

FREQUENTLY ASKED QUESTIONS

24-HOUR ADVANCE VESSEL MANIFEST RULE

The U.S. Customs Service has received numerous questions concerning the 24 hour advance manifest regulation, we have provided our response, for now, of the most frequently asked questions. Customs is hopeful that this document will assist the trade community in understanding the expectations of the Customs Service concerning the 24 hour manifest rule. Customs will continue to update this list, adding questions and answers. Please continue to monitor this document for changes and updates.

- 1. Implementation Date:** Explain how the implementation process for the rule will work. Will all manifests need to be filed starting after the 30-day implementation period on December 2? Will Customs refuse certificates to unlade cargo if manifest information is incomplete or not filed during the 60-day non-enforcement period? How will Customs conduct its enforcement activities during the early stages of the rule's implementation when it has no overseas personnel at most ports?

Answer: The effective date of implementation is December 2, 2002. Carriers and/or automated NVOCC's will be required to submit a cargo declaration 24 hours before cargo is laden aboard the vessel at a foreign port for any vessel beginning the voyage on or after December 2, 2002. Any vessel that is beginning the entire voyage on or after December 2, 2002 must comply with the 24 hour manifest rule. Those vessels that are in between foreign ports of call on December 2 are not required to comply with the 24 hour manifest rule.

Customs will not initiate enforcement actions nor will unloading be denied during the 60-day period following December 2, 2002 for any non-fraudulent violations discovered.

Customs will coordinate with other foreign governments to perform examinations of shipments deemed to be of high-risk. Within the 60-day non-enforcement period there will be new CSI ports scheduled to begin operations.

- 2. Enforcement Date:** The enforcement date for the new regulations is February 1, 2003. Please confirm that this means the enforcement actions apply to vessels loading on or after that date and not to vessels that have loaded before that date but not yet arrived in the U.S.

Answer: Carriers and/or automated NVOCC's will be subject to enforcement actions for any vessel beginning the voyage on or after February 1, 2003. Any vessel that is beginning the entire voyage, on or after, is subject to full obligation of the 24 hour manifest rule. Those vessels that are in between foreign ports of call on February 1, 2003 will not be considered for penalty action for violation of the 24 hour manifest rule.

3. **Requirement of Carriers on December 2, 2002:** What will be required of carriers on December 2, 2002?

Answer: Automated carriers should begin to transmit cargo declaration information beginning with the first appropriate vessels that have begun their voyage. Carriers should begin to transmit all the cargo declaration information that they are capable of transmitting. Carriers should continue to show progress and increase the total number of bills of lading on each vessel for each transmission of the cargo declaration. Carriers should fully and completely comply with the 24 hour manifest rule as soon as possible but no later than February 1, 2003. Carriers will be required to inform Customs as to when they will be capable of complete transmission within the 60 day non-enforcement period.

4. **Requirement of NVOCCs on December 2, 2002:** What will be required of NVOCCs on December 2, 2002?

Answer: Those NVOCCs that are capable of transmitting electronically to Customs are required to do so on December 2, 2002 for those shipments that are eligible under the guidelines listed in the Implementation Date. Those NVOCCs that are working towards automation but have been unable to test will be authorized to submit paper cargo declarations directly to Customs 24 hours prior to lading at the foreign port. These NVOCCs must provide Customs with a date as to when they will be able to electronically transmit their cargo declarations to Customs. Additionally, those NVOCCs who are authorized to submit a paper cargo declaration to Customs must provide a copy of their traditional shipping documents to the vessel carrier in order to allow the carrier to abide by the regulations to maintain a copy of the vessel manifest on board the vessel.

Those NVOCCs who have not begun the process to automate or cannot prove to Customs that they have begun the automation process will be required to submit their cargo declarations directly to the vessel carrier for input into the vessel AMS program 24 hours prior to lading at the foreign port.

5. **Implementation at CSI and Non-CSI Ports:** How does the application of this rule differ between CSI and non-CSI ports? How will holds on cargo from non-CSI ports be handled? Besides electronic messages through AMS, how will Customs notify origin ports of cargo to be held or examined?

Answer: Requirements for implementation of the 24-hour rule at CSI and non-CSI ports will be the same for vessel AMS participants. For non-automated carriers at CSI ports, paper manifests will be presented to U.S. Customs personnel at a designated location in these ports.

