SHAP TALK

March 2016 Issue No. 167

In this issue:

2 TRADE NEWS

AD/CVD Scope Matters: CBP, Commerce, and the Importer

CPSC Increases Review of Certificates of Compliance

Rate of Duty Dependent Upon Actual Use

DSP 5 Permanent Licenses No Longer Need to Be Filed

Should I get an ACE Portal Account?

TPP and EU Free Trade Agreement Bodes Well for Vietnamese Apparel and Footwear Exports

New Ocean Carrier Mega-Alliance in the Works

Agriculture Exporters Push Back Against Carrier SOLAS Weight Mandate

6 TRANSPORTATION NEWS

Are We Really In a Freight Recession Again?

Charleston First In U.S. to Suggest SOLAS Weighing Service

FMC to Develop Supply Chain Innovation Teams in LA/LB

India Receives $1 Billion Port Investment Plan from DP World

Federal Hearing on El Faro Sinking Begins

Possible Panama Canal Draft Restrictions in April

Progress at U.S. Major Air Hubs Produces Congestion Problems

The U.N. Aviation Agency Bans Lithium-Ion Batteries as Cargo on Passenger Aircraft

U.S. and Cuba Finalize Agreement to Re-Establish Air Services

FMC Chairman Discusses PierPass Program

Carrier Safety Accountability Coming for Carriers FAST

11 SHAPIRO NEWS

Employee of the Month

Baltimore Headquarters
100 N. Charles St, Ste 1200
Baltimore, MD 21201

www.shapiro.com

Phone
1-888-you-1915

you@shapiro.com

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

AD/CVD Scope Matters: CBP, Commerce, and the Importer

In a recent U.S. Court of International Trade (CIT) case, Sunpreme, Inc. v. United States, the role of U.S. Customs and Border Protection (CBP) in antidumping (AD) and countervailing duty (CVD) scope matters was discussed. In a nutshell, the U.S. Department of Commerce is tasked with determining the scope of antidumping and countervailing duty orders while CBP has a ministerial role in liquidating antidumping and countervailing duties.

If there is a question as to the meaning of an order, only Commerce can provide clarification. CBP does not have the authority to interpret ambiguous language in scope orders. It can only "make factual findings to determine what the merchandise is and whether it is described in an order."

If the scope language is unclear and CBP cannot make factual observations to determine whether a good is within the scope, the good "must be considered outside of the scope until the Department of Commerce clarifies or interprets the order."

When the importer's product is classified in a tariff number that is flagged for AD and/or CVD, determination of AD/CVD applicability is based on the scope description and the exclusions. If the product clearly meets the scope criteria and is not specifically excluded, CBP requires a type 03 entry to be filed and cash deposits of AD and CV duties are collected. The importer's bond is reviewed by the surety for bond sufficiency.

It is important to remember that when CBP cannot determine AD/CVD applicability based on the information in the Customs entry, additional information will be requested from the importer on Customs Form 28.

If you are interested in a consultation regarding AD/CVD scope, Contact Us!

CPSC Increases Review of Certificates of Compliance

Due to enhanced enforcement efforts by the Consumer Product Safety Commission (CPSC), importers have begun to see an increase in requests by the agency for certificates of compliance.

According to Jim Joholske, CPSC's acting Director of Importer Surveillance, importers should be very familiar with the certificate requirements as they have been in place since 2008. As such, CPSC has increased enforcement in this area to ensure compliance.

A temporary target program for sampling toys under HTS heading 9503 also resulted in increased certificate requests. As a result, toy importers should see less of a demand for certificates going forward. The program, which CPSC worked on with U.S. Customs & Border Protection (CBP) was intended to gauge compliance levels on certificates under the referenced heading. Data collection was completed and CPSC is now set to examine and will publish their findings at a later date.

