

BRIEFINGS

ROUTING SLIP

IMPORTER SECURITY FILINGS

- In his speech to the National Customs Brokers and Forwarders Association, Acting Commissioner Ahern stated that Customs is now receiving over 60,000 ISF filings per week, with 45% of filings timely filed. Performance "report cards" were released to filers on May 10, providing details on numbers, status, basis for rejections, and timeliness. Customs will also provide ISF report cards to C-TPAT participants by the end of May.
- He also identified the top 5 reasons for ISF rejects as: duplication of transmission; use of invalid ISF transaction numbers; invalid HTS numbers; invalid IOR format; and missing city identification.
- Customs has enhanced its [response messaging](#) to ISF filings to notify the filer if a referenced Bill of Lading (BOL) has already been reported in another filing. Additionally, Customs will begin notifications when an initial ISF filing without a BOL remains open.

LACEY ACT DECLARATION

Enforcement of the Lacey Act declaration requirements for HTS Chapter 44 tariff provisions began May 1, 2009, with the exception of importers participating in the Automated Line Release and Border Release Advance Screening and Selectivity (BRASS) expedited border release programs. Enforcement under these programs is scheduled for June 1, 2009.

IMPORT/EXPORT 201

- The firm is offering a new Import/Export 201 advanced seminar on June 9-10 that is designed for trade practitioners. The mix of subjects includes creating the most efficient entry process possible, addressing importer valuation and classification errors, properly structuring in-bond moves, upgrading export management, and specific AES filing issues. Register now by e-mail to Penny Freeman at pfreeman@millerco.com.
- Details on the firm's other 2009 seminars are on our website at www.millerco.com.

NEW AES OMBUDSMAN

Omar Wooden, the former Automated Export System (AES) project manager for the post-departure reporting program, is the new Census Foreign Trade Division Trade Ombudsman, replacing Jerry Greenwell, now of Miller & Company.

ORIGIN RULE RETREAT

Customs revealed at the May 6, 2009 Commercial Operations Advisory Committee (COAC) meeting that the trade response to its proposed country of origin rule change from a substantial transformation standard to a tariff shift standard has been overwhelming and negative. Customs is still reading individual comments. Customs has not offered any revised strategy or timeframe for proceeding with its proposal.

FTZ ANNUAL REPORTS

The Foreign-Trade Zones Board has published a proposal to change the scope and format of Annual Reports. A new separate section has been added for oil refinery operators. It is more detailed than for manufacturing and includes a statement on annual zone duty savings. The same detailed information will be required for manufacturing/processing in general-purpose zones or subzones and must be reported separately. Additional changes include requirements that companies indicate current production levels as well as the level of production that was approved by the FTZ Board; and affirm that their current level of financial savings in a zone is "consistent" with the plan that was originally approved by the FTZ Board. Comments will be accepted through July 14, 2009. Contact Marshall Miller or Scott Taylor for more information. 74 Fed. Reg. [22888](#) (May 15, 2009).

BROKER SELF ASSESSMENT

Customs is seeking volunteers for a [Broker Self-Assessment](#) (BSA) pilot program which will be patterned on the Importer Self-Assessment (ISA) program. Volunteers will work with Customs to ascertain the processes and controls relevant to a permanent BSA program. Customs has posted a [quick reference guide](#) for its BSA Pilot. 74 Fed. Reg. [19103](#) (April 27, 2009).

ACE ENTRY SUMMARIES

- ACE entry summary capabilities were first [deployed](#) to volunteer filers in Buffalo on April 12, 2009 for formal (01) and informal (11) entry types. Additional entry filers at 17 additional ports will be permitted to transmit [beginning](#) June 29, 2009. Those interested should contact their ABI Client Rep. ACE is expected to support 01 and 11 Entry Summaries filed via Remote Location Filing by June 29 and the original volunteers will be able to file with all ports by June 18.

- The Department of Homeland Security ([DHS](#)) [Congressional Budget Justification FY 2010](#) includes a request for \$268 million for the continued development of the ACE/Int'l. Trade Data System, which would be a decrease from 2009 funding.