For non-automated carriers at non-CSI ports, paper cargo declaration must be presented to each port of unloading in the U.S. 24-hours prior to lading in the foreign port. Facsimiles and non-AMS electronic messages sent directly to Customs are not authorized. Non-automated vessel carriers may enlist the automated services of a Vessel Agent, Service Provider, local Port Authority, or a business partner in the U.S. The domestic party in receipt would deliver the cargo declaration information directly to Customs. When a non-automated vessel carrier has elected to submit a paper cargo declaration directly to Customs in the United States, the non-automated carrier is responsible for ensuring that complete cargo declaration information for each port of call in the United States is submitted to each Customs location for review 24 hours prior to lading at the foreign port.

For non-automated carriers that submit a paper manifest, the party designated to present the cargo declaration to Customs will be the one to receive notifications from Customs of any cargo holds. Hold notices must also be provided to the vessel carrier from the non-automated NVOCCs.

NVOCCs who are in the process of automating will be authorized to present their paper cargo declaration directly to Customs, 24 hours prior to lading at CSI ports or to the local U.S. ports of call, as applicable.

- 6. Trade Act of 2002:** Does Customs contemplate new rulemaking under the 2002 Trade Act? If yes: Would Customs entertain modifications to the current rule under that process? Does Customs also expect to modify the rule as ACE comes on line to provide alternative means of information collection? What sort of transition would Customs contemplate?

Answer: Customs does not anticipate new rule making under the Trade Act of 2002 that would limit or restrict the requirements of the 24-hour rule.

As the various releases of ACE are completed and the ability to collect data and information is enhanced, Customs will re-evaluate the rule.

Questions pertaining to the transition will be addressed once Customs and its trade partners involved with the development of ACE have identified the specific elements within ACE pertaining to this issue.

- 7. Confidentiality:** It appears that the only protection of business confidentiality would be by Customs delaying the release of the information. How does that prevent information from getting into the hands of a company's competitors or criminals?

Answer: The fact that information is provided directly to Customs addresses the concern of NVOCCs wishing to safeguard their clients' information from competitors. Customs has also provided the opportunity for non-automated

NVOCCs who are in the process of becoming automated to continue presenting their paper cargo declarations to U.S. Customs, 24 hours prior to lading at the foreign port, at CSI ports or to local U.S. ports of call for non-CSI ports. Customs will also be issuing a separate Notice of Proposed Rulemaking to expand the list of parties who may file a biennial certification that would allow those parties to file on behalf of the importer or consignee. This separate Notice of Proposed Rulemaking is necessary because comments received on this issue were outside the scope of the original Notice of Proposed Rulemaking dated August 8, 2002.

Customs is regulated by statute (19 USC 1431(c)) regarding disclosure of manifest data. Congress must enact any changes to the statute.

8. **Non-AMS Carriers:** How does the rule accommodate those who do not presently have access to the Automated Manifest System?

Answer: Carriers that are not automated will be required to submit a paper cargo declaration 24 hours prior to lading at the foreign port. NVOCC's that are not automated but are showing continued progress at becoming automated will be authorized to submit their paper cargo declaration to Customs 24 hours prior to lading at the foreign port for CSI ports and to the local U.S. ports of call, as applicable. Those NVOCCs that have not shown progress or the desire to become automated will be required to submit their cargo declarations to the carrier for input into AMS, 24 hours prior to lading at the foreign port. Customs will accept paper cargo declarations from non-automated NVOCC's during the 60 day non-enforcement period for non-fraudulent violations as long as the NVOCC is diligently working towards becoming automated and can prove that diligence to the local ports upon request.

9. **C-TPAT:** How will it be advantageous to be a C-TPAT participant under this rule?

Answer: Customs expects that its partners in C-TPAT will provide the required information under this rule as a regular part of their security-related procedures. Accurate and timely cargo declarations are critical to the delivery of the cargo release benefits that are part of C-TPAT participation. While C-TPAT participants will not be excluded from the advance reporting requirements, their participation in the program will be taken into account during the targeting process.

10. **COAC:** How will the consultation process envisioned in the rule and the 2002 Trade Act involve the COAC and non-COAC members? Does Customs foresee this process evolving in a manner comparable to the C-TPAT process?

