

RULES FOR US IMPORTERS

Non-compliance can be costly

By Jason Palumbo

Increasing concerns about national security in recent years has prompted U.S. Customs and Border Protection, or CBP, to develop the Importer Security Filing, known as ISF.

Since Jan. 26, 2009, shippers transporting goods by vessel have been required to transmit detailed information to a CBP warehouse, allowing CBP to identify high-risk imports.

CBP has yet to issue a Final Rule on ISF, which would enforce liquidated damage assessments against non-compliant shippers. Regardless, these assessments could be issued up to six years after the ISF filing or the lack of filing. Proper execution and issuance of the ISF filing — including procurement of a CBP bond — is already an essential element of the ocean import process.

In most cases, the shipper or shipper's agent must transmit several data elements to CBP's ISF team 24 hours prior to loading the goods onto the ship. They also must post a CBP bond to guarantee the com-

pleteness, accuracy and timeliness of the transmission.

CBP requires five or 10 data elements in the ISF filing. Five data elements are required for cargo such as freight remaining on board the vessel or freight not imported into the U.S. but passing through for export. Ten data elements are required for goods that will be imported into the U.S.

When only five data elements are required, the following must be provided: (1) booking party name and address, (2) foreign port of unloading; (3) city code for the place of delivery, (4) name and address of the first deliver-to party scheduled to physically receive the goods and (5) the six-digit harmonized tariff number describing the goods.

When more detailed filing is necessary, CBP requires the following 10 data elements: names and address of the (1) seller, (2) buyer, (3) importer of record, (4) consignee, (5) manufacturer, (6) ship-to party, (7) container stuffing location,

(8) consolidator, (9) goods' country of origin, and (10) the six-digit tariff number.

Breakbulk shipments must complete ISF filings and require a CBP bond.

There is an exemption available to carriers who apply, but the exemption only applies to the timing of the ISF transmission to CBP, changing the due date of the data transmission to 24 hours prior to the arrival at the port of discharge.

Other ISF exemptions include:

- Bulk cargo stored loose in the hold, such as oil, grain or coal.
- Instruments of international traffic.
- Shipments with no sea voyage component.
- Items that require ISF filing, but for which a CBP bond is not required:
- Household goods and personal effects.
- Government and military entries.
- Diplomatic entries.
- Carnets.
- International mail.
- Informal shipments.

ISF is frequently filed using continuous import bonds (Activity Code 1) and ISF single transaction bonds (Activity Code 16).

Since the 2009 enforcement date, surety data reflects a distinct trend away from the ISF single-transaction bond in favor of the continuous import bond, as many sureties set limits on the aggregate number of ISF single-transaction bonds that can be filed per principal. These bonds can be secured through a licensed customs broker.

Awareness of the implications of ISF, knowing your supply chain and working with experienced professionals are best practices for compliant shippers. Proper execution of these practices will help mitigate the risks of financial loss due to liquidated damage assessments. ■■



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See cbp.gov for a detailed definition of "bulk cargo" and a list of examples.



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