REGULATORY AGENDA

The Treasury Department has [issued](#) its regulatory agenda for CBP. It includes proposed or final rules on expanding payment methods of duties, taxes, and fees (5/09), centralization of the continuous bond program (7/09), country of origin marking (10/09), and the use of sampling in audits and offsetting payments in penalty cases (8/09).

9802 FOR NUTS

Serving as a reminder to users of the 9802 program on its limitations, the Court of International Trade has ruled that U.S. almonds shipped to China and made into almond brittle did not qualify under Heading 9802 because the almonds underwent more than "mere alteration" in their processing. [May Food Mfg. v. U.S.](#), CIT Slip Op. [09-36](#) (May 1, 2009).

BOND SAVINGS

If you have reduced trade activity in these difficult economic times, consider reducing your Importer's Bond (Activity Code 1) and/or your FTZ Operator's Bond (Activity Code 4). When times recover, you can return to the higher amount.

DOMESTIC SCREENING

On March 6, 2009, Joseph Piquet was [convicted](#) for his role in a fake domestic purchase scam, using a defunct company as the end-user and falsifying end-user certificates to purchase ITAR-regulated goods that were then shipped to China. The scam went unnoticed until Northrop Grumman Corporation officials became suspicious of one of the certificates and contacted U.S. officials—a good example of why even domestic sales of export-controlled items should be carefully screened.

NO SU-PRIZE ORIGIN INSIDE

Remember those "prizes" hidden in cereal boxes? Customs has ruled that the country of origin for "premium promotional items" included in boxes of cereal must be separately identified on the cereal box. Customs did not agree with the "common sense" argument that the toys were of "minor importance," finding that if the box is already marked to advertise the presence of the item, then adding the country of origin would not be "unduly burdensome." HQ [H050245](#) (Feb. 9, 2009).

PRODUCT SAFETY

- At the May 6 Customs Commercial Operations Advisory Committee (COAC) meeting, Customs reported that a second Importer Self-Assessment-Product Safety (ISA-PS) pilot participant has been added, with 15 others expressing interest. Additionally, there has been talk with EPA, FDA, and other agencies about expanding the ISA-PS concept, and Customs recently conducted ISA-PS factory reviews in China and intends to conduct additional site reviews in the near future.

- Representatives Van Hollen (D-MD) and Doggett (D-TX) have [introduced](#) H.R. 2293 (May 6, 2009) to create a "Public Health Advisory Committee on Trade" within the Federal Trade Advisory Committee System to focus on public health threats and environmental concerns.

USTR DELAYS TRADE ACTION

The U.S. Trade Representative (USTR) has announced a delay in the imposition of new retaliatory duties on European Union (EU) agricultural products in response to progress in the beef hormone dispute with the EU. 74 Fed. Reg. [22626](#) (May 13, 2009).

OFAC ENFORCEMENT

The Treasury Department's Office of Foreign Assets Control (OFAC) has added a [summary](#) of recently assessed civil penalties to its 2009 Enforcement Information web page.

ITAR CUSTOMS PIPELINE

The Port of Chicago has issued a recent "Pipeline" on imports regulated under the State Department International Traffic in Arms Regulations (ITAR). CBP Pipeline [09-12](#) (May 11, 2009).

AES FILING TIMEFRAMES

Census has confirmed that the Automated Export System (AES) advance filing deadlines do not apply to shipments to or from Puerto Rico (PR). However, shipments from the U.S. or PR to the U.S. Virgin Islands or a foreign country are not exempt. [FTR Letter No. 4](#) (April 23, 2009).

FDA PRIOR NOTICE

The Food and Drug Administration has [posted](#) a new "Prior Notice" compliance guide to assist importers with the requirements of the November 7, 2008 Final Rule that became effective May 6, 2009. [See](#) 73 Fed. Reg. 66293. Customs has [warned](#) the trade community that revisions in ACS/ACE will be forthcoming, and has posted interim electronic filing guidance.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/09		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	272	254
SUBZONES	634	529
PENDING		
ZONES	3	
SUBZONES	24	
MISCELLANEOUS	36	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	