

Importer Security Filing and Additional Carrier Requirements



“10+2” Program Update

CBP Trade Symposium - December 2009



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What is the Security Filing?

The Security Filing, commonly known as the “10+2” initiative, is a Customs and Border Protection (CBP) regulation that requires importers and vessel operating carriers to provide additional advance trade data to CBP pursuant to Section 203 of the SAFE Port Act of 2006 and section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002, for non-bulk cargo shipments arriving into the United States by vessel.

Importer Requirements:

U.S. Bound Cargo (Includes FTZ and IT): requires the electronic filing of an Importer Security Filing (ISF) comprised of **10 data elements**.

Transit Cargo (FROB, IE and TE): requires the electronic filing of an Importer Security Filing (ISF) comprised of **5 data elements**.

Carrier Requirements:

Vessel Stow Plans required for arriving vessels with containers.

Container Status Messages required for containers arriving via vessel.



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New Security Filing Data Requirements

ISF-10 “US Bound” Cargo

(3461 Entries, IT, FTZ)

24 Hrs Prior to Lading*

1. **Importer of Record Number**
2. **Consignee Number**
3. **Seller (Owner) name/address**
4. **Buyer (Owner) name/address**

5. **Ship to Party**
- 6. **Manufacturer (Supplier) name/address**
- 7. **Country of Origin**
- 8. **Commodity HTS-6**

ASAP, But NLT 24 Hrs Prior to Arrival

9. **Container Stuffing Location**
10. **Consolidator (Stuffer) name/address**

➤ Must be linked together as a line-item at the ISF shipment level

*ISFs for “exempt” break bulk shipments are required NLT 24 hrs prior to arrival

Blue elements are eligible for “flexible” filing options

ISF-5 “Transit” Cargo

(FROB*, IE, TE)

24 Hrs Prior to Lading*

1. **Booking Party name/address**
2. **Ship to Party**
3. **Commodity HTS-6**
4. **Foreign Port of Unlading**
5. **Place of Delivery**

*FROB ISF-5 is required anytime prior to lading

Additional Carrier Requirements

Vessel Stow Plan

NLT 48 Hrs After Departure*

*Anytime prior to arrival for voyages less than 48 Hrs

For all vessels carrying containers

Container Status Message (CSM) Data

Within 24 Hrs of Creation or Receipt

ISFs must also contain the lowest bill of lading number (i.e., regular or house) that is referenced in the Automated Manifest System (AMS).



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Bill of Lading Number

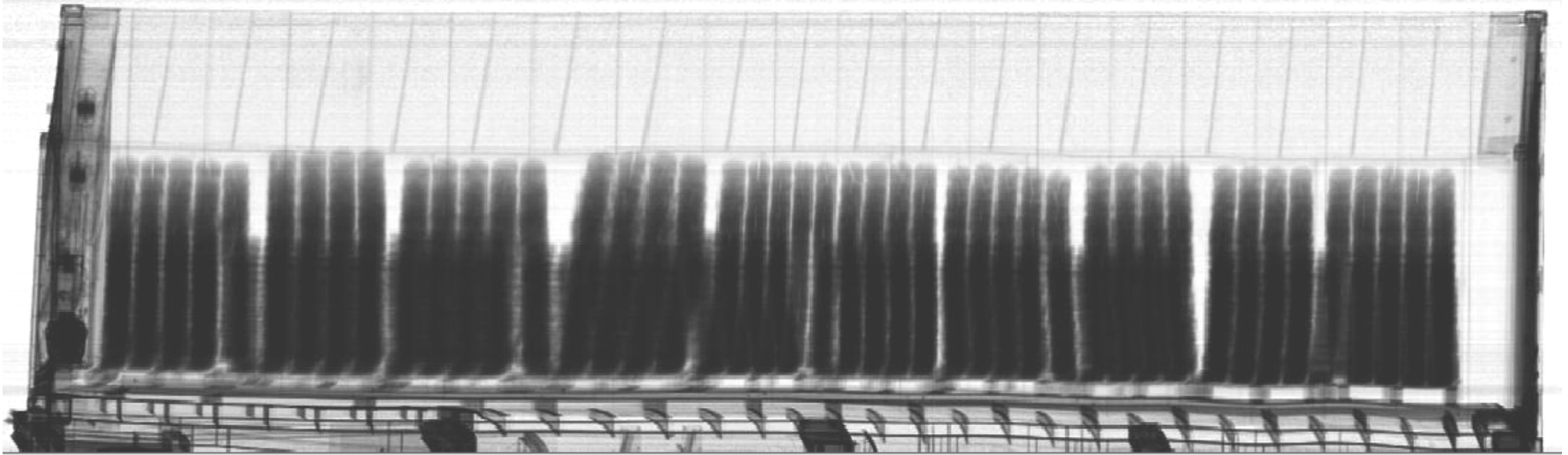
- Identifier commonly known as the “11th Element”.
- Required as part of the ISF Filing. The ISF Importer, or their agent, must obtain this information and provide it to CBP as part of the ISF filing NLT 24 Hours prior to vessel lading for ISF-10 filings.
- Absolutely necessary to properly link the Importer Security Filing (ISF) to the customs manifest data.



