation</b>			1. Date of this notice (mm-dd-yyyy) 12/03/2024
2. Carrier [ ]	3. Date of Importation (mm-dd-yyyy) 09/08/2024	4. Date of Entry (mm-dd-yyyy) 09/13/2024	5. Entry Number [ ]
6. MFR/Seller/Shipper MULTIPLE	7. Country CN	8. CBP Broker [ ]	File Number [ ]
9. Description of Merchandise [ ]			
10. To ▶ [ ]		11. From Scott Titus 1901 Cross Beam Dr., Charlotte, NC 28217	
12. The following action, which will result in an increase in duties, ---			
<input checked="" type="checkbox"/> <b>is proposed</b> ▶ IF YOU DISAGREE WITH THIS PROPOSED ACTION, PLEASE FURNISH YOUR REASON IN WRITING TO THIS OFFICE WITHIN 20 DAYS FROM THE DATE OF THIS NOTICE. AFTER 20 DAYS, THE ENTRY WILL BE EITHER LIQUIDATED AS PROPOSED OR CHANGED AS PROPOSED.			
<input type="checkbox"/> <b>has been taken</b> ▶ THE ENTRY IS IN THE LIQUIDATION PROCESS AND IS NOT AVAILABLE FOR REVIEW IN THIS OFFICE.			
<b>type of action</b> <ul style="list-style-type: none"> <li>A. <input checked="" type="checkbox"/> Rate Advance</li> <li>B. <input type="checkbox"/> Value Advance</li> <li>C. <input type="checkbox"/> Excess <input type="checkbox"/> Weight <input type="checkbox"/> Quantity</li> <li>D. <input type="checkbox"/> Other (See below)</li> </ul>			
13. Explanation (Refer to action letter designations above)			
<p>CBP proposes the following actions:</p> <p>Based on a review by U.S. Customs and Border Protection the Entries listed below, the classification of the merchandise portable speakers. CBP has determined the classification for this merchandise to be incorrect and should be changed from 8519.81.4150 (Sound recording or reproducing apparatus, other, other) to be properly classified under 8519.81.3020 (Sound recording or reproducing apparatus, Other apparatus, Sound reproducing only, other) that is subject to Section 301 duties at a 25%.</p> <p>You may provide additional information concerning the goods before the issuance of the final determination. If you do not supply additional information, all associated Entries will be denied, and the entry summary will be rate advanced. If you do supply additional information, it will be taken into consideration. This notice is to inform you that CBP intends on denying the entry for incorrect use of classification on your specific product.</p> <p><b>After 20 days of the date of this notice (December 03, 2024), supply additional information is due on October 02, 2024,</b> without supporting additional information this entry and associated entries will be sent for liquidation with the proper classification change and correction in value on (December 23, 2024).</p> <p>You will retain the right to protest this action within 180 days of the date of liquidation (19 USC 1514 and 19 CFR 174).</p> <p>If you have any questions or concerns, please email me at <a href="mailto:scott.titus@cbp.dhs.gov">scott.titus@cbp.dhs.gov</a>. Thank you for your support.</p>			
14. CBP Official Scott Titus	15. Team Designation GBA	16. Telephone 17043296130	
17. Fax Number	18. E-mail <a href="mailto:scott.titus@cbp.dhs.gov">scott.titus@cbp.dhs.gov</a>		



# CF-29 Example



**13. EXPLANATION (REFER TO ACTION LETTER DESIGNATIONS ABOVE)**  
 A review of this entry has revealed an invoice presented to CBP that does not adequately describe the imported merchandise. Specifically, please note that **one or two word descriptions such as "Heat exchanger or Fan Motor" is not adequate to describe the merchandise.** Please be advised it is your responsibility as an importer to ensure that all merchandise imported by you is properly described on the invoice in terms sufficient for its accurate identification and classification. You are required to enter all merchandise that you import under the correct tariff number and pay the duties at the rate applicable thereto. This is set forth in the Code of Federal Regulations, Sections 141.86 through 141.89 and 142.6 of Title 19.