In July 2016, a pilot is set to begin testing the electronic filing of product safety data in the Automated Commercial Environment (ACE). CPSC will work with eight pilot participants for the testing and is currently working to move from ten to only five required data elements. The pilot will run through December 2016, after which CPSC intends to launch a second pilot with more participants.

Baltimore Headquarters
100 N. Charles St, Ste 1200
Baltimore, MD 21201
www.shapiro.com

Phone
1-888-you-1915
you@shapiro.com

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

Joholske also advised that the agency is still working with Congress on a proposed user fee for importers, although the idea, which has been included in several previous budget proposals, has not gained much attention. CPSC contends that the fee would allow increased staffing and implementation of its Risk Assessment Methodology targeting program.

Rate of Duty Dependent Upon Actual Use

When the tariff classification of any article is controlled by its actual use in the United States, three conditions must be met in order to qualify for free entry or a lower rate of duty. The conditions are that:

- Such use is intended at the time of importation;
- The article is so used;
- Proof of use is furnished within 3 years after the date the article is entered or withdrawn from warehouse for consumption.

Importers are reminded that a certification for the actual use of the imported article must be filed within three years from the date of entry or withdrawal from warehouse for consumption; otherwise, the entry shall be liquidated dutiable under the appropriate subheading of the Harmonized Tariff Schedules.

DSP 5 Permanent Licenses No Longer Need to Be Filed

In anticipation of the implementation of Customs' Automated Commercial Environment (ACE), the Directorate of Defense Trade Controls (DDTC) issued a rule waiver. The Deputy Assistant Secretary for Defense Trade Controls is exercising the authority under 22 CFR 126.3 to waive the requirement under 22 CFR 123.22 (a)(1) of the International Traffic in Arms Regulations (ITAR) for exporters to deposit permanent export licenses with U.S. Customs and Border Protection (CBP) prior to filing in the Automate Export System (AES) or ACE. This exemption will remain in effect until DDTC amends the language of 22 CFR 123.22(a)(1) to remove the requirement.

The DDTC issued a notice to the industry on 12/21/15 advising effective immediately that permanent export licenses are no longer required to be lodged with Customs. With the implementation of the ACE, DDTC is electronically sending registration and licensing data to CBP on a daily basis. Since CBP port officials will have access to the DDTC registration and licensing data through ACE, there is no longer a need for exporters to deposit permanent export licenses with CBP prior to filing in ACE. Customs headquarters advised that they may, however, ask to see a copy of a license at times to compare and verify what is in the system.

At this time, DSP 61's and DSP 73's still need to be presented and decremented by Customs at the time of import or export.

Baltimore Headquarters
100 N. Charles St, Ste 1200
Baltimore, MD 21201
www.shapiro.com

Phone
1-888-you-1915
you@shapiro.com

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

Should I get an ACE Portal Account?

Importers all over the country look at the ACE portal information on the Customs and Border Protection website and think, "I don't have time to go through that process to get an account. Is it really worth it to my business? What will I be able to do in the ACE portal?"

Coming soon, Shapiro will post to its website the benefits of the ACE portal, exactly what information is needed to set up an ACE portal account, how to access the ACE portal, and other references available for your use.

In the meantime, visit Shapiro's Automated Commercial Environment FAQ Guide.

TPP and EU Free Trade Agreement Bodes Well for Vietnamese Apparel and Footwear Exports

Vietnam's apparel and footwear exports have experienced immense growth over the past five years, growing at 10 to 15% year-over-year. Despite this already impressive growth, Vietnam's apparel and footwear sectors are expected to experience an even greater growth surge as a result of the country's new Free Trade Agreement with the European Union (EU), as well as its inclusion in the Trans-Pacific Partnership (TPP).

Vietnam is currently a signatory on the TPP, and in December, Vietnam and the EU reached a deal. Both the TPP and the Free Trade Agreement are expected to be ratified within the next year. Once ratified, the TPP will serve to eliminate tariffs on Vietnamese garments and textiles, effectively taking them from 18% to 0%, while the EU Free Trade Agreement will also serve to eliminate tariffs on Vietnamese garments and textiles exported to the EU. The Vietnam Textile and Apparel Association has estimated that the country's garment and textile sector will experience 11.5% growth per year for the next four years.