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What's in the Box?



SFI Scanned Image of Container: TRLU1816980 Southampton, GB

NEW SECURITY FILING DATA

HTS-6 Description: 040690 CHEESE, NESOI, INCLUDING CHEDDAR AND COLBY
Country of Origin: Great Britain
Stuffing Location: Whitechurch, GB
Ship To Location: Edison, New Jersey, USA

What is it?

Where is it from?

Where is it going?



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Effective Date vs. Compliance Date

- Effective Date: The Interim Final Rule took effect on **January 26, 2009** (60 days after the publication date).
- Compliance Date: CBP delayed the compliance date for a period of twelve months to provide the trade sufficient time to adjust to the new requirements, and in consideration of the business process changes that may have been necessary to achieve full compliance.
- **The full compliance (enforcement) date for the “10+2” requirements commences on January 26, 2010, one year after the January 26, 2009 effective date.**



“Interim” versus “Final” Rule

Importer Security Filing and Additional Carrier Requirements Docket Number:
USCBP-2007-0077

- CBP has concluded that the proposed regulations with the modifications discussed in the Rule should be adopted as follows:
- The requirements in section 149.2(b) regarding the timing of transmission for 2 of the 10 Importer Security Filing elements and section 149.2(f) regarding the flexible requirements for 4 of the 10 elements are adopted as an interim final rule.
- All other requirements in this rule are adopted as a final rule. CBP is not inviting comments on these requirements.



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ISF Best Practices Outreach

- Since the publication of the Interim Final Rule, CBP has implemented an extensive trade outreach process which included numerous trade round table discussions, the issuance of monthly progress reports, publishing technical guidelines as well as FAQs documentation on the CBP web site.
- CBP has participated several 20 webinars, meetings, conferences, and other outreach activities sponsored by the trade since the publication of the interim final rule.
- CBP has met with numerous trade organizations including:
 - National Association of Manufacturers (NAM);
 - American Association of Exporters and Importers (AAEI);
 - The Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC); and
 - National Customs Brokers and Forwarders Association of America (NCBFAA).
- Overall, CBP reached well over 10,000 participants at these outreach activities.



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ISF-10s “By the Numbers”

January 26 – November 23, 2009

- CBP has received well over:
 - **3.4 Million** ISF-10s from over
 - **1,900** ISF Filers representing more than
 - **99,700** ISF Importers (IOR#'s)
 - **95%** acceptance rate

CBP has also received more than:

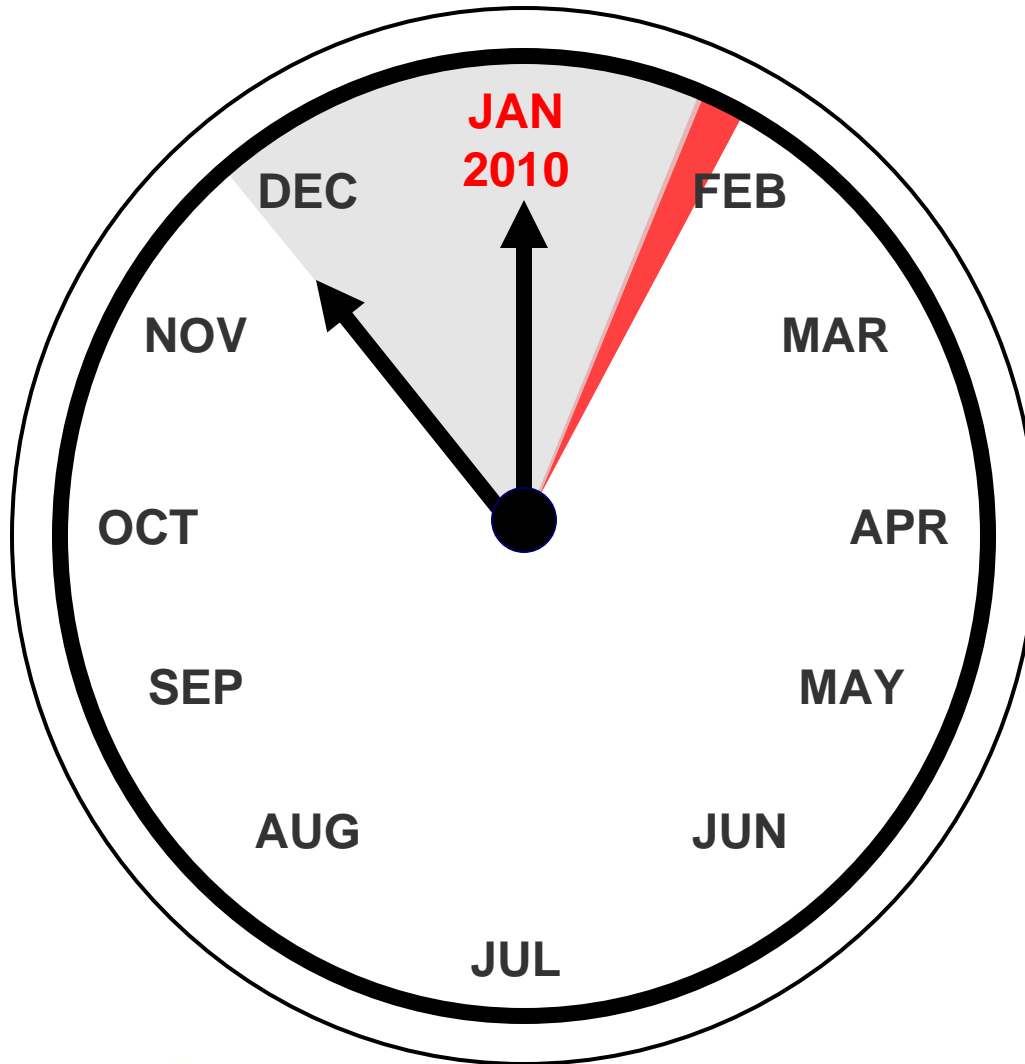
- 6,000 vessel stow plans and
- 101 Million container status messages



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“10+2 Enforcement Clock”



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Mitigation Guidelines



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Mitigation Guidelines

■ Mitigating Circumstances

- Evidence of progress in the implementation of the ISF requirement during the flexible enforcement period (i.e., January 26, 2009 through January 26, 2010).
- Small number of violations compared to the number of shipments for which ISFs were required.
- An ISF Importer which is a certified **Tier 2 or Tier 3 C-TPAT member** may receive additional mitigation of up to 50% of the normal mitigation amount, depending upon tier of C-TPAT participation.

■ Aggravating Circumstances

- Lack of cooperation with CBP or CBP activity is impeded with regard to the case.
- Multiple errors on the ISF.



Mitigation Guidelines

- **First-violation**: Liquidated damages claim may be cancelled upon payment of an amount between \$1,000 and \$2,000, depending on the presence of mitigating or aggravating factors, if CBP determines that law enforcement goals were not compromised by the violation.
- **Subsequent Violations**: If an ISF Importer incurs a subsequent liquidated damages claim for filing a late or inaccurate ISF or an inaccurate ISF update, the liquidated damages claim may be cancelled upon payment of an amount not less than \$2,500 if CBP determines that law enforcement goals were not compromised by the violation.
- **No relief will be granted if CBP determines that law enforcement goals were compromised by the violation.**

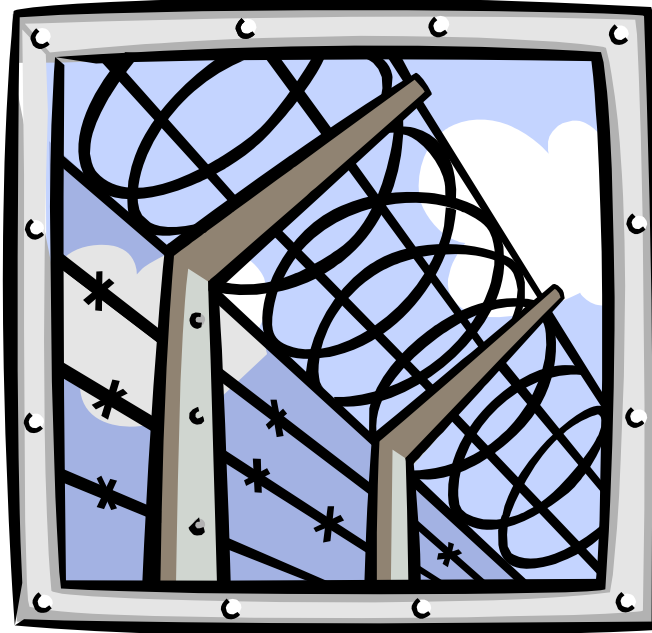


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Mitigation Guidelines

- **Liquidated damages cannot be assessed for the failure to file an ISF if no bond is in place.** However, CBP may also withhold the release or transfer of the cargo until CBP receives the required information and has had the opportunity to review the documentation and conduct any necessary examination.



