



Transportation & Logistics Client Bulletin



August 2008

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“10 + 2 Rules” – The New Reporting Requirements for Carriers and Importers

The U.S. Department of Customs & Border Protection (CBP) has issued new proposed rules that will have a profound impact on how carriers and importers do business in and outside of the Country. The new rules, coined “10+2” because of the items that must be reported to the CBP, add new data to the list of information already required for pre-vessel screening. With a projected final publication date of late-2008 to mid-2009, carriers and importers must be ready to comply with the new Federal rules to insure seamlessness in their operations.

Current law requires that ships’ manifests meet certain requirements including presentation to CBP 24 hours prior to lading. In addition, the Security and Accountability For Every Port Act (SAFE) the Container Security Initiative (CSI), and the Customs-Trade Partnership Against Terrorism (C-TPAT) have all added substantial reporting requirements to carriers’ daily operating procedure over the past several years. With the introduction of the new 10+2 proposed rule, regulators hope to create an environment in which, “More complete advance shipment data would produce even more effective and more vigorous cargo risk assessments.”¹

10+2 requires extensive input from importation players at all levels of shipping. Specifically, the rule has been nicknamed “10+2” because it imposes two new reporting requirements on carriers, and 10 new requirements on “importers,” as they are defined in the code.

Carrier Requirements

Under the proposed rules, carriers will be required to submit both a Vessel Stow Plan (VSP) and Container Status Messages (CSM). VSPs are

required to be submitted to CBP no later than 48 hours after departure from the last foreign port and must be submitted via one of the CBP’s approved electronic data interchange systems. While bulk carriers are exempt when using exclusively bulk carrying vessels, all other carriers must report seven data points as their VSP, including:

1. Vessel name;
2. Vessel operator;
3. Voyage number;
4. Container operator;
5. Equipment number;
6. Equipment size and type;
7. Stow position;
8. Hazmat-UN code;
9. Port of lading; and,
10. Port of discharge.

Items 3-6 are only required if the shipment is containerized.

Carriers will also be required to submit a Container Status Message if they meet one of nine criteria set out in the proposed rule that would precipitate the filing of a CSM. The CSM is intended to facilitate intermodal handling and included six pieces of information, including:

1. Event code being reported;
2. Container number;
3. Date and time of the event being reported;
4. Status of the container (i.e. empty, or full);
5. Location where the event took place; and,

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6. Vessel identification associated with the message.

Like the VSP, bulk and break bulk carriers are exempt from the CSM requirement. All CSMs must also be submitted via a CBP-approved electronic data interchange system.

Importer Requirements

The proposed rules define an importer as, “The party causing goods to arrive within the limits of a port in the United States.” Under the proposed rules, an importer must make the “Importer Security Filing” (ISF) no later than 24 hours before their cargo is laden. The ISF includes 10 data points that must be reported to the CBP:

- Manufacturer or supplier name and address
- Seller name and address
- Buyer name and address
- Ship to name and address
- Container stuffing location (for break bulk, the name and address where the goods were made “ship ready”)
- Consolidator name and address
- Importer of record number or the FTZ applicant’s identification number
- Consignee number
- Country of origin (as defined by U.S. import laws and regulations)
- Commodity Harmonized Tariff Schedule of the United States (HTSUS) number

For Foreign Cargo Remaining on Board, Immediate Exportation, or Transportation and Exportation shipments, the proposed rules only require the reporting of five elements. Those data points apply more directly to the type of shipments described above and include booking party name and address; the foreign port of unloading; the place of delivery; the ship to name and address; and, the commodity HTSUS number.

When the new 10+2 rules take effect, importers and carriers will definitely have a heavier burden in their reporting requirements. Industry insiders believe that the new rule may present a competitive advantage for certain companies - arguing that accurate tracking of more data points can lead to more effective and rapid supply chains.² Only time will tell how the new rules affect transportation and logistics companies in the near future and beyond.

Footnotes

¹ Importer Security Filing and Additional Carrier Requirements, 73 Fed. Reg. 90, 91 (proposed Jan. 2, 2008) (to be codified at 19 CFR pts. 4, 12, 18, 101, 103, 113, 122, 123, 141, 143, 149 and 192)

² Matt Gersper and Bryan Heimbeck, The 10+2 Rule and Competitive Advantage for You (Opinion), Global Logistics and Supply Chain Strategies, July 2008, at 68.

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