One of the few hindrances to increased and improved Vietnamese trade is that logistics costs in the country are rather steep — they account for 25% of Vietnam's GDP. Furthermore, the Vietnamese government was heavily invested in building up the nation's port infrastructure, and in an effort to regain some of its investment, the transport ministry has implemented minimum guaranteed port tariffs, which are also known as floor rates. Though these two factors have discouraged some carriers and forwarders from entering Vietnam's terminals, there is a good chance the abolishment of tariffs will cause many to reconsider.

New Ocean Carrier Mega-Alliance in the Works

According to Alphaliner, Chinese ocean carriers Cosco and CSCL, along with Evergreen, OOCL, and CMA are looking to form a new mega-alliance in the East-West market to become more competitive against the Maersk and MSC 2M vessel sharing agreement.

The new alliance could potentially change the current landscape since it would most likely cause significant changes in three of today's four main East-West alliances. "The motivation is to form a strong and stable alliance that could challenge the 2M's dominance in the East–West trades and to distance the 'CCEO'

Baltimore Headquarters
100 N. Charles St, Ste 1200
Baltimore, MD 21201
www.shapiro.com
Phone
1-888-you-1915
you@shapiro.com

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

from some of the weaker partners within the current alliances, which could be facing financial distress," Alphaliner said. The 2M alliance contains over 2.1 million TEUs of capacity, followed by the CKYHE operating just over 2 million TEUs, the G6's 1.8 million TEUs and the O3's 1.5 million TEUs. Industry side effects of these new alliances could include confusion at the terminals or lost sailings, more scrutiny of the power an alliance like this one may have over the industry and competitiveness, and increased port congestion.

Some speculate that the alliance is a reaction to current market conditions that have ocean carriers battling overcapacity, low rates and the speculation of overall carrier losses that could hit $5 billion this year. Regardless of the current ocean market conditions, this new mega-alliance, if implemented, will change the industry drastically over the coming years.

Agriculture Exporters Push Back Against Carrier SOLAS Weight Mandate

As originally reported in our Shap Blog: Weighing in on Container Load Limits, the International Maritime Organization (IMO) announced a new requirement under the Safety of Life at Sea Convention (SOLAS) that as a condition of loading onto a cargo vessel, a container must provide a verified weight. The global mandate's implementation date, July 1, 2016, could be delayed for up to a year according to the U.S. Coast Guard who is seeking guidance on how the Verified Gross Mass (VGM) will impact U.S. exporters.

The Agriculture Transportation Coalition (AgTC), citing itself as the principal voice of agriculture exporters in U.S. transportation policy, has urged members to resist carrier instruction on how to comply with the new VGM requirement. Instead, the organization urged members to comply with the U.S. Coast Guard's ruling that shippers are responsible for verifying weight of their commercial goods while carriers are responsible for reporting the weight of their leased container equipment. The combination would then produce the gross mass needed to fulfill the SOLAS requirement.

The AgTC is taking a firm position on the SOLAS regulation as cited on their website:

"This rule was never submitted to Congress, reviewed or approved by a Federal agency, nor published in the Federal Register. There has been no input from the shipping community. Now shippers, steamship lines, terminal operators, and governments are scrambling to create best practices and implementation guidance for this new rule. Unless thoughtfully considered by individuals with intimate familiarity with the export supply chain process, this rule will create major turmoil at the marine terminals and a very significant impediment to U.S. exports."

