

To Our Members & Affiliates:

The AACA would like to share some comments and a "sample" letter that was sent regarding Customs Proposed 10 + 2 security filing. This is an urgent situation and we all need to be actively involved along with our clients and submit our comments prior to the deadline of March 18, 2008. This is only 14 days away and will have an enormous impact on all of us.

Comments:

"We need to generate an outpour of public comment on this. (In fact I intend to involve my personal friends as this will also have bearing on every United States citizen as we are all consumers of imported goods)."

"At the CBP CTPAT seminar in New Orleans, Rich DiNucci again urged the trade to submit comments – he made specific reference to the proposed liquidated damages that a person asked about. Obviously he cannot comment on it directly, but his demeanor and urging to submit the issues surrounding the 100% value penalty in my interpretation is a clear sign that he agrees that this indeed needs to be reworked."

Please forward this information to your clients, co-workers, other carriers, other brokers, etc to ensure we get the word out.

Thank you Donna Mullins for the "sample" letter!

Dear Valued Business Partners:

Change is in the air and it's not the sweet smell of a rose. In fact, you may find it to have the odor of stale cargo.

The new 10 + 2 Rule being proposed by Customs, will place additional burdens, responsibilities and potential penalties on importers, carriers and brokers alike. This burden will be shared with the originating shipper or agent (forwarder) as several of the data elements must be received from origin.

In summary, the rule will require importers, or their authorized agents, to file a total of 10 data elements before cargo can be loaded on a vessel at a foreign port; carriers must supply the 2 additional data elements.

In addition to other unnecessary requirements to obtain cargo security, the proposed rule will give ambiguous definitions to the term "importer" and will require the filers of the ISF to hold a bond and be subject to penalties for accuracy, although the data submitted may not be confirmed. The submitter will be required to hold Power of Attorney for the "importer", even if the submitter is not the importers Customs Broker.

Under the proposed regulations, carriers would be generally required to submit a vessel stow plan and container status messages regarding certain events relating to containers loaded on vessels destined to the United States (the "2" of "10+2"). Importers, as defined in these regulations, would be required to submit an Importer Security Filing containing certain data elements (the "10" of "10+2").

CBP indicates that it needs this additional information to ensure that its cargo security programs continue to operate effectively. The Container Security Initiative, the 24-Hour Rule and the Customs-Trade Partnership Against Terrorism are all cornerstones of CBP's comprehensive strategy for enhancing

national security while protecting the economic vitality of the U.S.. Additionally, CBP has developed cargo risk assessment capabilities in its Automated Targeting System to screen all maritime containers bound for the U.S. before they are loaded aboard vessels in foreign ports. Each of these initiatives is dependent on data supplied by trade entities, including carriers, non-vessel-operating common carriers, customs brokers, importers and their agents. But the data elements currently supplied by these entities are the same ones originally established by the 24-Hour Rule, which for the most part come from the carrier's or NVOCC's cargo declaration. CBP states that while this was a sound initial approach to take, internal and external government reviews have concluded that more complete advance shipment data would produce even more effective and more vigorous cargo risk assessments.

CBP is proposing to require importers or their agents to transmit an Importer Security Filing to CBP, for cargo other than foreign cargo remaining on board, **no later than 24 hours before cargo is laden aboard a vessel destined to the U.S.** Because FROB is frequently laden based on a last-minute decision by the carrier, the Importer Security Filing for FROB could be filed any time prior to lading.

For purposes of this proposed rule, "importer" means the party causing goods to arrive within the limits of a port in the United States. For FROB, the importer is construed as the carrier. For immediate exportation and transportation and exportation in-bond shipments, and goods to be delivered to a foreign-trade zone, the importer is construed as the party filing the IE, T&E or FTZ documentation with CBP.

For shipments other than those consisting entirely of FROB or goods intended to be transported in-bond as an IE or T&E, the following 10 additional data elements would have to be provided, unless specifically exempted. The manufacturer (or supplier) name and address, country of origin and commodity HTSUS number would have to be linked to one another at **the line item level.**

- The name and address of the entity that last manufactures, assembles produces or grows the imported commodity, or the name and address of the supplier of the finished goods in the country from which the goods are leaving; in the alternative, the name and address of the manufacturer (or supplier) that is currently required by U.S. import laws, rules and regulations (this is the information that is used to create the existing manufacturer identification number for entry purposes).
- The name and address of the last known entity to whom the goods are sold or agreed to be sold, or, if the goods are to be imported otherwise than pursuant to a purchase, the name and address of the owner of the goods.
- The name and address of the first deliver-to party scheduled to physically receive the goods after they have been released from customs custody.
- The name and address(es) of the physical location(s) where the goods were stuffed into the container, or, for breakbulk shipments, the name and address(es) of the physical location(s) where the goods were made "ship ready."
- The name and address of the party who stuffed or arranged for the stuffing of the container, or, for breakbulk shipments, the name and address of the party who made or arranged to make the goods "ship ready."
- The Internal Revenue Service number, Employer Identification Number, Social Security Number or CBP-assigned number of the entity liable for payment of all duties and responsible for meeting all statutory and regulatory requirements incurred as a result of importation; for goods intended to be delivered to an FTZ, the IRS number, EIN, SSN or CBP-assigned number of the party filing the FTZ documentation with CBP.

- The IRS number, EIN, SSN or CBP-assigned number of the individual(s) or firm(s) in the U.S. on whose account the merchandise is shipped.
- The country of manufacture, production or growth of the article, based on U.S. import laws, rules and regulations.
- The duty/statistical reporting number under which the article is classified in the HTSUS (the HTSUS number is required to be provided to the six-digit level but may be provided up to the 10-digit level).

For shipments consisting entirely of FROB or goods intended to be transported in-bond as an IE or T&E, the following five additional data elements would have to be provided.

- The name and address of the party who is paying for the transportation of the goods.
- The port code for the foreign port of unloading at the intended final destination.
- The city code for the place of delivery.
- The name and address of the first deliver-to party scheduled to physically receive the goods after they have been released from customs custody.
- The duty/statistical reporting number under which the article is classified in the HTSUS.

You can read the entire Proposed Notice of Rule Making (PNRM) at the below link:

<http://a257.g.akamaitech.net/7/257/2422/01jan20081800/edocket.access.gpo.gov/2008/E7-25306.htm>

We strongly encourage you to comment as this will have a tremendous effect on your import transactions. Comments must be received by CBP no later than March 18, 2008.

You may submit comments, identified by docket number, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>.

Follow the instructions for submitting comments via docket number Dept: USCBP-2007-0077.

Mail: Border Security Regulations Branch, Office of Trade, U.S Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and document number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the SUPPLEMENTARY INFORMATION section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768. FOR FURTHER INFORMATION CONTACT: Richard Di Nucci, Office of Field Operations, (202) 344-2513.

This is serious business and needs your attention immediately.