After a complete review of the information provided to CBP for entry [REDACTED], listed as "Heat Exchanger and Fan Motor" on the invoice documentation presented to CBP, **CBP does not agree with the classification declared at time of entry for line 001 and 002, 8402.90.0010.** CBP feels the correct classification for line 001 is 8419.89.9540 "Machinery, plant or laboratory equipment, whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514), for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilizing, pasteurizing, steaming, drying, evaporating, vaporizing, condensing or cooling, other than machinery or plant of a kind used for domestic purposes; instantaneous or storage water heaters, nonelectric; parts thereof: Other: Other. Other." The general rate of duty is 4.2%

CBP feels the correct classification for line 002 is 8419.59.6590 "Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters; parts thereof: Other: Other." The general rate of duty is 2.3%

Upon receipt of this notice, CBP is directing you to implement immediate changes to your entry procedures. **Please note future shipments of identical or similar merchandise should be entered accordingly. In order to be in compliance with these instructions, any future entries not in conformity with such instructions will be rejected accordingly.** You should notify your Custom Broker regarding these changes so that they can file your entries according to the instructions within this notice of action.

You will receive a refund of the difference in duty.

14. CBP OFFICIAL [REDACTED]	15. TEAM DESIGNATION 080	16. TELEPHONE [REDACTED]
17. FAX NUMBER	18. EMAIL [REDACTED]	

CBP Form 29 (06/14)



## CF28s, 29s and Prior Disclosure



- CBP guidance to the ports regarding the appropriateness of using a Form 28 or Form 29 to notify an importer of a pending investigation.
- [https://www.tuttlelaw.com/newsletter\\_links/cf28memorandum.pdf](https://www.tuttlelaw.com/newsletter_links/cf28memorandum.pdf)
- The Form 28 is not to be use as notification that a formal investigation has commenced.
- The preferred mechanism to inform the importer of the commencement of an investigation is by correspondence on CBP letterhead or the CBP Form 29
- [CBP Clarifies the Use of CF 28 & 29 Forms](#)  
June 3, 2011
- [CBP Form 28/29 Notices May Preclude Filing Prior Disclosures](#)  
December 8, 2010
- CBP Form 29 is not defacto notice of pending investigation so read carefully
- When in doubt file a Prior Disclosure and argue about it later.



# Types Of Customs Penalties



- Commercial Fraud and Negligence Penalties (19 U.S.C. 1592)
- Drawback Penalties (19 U.S.C. 1593a)
- Recordkeeping Penalties (19 U.S.C. 1509)
- Liquidated Damages
- Penalties for Unlawful Importation (19 U.S.C. 1595a(c))
- Counterfeit Trademark Penalties (19 U.S.C. 1526(f))



# Penalty Notices



- A penalty notice informs a party that CBP believes they have violated a law or regulation.
- The notice is to include details about the violation, the estimated penalty, and the opportunity to petition for relief or mitigation
- If you've received a notice from CBP regarding a seizure, penalty, or liquidated damage case you can now file your petition online through the [ePetition platform](#).
- Petition due dates vary on the nature of the violation 60 days for 1592 and liquidated damages; 30 days for seizures

DEPARTMENT OF HOMELAND SECURITY U.S. CUSTOMS AND BORDER PROTECTION		CASE NUMBER F02	
NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED AND DEMAND FOR PAYMENT		PORT CODE AND NAME 5201 MIAMI, FL	
19 USC 1618, 19 USC 1623		INVESTIGATION FILE NO. ID:	
DEMAND IS HEREBY MADE FOR PAYMENT OF \$141,138.62, REPRESENTING PENALTIES ASSESSED AGAINST YOU FOR VIOLATION OF LAW OR REGULATION, OR BREACH OF BOND, AS SET FORTH BELOW:			
<p>FAILED TO EXERCISE REASONABLE CARE IN ENSURING ITS IMPORT ED MERCHANDISE WAS PROPERLY CLASSIFIED, THE APPLICABLE ANTIDUMPING CASE WAS INCLUDED ON THE ENTRIES, AND THE APPROPRIATE ANTIDUMPING DUTIES WERE DEPOSITED.</p> <p>COMMERCIAL FRAUD 1592 .THE LEVEL OF CULPABILITY IS NEGLIGENCE.</p>			
LAW OR REGULATION VIOLATED 19USC1592		BOND BREACHED BOND TYPE:	
DESCRIPTION OF BOND:		BOND#:	DATE:
FORM NUMBER:		AMOUNT:	DATE:
NAME AND ADDRESS OF PRINCIPAL ON BOND			SURETY NO.
NAME AND ADDRESS OF SURETY ON BOND			SURETY NO.
<p>IF YOU FEEL THERE ARE EXTENUATING CIRCUMSTANCES, YOU HAVE THE RIGHT TO OBJECT TO THE ABOVE ACTION. YOUR PETITION SHOULD EXPLAIN WHY YOU SHOULD NOT BE PENALIZED FOR THE CITED VIOLATION. WRITE THE PETITION AS A LETTER OR IN LEGAL FORM; SUBMIT IN (DUPLICATE ) ADDRESSED TO THE COMMISSIONER OF CUSTOMS AND BORDER PROTECTION, AND FORWARD TO THE FP&amp;F OFFICER AT: U.S. CBP FP&amp;F OFFI CE, P.O. BOX 52-2207, MIAMI, FL 33152</p> <p>UNLESS THE AMOUNT HEREIN DEMANDED IS PAID OR A PETITION FOR RELIEF IS FILED WITH THE FP&amp;F OFFICER WITHIN THE INDICATED TIME LIMIT, FURTHER ACTION WILL BE TAKEN IN CONNECTION WITH BOND OR MATTER WILL BE REFERRED TO US ATTORNEY.</p> <p>TIME LIMIT FOR PAYMENT OR FILING PETITION: 60 DAYS FROM DATE OF THIS NOTICE.</p>			
SIGNATURE: <i>[Signature]</i>		TITLE	DATE





