

The J-REPORT

Information and News from the World of U.S. Customs Compliance, Logistics and Global Trade

John S. James Co.

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OFFICE LOCATIONS

ATLANTA, GA
404-762-5556

CHARLESTON, SC
843-554-6400

CHARLOTTE, NC
704-357-6901

JACKSONVILLE, FL
904-356-9646

KNOXVILLE, TN
865-544-0530

SAVANNAH, GA
912-232-0211

U.S. Importer Security Filing (aka 10+2)

On January 2, 2008, Customs and Border Protection (CBP) published the long-awaited Notice of Proposed Rule Making (NPRM) concerning the additional electronic data elements that will be required relating to the importation of cargo destined for the United States.

Once finalized, participation in this program, otherwise known as "10+2", will be mandatory for all importers and carriers. Industry analysts predict implementation of this program by the 4th quarter of 2008.

On October 13, 2006, the President signed into law the Security and Ac-

countability for Every Port Act of 2006 (SAFE port act), which called for the Secretary of Homeland Security, acting through the Commissioner of CBP to promulgate regulations to require the electronic transmission of additional data elements for improved high-risk targeting. Included in these requirements is the transmission of appropriate security elements of entry data for cargo destined to the United States by vessel *prior to loading* of such cargo on vessels at foreign seaports.

The John S. James Co, encourages you to review these proposed regulations

and comment as warranted, as they will most likely impact your current business processed. If you have questions regarding this new program, please contact our Import Compliance team leaders at myra.reynolds@johnsjames.com or jill.james@johnsjames.com

For more information and specifics on the NPRM, we invite you to review our website at: www.johnsjames.com/isf for more detailed information.



10 Data Elements from Importer

2 Data Elements from Carrier

Cargo loaded

Communication with overseas Suppliers and Buyers

The most important aspect of this proposed rule is the line of communication you have with your service providers. From the moment your order is placed, all parties involved along the supply chain should be

making the necessary arrangements to have these data elements in order to insure prompt filing. Customs has not issued programming guidelines as of this time, but John S James

Co. would like to offer you a list of questions you should consider on each order you place with your supplier. To obtain a copy of this document, please contact your customer service representative.

Customs proposes the elimination of the “First Sale”

Transaction Value is the primary method of appraising imported merchandise and is defined in the regulations as “The price actually paid or payable for merchandise when sold for exportation to the United States”, plus specified additions to that amount.

In a Federal Register notice, published January 24th, Customs and Border Protection (CBP) proposes changes to the interpreta-

tion of the phrase “sold for exportation to the United States”.

In a court case brought about by Nissho Iwai in 1992, the Court of Appeals for the Federal Circuit (CAFC) determined that transaction value must be based on the “first sale” (the sale between the intermediary and the manufacturer so long as the sale constituted a viable transaction value.

This will have a huge impact for a number of our customers, so we wanted to bring this to your attention right away. If you are interested in obtaining a copy of this Federal Register notice, please contact your Account Representative.

As mentioned in the Federal Register notice, comments will be accepted until March 24, 2008.



Concerns over port fees in Los Angeles and Long Beach...

There are many questions regarding the port fees adopted at the ports of LA and Long Beach. In combination they could be as high as \$260/FEU. The following is a recap of the major developments summarized by the AgTC (Agriculture Transportation Coalition).

What are the port fees adopted by Ports of Long Beach and LA so Far?

Infrastructure Container Fee- \$15/TEU, \$30/FEU to pay in combination with the revenue from State of California Infrastructure Bonds for local port projects such as bridge, freeway and rail port access imposed on all containers entering or leaving the port by truck or rail starting Jan, 1, 2009. **plus...** Pier-Pass at \$50/TEU, \$100/FEU, currently in effect; **plus...** Clean Truck Replacement Fee (\$35/TEU, \$70/FEU) effective June 1.

What Additional Fees are coming?

The California Legislature is likely to pass and Governor Schwarzenegger has promised to sign, the so-called Lowenthal fee (\$30/TEU, \$60/FEU) to pay for transportation infrastructure, environmental mitigation, and health care.

Who Supports these Fees?

Environmental organizations seeking to address truck, ship and general port emissions at the Southern California ports and the Teamsters Union, which plans to organize and represent the employees of the of

ports to replace the independent owner-operators.



Besides the increasing cost of cargo movement through these busy California ports, the AgTC also poses the following points:

- If the Marine Terminal Operators (MTO's) collect these fees (they currently collect the Pier-Pass fees), there will have no way of knowing how much money is collected, and how much is being spent on the intended purpose; or if the fees become a new profit center for the MTO's. The lack of transparency means that we will not know what, if anything, we are getting for the new fees.
- The fees impose substantial additional costs which cut into already thin margins, raise the cost of the product to the foreign customer, makes the US ag export less competitive in the foreign markets, and in some cases will cause lost sales.
- The fee would be collected from the beneficial cargo owner (BCO) by the marine

terminal operator (MTO), but the definition of BCO is unworkable, because it covers shippers or consignees, but not forwarders or any intermediaries.

