

ISF-5 Rule for FROB (Foreign Remaining On Board) – Transiting through US Ports

Dear Customer,

We would like to share details of the ISF-5 Rule that CBP has shared with the Trade community.

The link for the document we reference is found below:

<https://www.cbp.gov/sites/default/files/assets/documents/2018-Nov/Updated%20ISF%20FAQ%20FINAL%2011282018.pdf>

The main take away for the FROB cargo (Foreign Remaining On Board) is ISF-5 is to be filed on the lowest level bill of lading, in other words at the house bill level. An auto-NVOCC is to submit the required data elements to CBP. This process is necessary especially when the cargo is remaining on board the vessel while she is transiting through US ports. We would like you to closely review the headings listed below:

“Enforcement Measure”, Letter “A. Do not Load Messages (DNL)”, Number “1”

- 1. If CBP issues a DNL for the ISF, how will the carrier know if it was because the ISF or manifest? CBP will provide a message to the carrier that the DNL was specifically due to the ISF.*

“ISF Filings”, Letter “D. ISF-5 filings”, Number “2” and Number “3”

2. Who is the responsible party for filing an ISF-5 for FROB? Who is responsible for filing the ISF-5 for IE and T&E shipments? The ISF Importer is the party causing the goods to enter the limits of a port in the United States and most likely to have access to the required ISF information. For FROB cargo, the ISF Importer is the carrier or the NVOCC; for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the definition of ISF Importer includes the goods’ owner, purchaser, consignee, or agent such as a licensed customs broker.

3. What is CBP enforcement on ISF-5? My concern is who is responsible for late filing: the ISF Importer, the Owner of the cargo, the Shipper, the Broker/7512 Filer, or the Code 2 Carrier? CBP has a history of using a common sense approach to enforcement of the ISF requirements. Enforcement of the May 14, 2018 final rule, which broadened the definition of ISF Importer for FROB shipments to include NVOCCs, and for IE, T&E, and FTZ cargo, the ISF Importer 43 includes the goods’ owner, purchaser, consignee, or agent such a licensed customs broker will continue to use a measured, common sense philosophy. At the very least, non-compliant ISF Importers should expect to receive a warning and/or will experience delays in the release of their cargo while CBP analyzes and mitigates the potential risk of the cargo. Non-compliant importers should also expect their shipments to undergo nonintrusive inspection (NII) exam upon arrival in the United States. CBP will evaluate instances of non-compliance on a case-by-case basis.

“ISF Filings”, Letter “H. Late ISF’s”, number “1”

1. If an ISF is filed the day of the vessel sail date, will there be a fine or enforcement of some kind? Because the ISF is required at least 24 hours prior to the vessel departure, a filing that is completed the same day the vessel sails will be considered a violation and it can be expected that CBP will issue a claim for an untimely filing. CBP uses the vessel departure date minus 24 hours to measure timeliness.

Other Resources are also available. For your convenience it is attached.