Answer: This final rule is completely separate from the Trade Act of 2002. Customs will notify the trade community on how it will achieve the requirement to

“consult the trade”. This final rule does indicate that Customs will request that COAC form a sub-committee to act as a consultant on the implementation of the final rule.

- 11. Canada/Mexico Shipments:** Please clarify whether the final rule applies to cargo shipped from a foreign port to Canada or Mexico and then trucked or railed across the border to a final U.S. destination. How will Customs address the concern that cargo may be diverted from ocean carriers to truck or rail carriers as a means of circumventing the rule?

Answer: The final rule does not apply to cargo that is shipped to Canada or Mexico and into the U.S. by truck or rail. Customs has targeting personnel stationed at seaports in Canada and cooperation with Canadian authorities has been excellent. If either Customs administration suspected that goods were being routed in an attempt to evade scrutiny, those goods would likely be treated as high risk. For vessels that are departing Canada or Mexico with cargo destined for the United States, the 24 hour rule does apply.

- 12. Containers at Dock:** In response to concerns from the trade that containers will have to be delivered to a carrier several days before lading, Customs has said that it wants the information on cargo delivered earlier, not the container. Will Customs mandate that carriers enter information about a container on a manifest before the carrier has actually received the container?

Answer: Customs is not mandating that carriers submit cargo declaration information to Customs prior to receiving the container. That is a business decision for the carrier to determine. Many comments received stated that the container had to be physically located at the foreign port (dock) in order for the carrier to transmit the cargo declaration to Customs. Customs was clarifying that, for Customs purposes, the container did not have to be physically located at the dock for the carrier to transmit the cargo declaration to Customs.

- 13. Liability:** If a container is examined by Customs, either in the United States or at a foreign port, and the manifest description of the contents is, in Customs opinion, inaccurate, will the carrier be held liable for penalties or liquidated damages? What does Customs recommend carriers do to protect themselves from misleading descriptions on bills of lading?

Answer: Yes, in the stated circumstances, carriers can be held liable for penalties and NVOCC's can be held liable for liquidated damages. Carriers should establish business relationships with shippers to ensure accurate information is provided.

- 14. Bonds:** What are the mitigation guidelines for an NVOCC bond? What is the proposed penalty and potential mitigation if the information is not supplied, if it is supplied but untimely, if it is supplied but Customs finds it to be too general and

potential liabilities if the information is inaccurate? Who is responsible the carrier or NVOCC if it relied on the information supplied by the shipper (product description and/or HTS number, quantity, etc)? Assuming that the carrier had no actual knowledge that the goods in the container were other than as described or that any of the other information might be inaccurate, who is liable? It is assumed that surety companies will only be held liable for claims under these new provisions for bonds issued on or after the effective date of the new regulations. Is that assumption correct? If so, can the field receive appropriate notification to avoid unnecessary claims?

Answer: Currently, Customs is formulating policy with regard to the assessment of penalties and claims for liquidated damages. Once the assessment policy has been approved, Customs will establish mitigation guidelines. The final rule indicates that in addition to penalties applicable under other provisions of law, carriers may be liable for civil penalties under 19 USC 1436 and NVOCC's may be liable for liquidated damages under 19 CFR 113.64(c).

The party that provides the cargo declaration information to Customs is responsible for ensuring that the information is accurate. Customs will initially use informed compliance with the carriers, but if repeated violations occur Customs may assess penalties or claims for liquidated damages.

The assumption is not correct that sureties will only be held liable under bonds issued on or after the effective date.

Current bonds guarantee payment of penalties and will be used and claims will be filed against these active bonds.

Who is required to obtain an international carriers bond?

Answer: NVOCCs that are transmitting their cargo declarations electronically to Customs must obtain an international carriers bond. This electronic transmission includes direct interface with Customs, hiring a service provider or a port authority. The minimum amount for the NVOCC International Carriers Bond is \$50,000. However the port director has the discretion of increasing the bond. Once a bond is on file with U.S. Customs it is good for all ports of entry.

- 15. Public Lists:** Will Customs make public a list of those NVOCCs who are approved for AMS manifesting and have obtained an International Carrier Bond?

Answer: Customs presently does not publicly post a list of AMS carriers, we do however maintain a list internally. Customs has never made a practice out of publishing a list of AMS participants. If the trade community makes this request, Customs could review the procedures for possible distribution to the public. NVOCCs will not be authorized to transmit in AMS without an International Carriers Bond.

