

**Supporting Statement
Prior Disclosure
1651-0074**

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Prior Disclosure program establishes a method for a potential violator to disclose to CBP that they have committed an error or a violation with respect to the legal requirements of entering merchandise into the United States, such as underpaid tariffs or duties, or misclassified merchandise, or regarding the payment or credit of any drawback claim. The procedure for making a prior disclosure is set forth in 19 CFR 162.74 which requires that respondents submit information about the merchandise involved, a specification of the false statements or omissions, and what the true and accurate information should be. A valid prior disclosure will entitle the disclosing party to the reduced penalties pursuant to 19 U.S.C. 1592(c)(4) or 19 U.S.C. 1593a(c)(3).

The respondents to this information collection are members of the trade community who are familiar with CBP regulations.

- 2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The information is to be used by CBP officers to verify and validate the commission of a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a by the disclosing party. A valid prior disclosure may entitle the disclosing party to reduced penalties pursuant to 19 U.S.C. 1592(c)(4) or 19 U.S.C. 1593a(c)(3). A prior disclosure may be submitted orally or in writing to CBP. In the case of an oral disclosure, the disclosing party shall confirm the disclosure in writing. A written prior disclosure must be addressed to the Commissioner of Customs, have conspicuously printed on the face of the envelope the words "prior disclosure," and be presented to a Customs officer at the Customs port of entry or a Center of the disclosed violation. The elements of a valid prior disclosure are contained in the Customs Regulations in Part 162.74, which sets forth the specific information that must be provided in order for a prior disclosure to be considered valid.

- 3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision**

for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Prior disclosures are submitted either in paper or by email directly to the port or to the Centers of Excellence and Expertise (“Center”), and a workspace created in the Intelligence Reporting System-Next Generation (IRS-NG). The disclosure information that is collected by CBP is stored in IRS-NG. A SEACATS record is created when a prior disclosure has been verified and a penalty notice is issued for an interest penalty over \$1K. The penalty information that is collected by CBP is stored in SEACATS. It would be difficult to automate the submission of this information because respondents must send in a check which accounts for underpaid tariffs, duties, or misclassified merchandise that accompanies their prior disclosure.

Usability Testing:

CBP conducted usability testing in March 2024 by interviewing five members of the trade community on Prior Disclosure. The trade community members were able to complete the collection of information easily and were able to quickly locate informed compliance materials on how to submit prior disclosures. The trade community did identify one improvement CBP could make related to prior disclosures, though not on the information collection itself. They indicated that CBP’s website did not list to which Center of Excellence the prior disclosure should be submitted. CBP will make this information more apparent on its website.

- 4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

This information is not duplicated in any other place or any other form.

- 5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This information collection does not have a significant impact on a substantial number of small businesses.

- 6. Describe consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

Failure to collect this information would mean that the CBP would be unable to provide the legally required reduced penalty benefits to a party who wishes to make a valid written prior disclosure of the commission of a violation of 19 U.S.C. 1592 or 19 U.S.C. 1593a.

7. Explain any special circumstances.

This information is collected in a manner consistent with the guidelines of 5 CFR 1320.5(d)(2).

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Public comments were solicited through two Federal Register notices published on January 5, 2024 (Volume 89, 792) on which no comments were received and on March 29, 2024 (Volume 89, 22167) on which no comments have been received.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no offer of a monetary or material value for this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

A Department of Homeland Security SORN, dated December 19, 2008, 73 FR 77778 titled DHS/CBP-011 TECS , will be included in this ICR. PIA coverage is provided by the DHS/CBP/PIA-040 Seized Assets and Case Tracking System (SEACATS), available at <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp-040-seacats-april2017.pdf>. PIA coverage is also provided by DHS/CBP/PIA-003(b) Automated Commercial Environment (ACE), available at <https://www.dhs.gov/sites/default/files/publications/privacy-pia-cbp-ace003b-appendixa-march2020.pdf>. . Additional SORN coverage is provided by DHS/CBP-013 - Seized Assets and Case Tracking System, December 19, 2008 73 FR 77764. There are no assurances of confidentiality provided to the respondents.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature associated with this collection.

have been incurred without this collection of information.

The estimated annual cost to the Federal Government associated with the review of these records is \$110,734. This is based on the number of responses that must be reviewed (762) multiplied by the time burden to review and process each response (2 hours) = 1,524 hours multiplied by the average hourly loaded rate for a CBP Trade and Revenue employee (\$72.66)³ = \$110,734.

15. Explain the reasons for any program changes or adjustments reported in Items 12 or 13 of this Statement.

There has been a decrease in the estimated annual burden hours previously reported for this information collection. The decrease in annual burden hours is due to a decrease in the number of respondents and submissions being received. The time per response was increased to 3 hours but, due to the decrease in submissions, the annual burden did not increase. There are no changes to the information collected or method of submission.

The number of respondents and responses decreased by 2,738 and the annual burden hours decreased by 1,214 hours.

16. For collection of information whose results will be published, outline plans for tabulation, and publication.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date, explain the reasons that displaying the expiration date would be inappropriate

There is no form associated with this collection, so it is not appropriate to display the expiration date.

18. "Certification for Paperwork Reduction Act Submissions."

CBP does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods

No statistical methods were employed.

³ CBP bases this wage on the FY 2023 salary and benefits of the national average of CBP Trade and Revenue positions, which is equal to a GS-12, Step 9. Source: Email correspondence with CBP's Office of Finance on September 26, 2023.