The U.S. Coast Guard has advised exporters to take direction from the original SOLAS weight rule for Beneficial Cargo Owners (BCO) that requires only gross mass of cargo from the shipper to be reported. Shippers already provide this information on Bills of Lading but refuse to accept liability for container equipment they do not themselves maintain. The Coast Guard has backed away from this issue by announcing that the Verified Gross Mass rule is a commercial matter between carriers and shippers.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

shapiro™

TRANSPORTATION NEWS

March 2016 Update

INDUSTRY NEWS:

Are We Really In a Freight Recession Again?

Many transportation professionals these days mimic "Chicken Little" and pronounce that "the sky is falling" to anyone that will listen. They fear the dollar is too strong, the Chinese Yuan and manufacturing sector is too weak, and the stock market will lose everyone's good fortunes. Is this just a noisy siren or is there good reason to sound out the alarms?

It seems that it depends on which business sector you are in. Sellers of commodities such as energy, and countries that are dependent on this sector are especially nervous (Russia, Venezuela, and Canada), while many retailers rejoice as U.S. and Western European consumer demand on goods and services is moving along nicely in spite of weakening manufacturing sectors. Industrial production in China and Brazil has eroded as inventories worldwide grow for many retailers, raising fears that recession is not far in our future.

Freight is often seen as a litmus for the economy and so this often-tumultuous business has suddenly come under the watchful eye of the world's top economists. Many see freight movement patterns as both a lagging and a leading indicator of what is really happening in the economy, so there are many differing opinions on what exactly is a "freight recession." Again, it depends on the sector of the freight business being studied.

One recent study of the auto shipping business revealed that U.S. carload traffic via rail decreased by 6.1 percent in 2015 and for two back-to-back quarters, RO/RO carload volumes also declined. In 2015, petrol volumes fell 9.7 percent and coal volumes dropped 12 percent. China's total rail volume of cargo dropped 10.5 percent over the previous year. Before getting too depressed, remember that 2014 was the strongest year of the seven-year economic recovery in the U.S. and the freight market was no exception.

Ocean carriers are especially despondent with 2015, which saw its lowest fuel prices in years; however, coupled with increased inventories and increased mega-vessel volumes, shipping costs have become depressed, particularly out of Asia. Capacity seems to be the main culprit as record volumes of containers were imported into U.S. ports during 2015. Freight rates are expected to be depressed (again) until the new contract season in May and most likely for 2016 as a whole.

It is important to remember that industrial recession doesn't necessarily equal a consumer recession. The same thing goes for the freight business. When carriers are struggling because of rate deterioration, it does not mean that imports and exports are slowing down as well. In the U.S., much depends on the consumers' ability to purchase goods and services and many economic indicators forecast that the public will increase spending in 2016 as interest rates decline. It is impossible for all of the world's major economies to remain in sync and nothing to stop Wall Street from reacting.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

Charleston First In U.S. to Suggest SOLAS Weighing Service

Many unanswered questions remain about new verified weight rules that take effect on July 2016. One of those primary questions is what role, if any, will terminals play in weighing containers when they arrive to be exported. The port of Charleston is the first U.S. port to announce it can weigh the containers in terminal if the U.S. Coast Guard allows it. Worldwide, many of the terminals in Europe and the Mideast are planning to offer the same solution.

According to Jim Newsome, president and CEO of South Carolina Ports Authority, weighing the containers in the terminals helps U.S. ports conform to workplace safety regulations. He strongly believes that this service will contribute to accurate weight data and effective flow of commerce through U.S. ports.

The U.S. Coast Guard, the local agency that implements the SOLAS regulations, could not provide any comments as to whether the port has the necessary equipment to verify container weight. However, according to Newsome, they have weighed every export container for years and this information has been successfully used by ocean carriers and stevedores in loading the cargo vessels.

FMC to Develop Supply Chain Innovation Teams in LA/LB

The Federal Maritime Commission, along with U.S. international supply chain stakeholders in Long Beach and Los Angeles ports, will be forming supply chain innovation teams that will develop commercial solutions to various supply chain challenges and related port congestion concerns.