# What's included in a Penalty Notice?



- ❖ What's included in a CBP penalty notice?
  - ✓ A description of the merchandise
  - ✓ Details of the entry or introduction
  - ✓ A list of the laws and regulations that may have been violated
  - ✓ A statement of whether the violation was due to fraud, negligence, or gross negligence
  - ✓ An estimate of the loss of duties, taxes, and fees
  - ✓ An estimate of the proposed penalty
  - ✓ Time to file a petition for mitigation
- ❖ How can a party respond to a CBP penalty notice?
  - File a CBP petition for relief electronically or on paper
  - Include a description of the property, the date and location of the violation, and any relevant facts
  - Provide evidence to support the request for relief



CBP Form 9555A -- Notice of Penalty or Liquidated Damages

<b>DEPARTMENT OF HOMELAND SECURITY U.S. CUSTOMS AND BORDER PROTECTION</b> NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED AND DEMAND FOR PAYMENT 19 USC 1618 AND 19 USC 1623		Case Number [                  ]
		Port Code and Name 2704 LOS ANGELES
TO: [    ]		94066240000
Demand is hereby made for payment of \$5,000.00, representing <input type="radio"/> Penalties <input checked="" type="radio"/> Liquidated damages assessed against you for violation of law or regulation, or breach of bond, as set forth below:  The advance electronic cargo information and descriptions for cargo covered by bill of lading number(s) [                  ] for cargo laden on the vessel [                  ] for transport to LONG BEACH were inaccurate as follows: Cargo declaration transmitted as "freight of all kinds" - not an acceptable description as per the Trade Act.. You are liable for liquidated damages of \$5,000 per violation for inaccurate cargo descriptions.  If you wish to file a petition for relief, you may submit it to CBP in paper at the address listed on this Form or you may submit it electronically (and include any attachments) through the following url; https://epet.cbp.dhs.gov/  Bill of Lading#[                  ] Container#[                  ]		
<b>LAW OR REGULATION VIOLATED</b> 19 CFR 4.7a(c), 19 CFR 4.7a(f), 19 CFR 113.64(d)	<b>BOND BREACHED</b> Bond Activity Type: 3 Bond #: [                  ]	
<b>Description of Bond</b> International Carrier	<b>Bond Type</b> 8	<b>Amount</b> \$19900000.00
		<b>Bond Effective Date</b> 03/19/2015

<b>DEPARTMENT OF HOMELAND SECURITY U.S. CUSTOMS AND BORDER PROTECTION</b> NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED AND DEMAND FOR PAYMENT 19 USC 1618 AND 19 USC 1623		Case Number [                  ]
		Port Code and Name 2704 LOS ANGELES
TO: [    ]		94066240000
If you feel there are extenuating circumstances, you have the right to object to the above action. Your petition should explain why you should not be penalized for the cited violation. Write the petition as a letter or in legal form; submit in duplicate, addressed to the Fines, Penalties and Forfeitures Officer at: FPF OFFICE, 301 E OCEAN BLVD, STE 900, LONG BEACH, CA 90802, FPFLAINFO@CBP.DHS. GOV.		
Unless the amount herein demanded is paid or a petition for relief is filed with the FP&F officer within the indicated time limit, further action will be taken in connection with your bond or the matter will be referred to the Justice Department. Payment may be made through pay.gov or by remitting to the address above. Any partial payments will not be considered an accord and satisfaction of the claim.		<b>TIMELIMIT FOR PAYMENT OR FILING PETITION FOR RELIEF</b>  60 days from the date of this notice
Signature Reggie W. Rankin	S/L & PO Hodges <i>g. bog</i>	Title FPF Officer (562) 366-5400
		<b>Date</b> 09/04/2024