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Importer Security Filing (ISF) Progress Reports



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ISF Progress Reports

- In production since May 10, 2009
- ISF Reports are being routed through the ISF Filers and Tier 3 C-TPAT Importers
 - Registration is required
 - Over **725 ISF Filers** have been registered and “verified”
 - The ISF Progress Reports cover more than **87,500 ISF Importers**
- Reports are on a monthly cycle.
- CBP has also developed a specific Filer-based summary report

Progress_Report@cbp.dhs.gov



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ISF Progress Reports

- The initial ISF Progress Reports focus on the numbers and types of filings; the status of the filings (e.g., accepted vs. rejected) and the potential timeliness of the filings.
- Each ISF Report is broken down by Filer Code and Importer of Record Number and details three (3) specific areas:
 - **Submission Volume**
 - Numbers, Status (Accepted or Rejected) and Format
 - **Rejection Error Messages**
 - Reasons for the rejections
 - Error codes
 - **Timeliness Performance**
 - As compared to the first bill of lading file date (merely used as a proxy indicator of potential timeliness)
 - Amendment and rejected filings are not included



Top ISF Issues Identified

■ Bill of Lading Numbers

- Initially, some ocean carriers were not providing the bill numbers timely (i.e., until a vessel had actually sailed). Most of these issues have been resolved.
- Need to identify the lowest AMS bill of lading number (i.e., house or regular bill).
- If dealing with a non-automated FF or non-automated NVOCC, provide the ocean carrier's "regular bill".

■ Bonds

- **Appendix D bonds will be routinely accepted for ISF filings.**
- Sufficiency questions are still being addressed.
- Some coded transaction types are exempt (by policy); for example:
 - Type 03 **HHG/PE**
 - Type 04 **Gov't/Military**
 - Type 05 **Diplomatic**
 - Type 06 **Carnet**
 - Type 09 **International Mail**



Top ISF Issues Identified

- **Enforcement & Liquidated Damages Concerns**
 - \$5,000 per transmission (\$10,000 max per ISF)
 - Do-not-load (DNL) holds
 - **Use least amount of force to enforce compliance**
 - Domestic Holds
 - Domestic Exams

- **Measurement of ISF “Timeliness”**
 - 1st bill of lading file date (initial indicator)
 - Vessel departure date minus 24 hours (secondary indicator)
 - Modeled after the 24 Hour Manifest Rule enforcement paradigm



A Few Notes on Measuring “Timeliness”

- CBP currently uses the first bill of lading file date as a [proxy indicator](#) of ISF timeliness since the bill of lading must also be filed at least 24 hour prior to vessel lading under the current 24 Hour Manifest Rule.
- CBP acknowledges that many bills of lading are actually filed several days in advance of actual vessel lading. Therefore, some of the “untimely” ISFs that show up on the ISF Progress Reports may actually be timely.
- CBP will soon use the **Vessel Departure Date minus 24 hours** in addition to the “1st Bill of Lading Filing Date” to better assess ISF timeliness.
- These two reference dates are merely used as indicators of timeliness.



Going Forward

- **Know what you are importing before you import it**
 - Identify the proper HTS numbers earlier in the process
 - Consider a pre-classification system
- **Decide who will transmit the ISF and how**
 - Consider using the Unified Entry Option
- **Need to know your supply chain partners**
 - The Shipper has access to important information
- **Require that the new “10+2” data be collected and provided earlier in the process**
 - Add data to existing forms (e.g., purchase orders, advance shipping notices, commercial invoices, etc.)



Do Not Delay!

- It typically takes at least 30-60 days to make the necessary business process changes



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Available Resources

- Available Today on CBP.gov:
 - Copy of the Interim Final Rule
 - ISF Presentation
 - Copy of the Regulatory Assessment
 - General Frequently Asked Questions (FAQs) Document
 - Implementation Guides (Technical File Formats)
 - Mitigation Guidelines
 - News Releases
 - Outreach Schedule
 - Security_Filing_General@cbp.dhs.gov mailbox



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Questions?

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