



Jersey City, January 22, 2010

Import Security Filing (10+2) – Graduated Enforcement

The actual enforcement date of ISF is January 26, 2010.

In a webinar organized by the NCBFAA this afternoon, US Customs & Border Protection (CBP) has explained its strategy for so-called graduated enforcement of the ISF. Enforcement will be tightened up in phases during the year.

From now until May or June, CBP will monitor the ISF filings, noting the importers who are filing and those who are not. The agency will also monitor the completeness, timeliness and accuracy of the ISF filings. CBP will notify companies that are not filing or that have errors or discrepancies in their filings and work with them to bring their ocean imports into compliance. Importers not filing ISFs may also anticipate that their imports will be subject to further scrutiny, with CBP calling for document reviews, non-intrusive inspection or intensive examination of the cargo.

Starting from May/June 2010, CBP will ramp up enforcement of the ISF filings. Importers not filing ISFs or having serious errors or discrepancies in their ISF filings can anticipate having their ocean imports delayed and held for examinations.

CBP does not intend to issue penalties or liquidated damages assessments for ISF violations occurring during the first five or six months of 2010 or for transactions occurring prior to the January 26 enforcement date. An exception to this would be for fraud, smuggling or terrorism connected with ocean imports or egregious violations of the ISF requirement.

However, CBP clearly stated that they really want the data and not penalties. CBP also says they do not want to disrupt the flow of legitimate cargo into the US. The primary intent is to use an informed compliance approach to bring importers into compliance with ISF filing requirements.

Starting in the second half of 2010, CBP will begin issuing liquidated damages (penalties) for ISF violations. Proposed assessments of liquidated damages will be initiated at the ports of entry. The proposed assessments will first be routed to CBP Headquarters for review. The intent is to ensure that ISF liquidated damages assessments will be handled in a uniform manner across the country. CBP Headquarters will approve the assessment or make other recommendations for disposition of the matter and send the proposed assessments back to the originating ports. If approved by Headquarters, the ports will then issue the ISF liquidated damages notices to the importers. Importers will deal with the ports of entry for payment or mitigation of the ISF liquidated damages. This approach will be used for at least the first year, after which it could be extended and/or full responsibility for ISF liquidated damages could be transferred back to the ports of entry.

CBP will not publish its enforcement strategy but will explain it during their seminars and interviews with the trade press.