# 1592 Pre-penalty Notices



- ❖ What's included in a CBP **pre-penalty** notice?
  - A description of the merchandise
  - Details of the entry or introduction
  - A list of all laws and regulations allegedly violated
  - A statement of whether the violation was due to fraud, gross negligence, or negligence
  - An estimate of any lost duties, taxes, and fees
  - The proposed monetary penalty
  - A statement of the recipient's right to respond in writing within 60 days
- ❖ What happens after a CBP prepenalty notice is issued?
  - The recipient can respond in writing within 30 days.
  - The Fines, Penalties, and Forfeitures Officer will review the response.
  - The officer may cancel the case, issue a lower penalty, or issue the same penalty as the prepenalty notice.

# Petitions For Relief From Penalties and Liquidated Damages

- Immediately check the **due date** in the notice
- Verify all the information in the notice
  - ✓ Is the description of the merchandise accurate and match the entry/ invoice?
  - ✓ Are the details of the entry or introduction correct?
  - ✓ Check that the laws and regulations that may have been violated accurate and make sense?
  - ✓ Does the level of culpability (fraud, negligence, or gross negligence) appropriate?
  - ✓ (N/A for liq damages; but maybe liability under bond transferred)
  - ✓ Is the estimate of the loss of duties, taxes, and fees accurate?
  - ✓ Is there a basis for mitigation of the penalty?

<b>DEPARTMENT OF HOMELAND SECURITY</b> <b>U.S. CUSTOMS AND BORDER PROTECTION</b> <b>NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED</b> <b>AND DEMAND FOR PAYMENT</b> <b>19 USC 1618 AND 19 USC 1623</b>		Case Number 2024170330007501
		Port Code and Name 1703 SAVANNAH
TO: [REDACTED]		47374721700
Demand is hereby made for payment of \$11,594.20, representing <input checked="" type="checkbox"/> Penalties <input type="checkbox"/> Liquidated damages assessed against you for violation of law or regulation, or breach of bond, as set forth below:		
U.S. Customs and Border Protection has determined that you directed, assisted, or otherwise were involved in the introduction or attempted introduction of [REDACTED] on 05/21/2024 at SAVANNAH, GA. The introduction or attempted introduction of these articles was in violation of the provisions of 7 CFR 319.40-3 for TIMBER PEST PRESENT/ IPPC MARKED WOOD PACKING MATERIAL WITH A LIVE TIMBER PEST. You were involved in this violation in the following manner: IMPORTER OF RECORD.		
As a person directing, assisting financially or otherwise, or aiding and abetting the importation of this merchandise, you are subject to a civil penalty under the provisions of title 19, United States Code, section 1595a(b), (19 USC 1595a(b)), in an amount equal to the domestic value of the articles introduced or attempted to be introduced contrary to law.		
If you wish to file a petition for relief, you may submit it to CBP in paper at the address listed on this Form or you may submit it electronically (and include any attachments) through the following url: <a href="https://epet.cbp.dhs.gov/">https://epet.cbp.dhs.gov/</a>		
LAW OR REGULATION VIOLATED		BOND BREACHED
19 USC 1595a(b), 7 CFR 319.40-3		Bond Activity Type: Bond #:
Description of Bond	Bond Type	Amount \$
Name and Address of Principal on Bond		Bond Effective Date
Name and Address of Surety on Bond		Surety Identification No

## Penalties for Importation Contrary to Law (19 U.S.C. 1595a(c))

- Merchandise may be seized and forfeited if -
  - ❖ Subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and the merchandise is not in compliance;
  - ❖ requires a license, permit or other authorization and the merchandise is not accompanied by such license, permit, or authorization;
  - ❖ Merchandise or packaging in which copyright, trademark, or trade name protection violations are involved;
  - ❖ Merchandise is marked intentionally in violation of section 1304 (marking); or
  - ❖ Importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 1304

FPF OFFICE  
555 BATTERY ST, STB 413  
SAN FRANCISCO, CA 94111



U.S. Customs and  
Border Protection

NOTICE OF SEIZURE AND INFORMATION TO CLAIMANTS  
NON-CAFRA FORM

CERTIFIED - RETURN RECEIPT REQUESTED USPS - [ ]

[ ]

Re: Case Number: [ ]

Dear Sir/Madam:

This is to notify you that U.S. Customs and Border Protection (CBP) seized the property described below at SAN FRANCISCO on September 27, 2024:

1920 EA Padded Pipe Kits  
1900 EA Chillum Kit  
939 EA Glass tube  
469 EA Glass Spoon  
303 EA Metal Pipe tool

The appraised domestic value of the property is \$[ ]

The property was seized and is subject to forfeiture under the provisions of:

19 USC 1595a(c)(2)(A), 21 USC 863(a)(3), 21 USC 863(d) - Unlawful Importation of Drug Paraphernalia

The facts available to CBP indicate that you might have an interest in the seized property. The purpose of this letter is to advise you of the options available to you concerning this seizure. An important document – an "Election of Proceedings" form is enclosed with this letter. You must choose ONE of the four options outlined below, indicate your choice on the "Election of Proceedings" form by checking the appropriate box, and return that form, along with any other necessary documents, to CBP within the allotted time frame. Should you choose to abandon the property, please still complete the "Election of Proceedings" form and return it to CBP. A Notice of Seizure and Intent to forfeit has also been published on [www.forfeiture.gov](http://www.forfeiture.gov) and, if appropriate, in a conspicuous place accessible to the public at the customhouse or Border Patrol sector office nearest the place of seizure on approximately the date of this letter.

Your options are as follows:

1. **PETITION (BOX 1):** You may file a petition with this office within 30 days from the date of this letter in accordance with Title 19, United States Code (U.S.C.), Section 1618 (19 U.S.C. §1618) and Title 19, Code of Federal Regulations (C.F.R.), Sections 171.1 and 171.2 (19 C.F.R. §§ 171.1, 171.2), seeking the remission or mitigation of the forfeiture, in other words, the return of some or all of your property. The petition does not need to be in any specific form, but it must describe the property involved, identify the date and place of the seizure, include all the facts and circumstances which you believe warrant the return of your property and must include proof of your interest in or claim to the property. The petition and any attachments may be submitted in paper at the address of the Fines, Penalties, and Forfeitures Office appearing on this form or it may be submitted electronically (including any attachments) through the following url: <https://epet.cbp.dhs.gov/>. Examples of proof of interest include, but are not limited to, a car title, loan agreement, or documentation of the source of funds. **If you choose this option, you must check BOX 1 on the "Election of Proceedings" form.**

By completing **BOX 1** on the "Election of Proceedings" form, you are requesting that CBP review your petition and decide whether to accept your petition, in full or in part, or deny your petition altogether. You are also requesting that CBP halt any forfeiture proceedings after publication of the notice of seizure, if they have already commenced. However, if CBP has already referred the matter to the United States Attorney for the institution of judicial forfeiture proceedings, CBP will forward your petition to that U.S. Attorney for consideration.

At any point prior to the forfeiture of the property, you may request that CBP refer the matter to the U.S. Attorney for judicial action. *Please see option 4 of this letter for information on how to request judicial action.* If you request judicial action after filing a petition for relief, CBP will not take further action on your petition and will treat it as withdrawn. If upon receipt of your petition, the matter has already been referred to the U.S. Attorney for judicial action, your petition will be forwarded to that U.S. Attorney for consideration.

If you choose to file an administrative petition and are dissatisfied with CBP's decision regarding your petition (initial or supplemental), you will have an additional 60 days from the date of the initial petition decision, or 60 days from the date of the supplemental petition decision, or such other time as specified by the Fines, Penalties and Forfeitures Officer to file a claim to the property, along with the required cost bond, requesting referral of the matter to the U.S. Attorney's Office for judicial action. *Please see option 4 of this letter for information on how to request judicial action.* If you do not act within these time frames, CBP may forfeit the property to the United States, as authorized by law.



# Drafting the Winning Petition



No special format required

Restate CBP Facts/Allegations from Notice

Identify any misstatements or disagreements

Added text of CBP alleged violations

Do you agree or disagree?

Explain reasons why you disagree with violation or level of culpability. Include supporting documentation (i.e, reasonable care)

Argue for application of CBP published mitigation guidelines.  
Quote applicable mitigation rules and explain why they apply



## Customs Publications On Fines & Penalties

- Customs Administrative Enforcement Process: Fines, Penalties, Forfeitures and Liquidated Damages
- Delegations of Authority to Decide Petitions for Relief
- Mitigation Guidelines: Fines, Penalties, Forfeitures and Liquidated Damages
- Petitions for Relief: Seizures, Penalties and Liquidated Damages