The groups are being formed by industry leaders that are focused on solving congestion-related bottlenecks, a result of the industry not being capable of responding to the rapid changes in global shipping. The teams will also address infrastructure constraints at ports that have become more prevalent with the introduction of mega-vessels clogging docks with surges of cargo. In addition, they will center their efforts on other supply chain efficiency issues and will identify commercial solutions that enhance supply chain effectiveness, reliability, and resilience.

The project will be discussed in greater detail at the next public FMC meeting on February 18th and is a direct result of shippers and other industry representatives expressing their concerns over excessive detention and demurrage charges and not being able to retrieve containers in a timely fashion during peak season. They are hopeful that this project will alleviate the complex international transportation problems that no individual industry segment can effectively address alone.

India Receives $1 Billion Port Investment Plan from DP World

Early this month, DP World announced a plan to invest $1 billion in India's port terminals over the next few years to bring the country's largest facilities up to competitive standards. Dubai-based DP World is one of the world's largest port operators and has recognized the potential growth opportunities emerging in India. DP World already has a major stake in India's maritime economy as the only foreign operator with six port concessions resulting in 32% of India's container trade.

The $1 billion investment will be used to develop opportunities for setting up brown field sites, green field container facilities on long term concession, inland container depots and improve existing intermodal infrastructure.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

DP World currently operates two container-handling facilities at JNPT, Nhava Sheva International Container Terminal (NSICT), and Nhava Sheva Gateway terminal, which account for a combined capacity of over 2 million 20-foot-equivalent units annually.

The planned improvements from the investment follow a recent upgrade on the terminals in JNPT migrating to automated gate processes. The automated gate processes are designed to ease cargo and truck delays. As a result, daily gate moves at NSICT now average 2,400 TEUs.

Gates at APM Terminals are now able to handle 2,700 truck moves per day; this is much higher compared with the previous peak level of 2,300 vehicles. The daily gate transactions average 4,500 TEUs peaking up to 5,900 TEUs. Again, the increased capacity is compared to the previous 3,500 TEUs per day which existed before DP World improved efficiencies.

JNPT loads roughly 60 percent of the containers passing through India's 12 major, state-owned port complexes. Hit by frequent labor troubles and weaker global demand, container throughput at the west coast port inched up by only 0.4 percent year-over-year in the first 10 fiscal months through the end of January, with volume reaching 3.73 million TEUs.

OCEAN FREIGHT

Federal Hearing on El Faro Sinking Begins

The federal hearing into the sinking of the El Faro began in Florida this month. The El Faro, a U.S. flagged vessel, sunk on October 1st, 2015 off the Bahamian coast during Hurricane Joaquin. The El Faro is a roll-on/roll-off vessel, owned and maintained by TOTE Services, Inc. and its sinking resulted in a loss of life for the 33 crew members aboard. The purpose of the federal hearing is to look into the cause of the sinking and the role that the vessel's age and maintenance, the El Faro captain's actions, weather forecasting, and the U.S. Coast Guard's response might have played, among other factors.

The Jones Act, a federal regulation from 1920, requires, among other things, that all domestic shipping intra U.S. waters be U.S. flagged and crewed. Even though the sinking was not in U.S. waters, critics claim that the U.S. fleet has been poorly maintained and that the vessels are too old and dangerous to be on the water, and have used the sinking of the El Faro as proof that the Jones Act should be repealed. At forty years the El Faro is twice the usual age of an active vessel, according to the Journal of Commerce, is being looked at as a factor in its sinking.