- There are also big problems on how to collect the fee against BCOs (e.g., there is no direct business relationship between the BCO and the MTO), and how to apportion the fee among several BCOs sharing consolidated shipments.
- The fee would apply to all loaded and drayed containers, even those moving on clean trucks. Although the ports are contemplating a rebate system for clean trucks, it would be an administrative nightmare and would not refund the full amount of the fee.
- There is a free-rider problem – i.e., the fee does not apply to bob-tails, bulk cargo, project cargo, or break-bulk cargo, even though they are contributing to air pollution. Cargo that is not moving by container would be exempt from the fee, even though it also uses the port infrastructure.

- The ports have no legal authority under the Shipping Act or their FMC agreement to assess fees (tariffs) to fund projects outside their jurisdiction (such as the infrastructure and health care training for trucks and truckers who are not on the port premises, but rather, on the highway.)
- The fee is not a true user fee in that it would be assessed on containers moving by rail to fund road projects, infrastructure the railroads don't use. Thus it would be a tax, unconstitutional as a tax on exports and on interstate commerce.

For any additional information regarding the Agriculture Transportation Coalition, member workshops or services, please visit www.agtrans.org

Source: Agriculture Transportation Coalition (AgTC)



Maersk unveils new BAF formula

Rising fuel costs have had substantial effects on the shipping industry. Increases have been seen with cargo movement over land, by air and even parcel packages. Steamship lines have BAF, EBAF, and other similar charges in place, however they do not accurately reflect the true cost of fuel for transport of containerized goods on board an ocean vessel.

On January 18th, Maersk Line introduced a new BAF formula for their floating bunker. It was created to show a more

simple, transparent way of calculating their bunker fees. With bunker increasing nearly three-fold in the past three years, the fuel accounts for nearly half of operating vessel costs.

Airlines, parcel carriers and truck lines have adjusted fuel pricing in tandem with market fluctuation and this has been widely accepted by customers as part of doing business in the industry.

Maersk is considering factors such as fuel expenditures, transit time and con-

tainer imbalances to construct their formula, however, only changes in the oil price will constitute changes in the BAF level.

Unfortunately we have seen fuel prices climb, which would equate to higher BAF surcharges, but there is one benefit to the implementation of this new formula. When fuel prices decrease, the BAF will also decrease. Various trade lanes will apply the BAF formula in the first quarter of 2008, however, all trades will make announce-

ments on maerskline.com/baf when they transition to the new BAF formula. Complete rollout is anticipated by 1 January 2009.

Although it is unclear at this time if other carriers are considering similar plans we recall that on April 23, 2007, Maersk Line was the first carrier to announce reduction of inland rail services to various points in the U.S. and other carriers soon followed.

John S. James Co. Employee Anniversaries

We would like to acknowledge the following JSJ employees, wishing them a happy anniversary in the month of February.



Fiona Torres	2/03/03
Brendan Connell	2/05/07
Phillip Kicklighter	2/09/89
Scott Register	2/09/98
Charita Starr	2/17/03
Bradley Levander	2/19/07
J Lynn Miles	2/20/06
Melissa Phillips	2/23/04
Vivian Grooms	2/27/89
Debra Swain	2/28/78

Happy Anniversary!!!

The success of an organization is the measured by the sum of its working members.

John S. James Co. highly values your individual contributions in making our company a success. Your dedication and reliability is an asset to our continued growth and development.



Honorable mention goes to the following individuals celebrating multiple years of service to John S. James Co.

Scott Register 10 years
Vivian Grooms 19 years
Phillip Kicklighter 19 years

And last but not least... **Debra Swain** who celebrates **30 years** with us this month!!!



Import & Export—Highlight on Australia

CFA Logistics is centralized in the world-famous city of Sydney, Australia with additional offices in the port cities of Brisbane, Perth, Melbourne, and Adelaide.

They are a fellow member of the Global Logistics Association (GLA) offering ocean, air, domestic, warehousing and project cargo services.

Their geographic presence

offers another unique advantage. They have the ability to service the less commonly accessible islands in the South Pacific.



This includes, but is not limited to:

Federated States of Micronesia, Fiji, Kiribati, Palau, Papua New Guinea, Republic of the Marshall Islands, Samoa, Tonga, and Vanuatu.

With the partnership of CFA Logistics we have Australia and the South Pacific Basin covered! According to the



CIA World Fact Book, The U.S. accounted for 14.1% of Australia's import volume in the fiscal year of 2006. Were you part of that 14.1%???

Please contact your account representative for any freight inquiries to or from this region.