



# The American Companies

## "News Flash"

November 09, 2009

The American Companies sponsors the Foreign Trade Association of So. California

### Importer Security Filing "10+2" Discussion

**Speaker: Richard DiNucci**, Director, Secure Freight Initiative,  
U.S. Customs and Border Protection

On November 2<sup>nd</sup> this past week, The American Companies (TAC) had the opportunity to attend and sponsor the latest CBP outreach seminar hosted by the Foreign Trade Association of So. California. While there were several prominent panel speakers in attendance, Mr. Richard DiNucci, Director of the Secure Freight Initiative for CBP spoke very freely about CBP's progress as well as the overall industries progress and made the following comments which we felt were worth sharing:

- January 26, 2010 CBP enters into the enforcement stage of the 10 + 2 program. DiNucci anticipates no delays.
- The current Interim Final Rule is unlikely to be changed prior to the enforcement date and there is no sign that anything of a substantial nature will be changed in the foreseeable future.
- Freight arriving that does not have an ISF filed and thus no bond could wind up in what was referenced as "ISF Jail". That was explained to mean, the arriving cargo will not be released unless an ISF is filed.
- ISF Data will be compared to Entry Data
- CBP will be changing the benchmark on their report cards from the date AMS was filed to 24 hours prior to vessel ETD
  - o In a side bar conversation with TAC, DiNucci admitted that even this benchmark was faulty and agreed that it may be misleading as the rule clearly states that enforcement of liquidated damages would be based on failure to file 24 hours prior to containers loading date. Note that inaccurate data will also trigger a violation.
- CBP will apply some flexibility on data quality in the beginning stages of enforcement. An example was given that "if a tariff number is presented for machines and the product is footwear there is going to be an issue. However if you give us one classification for footwear and it turns out to be another classification for footwear then we can be lenient".
- CBP field officers will not be authorized to assess liquidated damages against an importer for any ISF violation without his office approving the action first. DiNucci reiterated that it is not CBP's intention to penalize, but to rather "get the data" and as such wanted to make sure his field officers were issuing cases against importers only where warranted.

#### Other notable comments by other prominent panelists:

- Importers using single entry bonds can potentially limit their liability by getting a continuous bond.
- There is currently a bill going through the Senate that is seeking to allow CBP to use the ISF data for trade enforcement. Reference was made to Senate Bill 1631.
- Custom Brokers filing Transportation and Exportation type entries must insure that an ISF was filed **TIMELY AND ACURATELY** as they will be liable when filing a T&E or I.E. entry on behalf of their client.

If you have any questions or require assistance please contact your TAC Customer Service Rep. or send your query to

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