Possible Panama Canal Draft Restrictions in April

As a result of the El Nino weather phenomenon, Panama has been experiencing an unusually low rainy season that may affect Panama Canal operations. The Panama Canal Authority announced a warning at the end of February of possible draft restriction for the current canal locks in April. Panama is experiencing its second worst rainy season in its history with 36% below average rainfall. The Gatun Lake portion of the waterway recorded the lowest water level ever in the lake. Although draft restrictions have not been implemented yet nor have they revealed possible restriction levels, officials promised to announce new regulations five weeks before implementation to allow time for ocean carriers to comply.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

This announcement follows the declaration of the Panama Canal's expansion opening in the second quarter of 2016. The new locks are designed to recycle the water used within its own reserve reservoirs to help mitigate varying water levels on the lake and are still expected to open for use in June.

AIR FREIGHT

Progress at U.S. Major Air Hubs Produces Congestion Problems

For over a year, delivering and recovering cargo at Chicago O'Hare airport has been an unpredictable challenge due to congestion from construction projects in and around the area, increased cargo volumes, and ground handler delays. Congestion surcharges are being charged by some cargo handlers as well as strict wait time surcharges. Two other hubs, Los Angeles and New York, have also been experiencing similar problems.

Cartage companies carrying the cargo to and from the airport recover the cost of long wait times, reported on average of 4 hours, by charging these fees. While there are peak traffic times each day, cartage agents are reporting that the volume has increased past these peaks and is becoming more unpredictable. Avoiding the long delays is not easy due to the time-sensitive nature of air cargo cut-off for flights, generally 4-6 hours before. Allow as much time as possible by booking in advance and pre-plan. Many options exist for time-sensitive and time-definite deadlines, so shippers should make sure the forwarder knows the deadlines in advance and a plan can be booked to cover the need.

The U.N. Aviation Agency Bans Lithium-Ion Batteries as Cargo on Passenger Aircraft

The International Civil Aviation Organization (ICAO) says the ban is necessary because current firefighting systems on airliners cannot "suppress or extinguish a fire involving lithium batteries." In fact, the U.S. Federal Aviation Administration has warned against the risk of "catastrophic explosion" in lithium-ion batteries transported in aircraft cargo holds. Tests by aviation bodies have established that lithium-ion batteries can self-ignite and burn with a heat of about 600 C°, which is close to the melting point of the aluminum used in the superstructure of many aircraft.

The prohibition is set to take effect on April 1, and would be maintained until a new fire-resistant packaging standard is designed to transport the batteries. The new packaging standard is expected by 2018, ICAO Council President Olumuyiwa Benard Aliu announced in a statement.

The ban will exclude lithium-ion batteries inside gadgets transported in airplane cabins by passengers or crew. Many airlines have already voluntarily stopped transporting battery shipments. However, one dangerous goods expert familiar with ICAO's thinking questioned whether a ban on lithium-ion batteries would make passenger planes safer. He said instances of such battery fires usually involved deliberate mislabeling by shippers.

"When the industry banned the shipment of lithium-metal batteries, we saw instances of them being passed off as lithium-ion batteries," said the expert. "Those people who are not complying now won't comply with a prohibition."

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

U.S. and Cuba Finalize Agreement to Re-Establish Air Services

As of Tuesday, February 16th, scheduled flights between the U.S. and Cuba have been officially reinstated. The restoration of air services between the two nations ended a 50-year prohibition and is expected to create much fervor amongst U.S. carriers vying to win the rights to service Havana, which is allowed to host 20 flights per day from any U.S. airport.

The U.S. Department of Transportation has mandated that all interested U.S. carriers must submit their applications by March 2nd, with winners being announced sometime in the early summer of 2016. The service will be open to both passenger and cargo carriers. The reinstatement agreement also allots 10 round trips per day to the other nine international airports within Cuba. On the opposite spectrum, Cuban carriers desiring to enter the U.S. market need to obtain licenses from the Treasury Department's Office of Foreign Asset Control and the Commerce Department's Bureau of Industry and Security. The schedule of Cuban carriers permitted in the U.S. has yet to be determined. Overall, the new agreement serves as a hopeful backdrop for the expectation of increased trade and tourism between the two nations.

