

# AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

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## **ISF Enforcement Strategy January 20, 2010**

U.S. Customs and Border Protection (CBP) has contacted AAEI to convey its Enforcement Strategy for the Importer Security Filing when the “enforced compliance” period begins on January 26, 2010. CBP intends to roll out a “graduated” enforcement over the next four quarters of 2010:

- In Q1 (January 26, 2010 – April 2010), CBP will concentrate its enforcement efforts on importers who have not made an Importer Security Filing (ISF) since January 26, 2010. If the importer does not file an ISF for shipments after the enforcement date, CBP will be putting those non-compliant importers on notice. Additionally, CBP may communicate with importers who file late or incomplete filings – or fail to withdraw a filing – to advise them to take corrective actions. During Q1, CBP will not be accessing liquidated damages or issuing Do Not Load (DNL) messages. It should be noted that due to the current security environment, CBP does reserve the right to take any necessary actions for national security purposes. Shipments with no filings may be subject to non-intrusive inspections (NII). Warning notices issued by CBP will be communicated to the importer via its Filer.
- In Q2 (May 2010), CBP will begin to issue holds on cargo for noncompliance and consider other enforcement measures (e.g. increased exams). CBP does not plan to access liquidated damages or issue DNL messages in Q2.
- Either in Q3 or Q4, CBP will begin to assess liquidated damages on ISF with data or filing problems, including timeliness. Currently, CBP is reporting that 80% of the filings are made on Fridays and wants to see how the filing distribution changes over the next few months.
- In Q4, CBP expects to be in full enforcement mode. There is the possibility of DNL messages being issued for specific high risk shipments.

As to liquidated damages, importers will still have the right to petition and mitigate the assessment of liquidated damages. Currently, all liquidated damages for ISF will be reviewed by HQs (Rich’s office) prior to issuance. This is an automated process. If Rich’s office determines the liquidated damages is in order, they will advise the port to proceed with issuing the liquidated damages claim. Importers will work with the ports once the liquidated damages claim is issued - not with CBP Headquarters.

If members still have questions about CBP’s enforcement of ISF, AAEI will hold a webinar with CBP shortly to provide an opportunity to submit questions. Please check AAEI’s website and the Alert for the date and time of the ISF webinar.

**DISCLAIMER NOTICE:** AAEI always strives to provide timely and accurate information to its membership and the international trade community. After conferring with representatives of other trade organizations concerning the information above, we note that there may be some variation in the details provided by CBP official. Therefore, this notice is provided as “information only” and should not be relied upon without conferring with counsel or trade compliance professional. AAEI will seek further clarification of the ISF Enforcement Strategy from CBP over the next two weeks.