DOMESTIC NEWS

FMC Chairman Discusses PierPass Program

Federal Maritime Commission Chairman Mario Cordero has said he sympathizes with Los Angeles and Long Beach port users seeking less truck congestion, more consistency in after-hours gate operations, and more transparency from the ports' PierPass program for off-hours truck gates, according to the Journal of Commerce.

The PierPass program is unique to the ports of Los Angeles and Long Beach and uses a fee imposed on truckers who access the terminals during normal weekday hours to subsidize the costs of providing night and weekend gate operations. The fee, which was $40 per 20-foot-equivalent unit when the program started 10 years ago, has risen to $69.17 per TEU.

While the program has been successful in shifting some gate activity to nights and weekends, truck congestion remains a problem as critics have accused the terminals of providing inconsistent turn times for the truckers and uneven labor pools.

"What has happened in the last 10 years is that the fee continues to increase, the costs have increased, but many stakeholders contend the service has decreased," Cordero said as part of a panel discussion sponsored by the New York and New Jersey Foreign Freight Forwarders and Brokers Association. "Southern California is the only gateway where the American shipper has to pay a fee, and after 10 years I can understand their anger and frustration."

According to the JOC, PierPass President John Cushing has defended the program, saying it has been transparent, fee increases have risen in line with International Longshore and Warehouse Union (ILWU) labor costs, and that PierPass doesn't fully pay the cost of off-peak gates. He also claimed that the queues at terminals most often are caused by truckers lining up for the start of the off-peak hours when a fee isn't imposed.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.

While the FMC has no direct oversight over the PierPass program, Chairman Cordero has called for an independent audit of PierPass, and said he was ready to ask fellow FMC members to vote to request an injunction for the shutdown of the program if an agency review determines it's violating the Shipping Act and terminal operators don't move fast enough to address concerns.

Carrier Safety Accountability Coming for Carriers FAST

Signed in late 2015, the Fixing America's Surface Transportation Act (or FAST Act) included a requirement that the FMCSA improve the scoring process overseeing the Compliance, Safety and Accountability (CSA) program. CSA scoring was designed to ultimately get unsafe drivers off our country's roads, but its critics assert that the system is flawed. The program utilizes BASICs, or Behavior Analysis and Safety Improvement Categories, to identify carriers who are most likely to cause a higher number of incidents on our roads. Many believe that ratings become stale quickly and are not reliable indicators of safety under this system.

Upon implementation of the FAST Act, the FMCSA was required to cease public display of CSA scoring until a thorough review of the system with necessary changes could be made. The results of this study must be presented to Congress within 18 months along with a corrective action plan to improve the process. The current proposal would eliminate the CSA's 3-tier system in favor of a single rating: fit or unfit. A carrier can be deemed unfit based on failure of BASICs, failure during investigations, or a combination of the two. Unfit carriers must cease operation until corrective action is taken.

Costs to the industry under this new program are estimated at $9.9 million annually, while benefits from crash avoidance and lives saved are estimated at $240.9 million annually.

Although requests to extend the initial 60-day comment period have been submitted, the current end date is set for March 21, with an additional 30 days slated for replies to comments. For more information or to submit comments, you can go to www.regulations.gov and reference docket No. FMCSA-2015-0001

SHAPIRO NEWS:

Employee of the Month

As previously featured in Shap Talk, Shapiro has been sharing with you the names of employees who have been recognized for their exceptional efforts and contributions to our Company. At Shapiro, we continually work to develop, challenge, and inspire all of our employees to grow individually and with the Company. This month, we would like to recognize Dayonna Johnson, Import Analyst in Philadelphia for her outstanding performance and contributions.

We encourage you to provide us with employee feedback! Please email us at hr@shapiro.com.

This newsletter is for informational purposes only. Although every effort is made to ensure accuracy, Samuel Shapiro & Company, Inc. assumes no legal liability for any erroneous information. Links to other websites are provided for reference and convenience and do not constitute endorsement of the content of those sites.