Will Customs publicize what third party service providers are available to perform NVOCC electronic manifest filing in AMS, as vessel carriers may have difficulty performing this function.

Answer: Customs will provide a copy of the list of third party service providers, however this document is constantly changing and should not be relied upon as the only source of providers.

- 16. Earlier Security Screening for Transshipments:** Some ocean carriers have expressed an interest in how they could have security prescreening done by Customs before the first leg of a voyage of a container that will be transshipped. For example, Carrier agrees to transport a container from Karachi to LA. The first leg of the voyage is on Vessel A from Karachi to Singapore. It is then loaded in Singapore onto Vessel B that sails for LA. Under this regulation, the security screening is done before Vessel B loads in Singapore. If there is a problem with the container, it is now stuck in Singapore. Is there a way for a carrier to have the option to have the security screening done at the first port of loading, so that if there is a problem, the container will not begin the voyage until the problem is addressed?

Answer: Customs would eventually like to receive this information, but current limitations in the AMS system does not allow for this type of transaction. With the development of ACE, Customs will be looking to accept this type of electronic information.

- 17. Clearing “Held” Cargo:** When the targeting identifies a container that warrants inspection in a non-CSI port, what procedures will be used to inspect and subsequently clear the container for loading aboard the vessel?

Answer: Customs will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been placed on hold. Foreign governments will perform inspections at CSI and non-CSI ports. Immediately after the foreign government notifies Customs that the shipment is cleared, Customs will remove the hold in AMS. For non-automated carriers, the party that submitted the cargo declaration to Customs will be notified.

Customs will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been placed on hold.

How will Customs clear cargo that has been put on hold in CSI and non-CSI ports?

Answer: Customs will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been placed on hold. Foreign governments will perform inspections at CSI and non-CSI port.

Immediately after the foreign government notifies Customs that the shipment is cleared, Customs will remove the hold in AMS. For non-automated carriers, the party that submitted the cargo declaration to Customs will be notified.

- 18. Diversion to a Foreign Port:** If cargo has been cleared to sail to the U.S. from a foreign port and the vessel carrier decides to divert by dropping cargo in Freeport, Bahamas to load aboard another vessel for subsequent entry to the U.S., would the vessel carrier be required to file another 24 hours advance manifest for that cargo?

Answer: This cargo would have to once again comply with the 24-hour rule.

What would happen if a carrier drops a Canadian first port of call, and comes directly to the U.S. with Canadian destination cargo aboard that has not been subjected to the 24 hour advance manifest filing obligation (ex. operational decision to bypass Halifax due to North Atlantic storm).

Answer: Carriers must notify U.S. Customs at the designated first port of arrival as soon as they realize they are not going to make the foreign port of call. The carrier should then transmit the manifest with corrections indicating the missed foreign port of call. Upon arrival in the U.S. port the cargo declaration will be placed on hold until Customs has had the opportunity to review the documentation, any examinations will be conducted and appropriate penalties may be issued. If U.S. Customs determines that this has become a common occurrence for vessels this could eventually lead to denying the permit to unlade. Additionally, U.S. Customs will notify the Coast Guard of the vessel with unmanifested cargo that is scheduled to arrive.

A shipper may change cargo destination after vessel loading; an amendment to the manifest will be required. How will this be handled?

Answer: Amendments will be done under the current procedures. The Notice of Proposed Rule Making has not been published. However, be aware that any change to the original information may affect our risk assessment of the cargo and could result in an examination.

- 19. FROB:** If a shipper changes the cargo destination from FROB to a U.S. port after the vessel has sailed, can that be handled through a manifest correction?

Answer: Yes, manifest corrections will be handled as a manifest discrepancy. Since the cargo was FROB and falls under the 24 hour requirement, information would have already been received 24 hours before lading. However, the shipment is subject to screening and examination due to the change in the information.

- 20. Paper Manifest Onboard:** Please clarify which carriers participating in Customs' AMS advance cargo manifest filing will have to have a paper copy of the manifest on board the vessel (in contrast to be able to provide one upon request).

Answer: All parties must submit a hard copy of the cargo declaration to the carrier to comply with the requirement to maintain a copy of the cargo declaration onboard the vessel. The only exception would be for bills of lading filed by a Paperless Manifest participant.

- 21. Coast Guard Rulemaking:** The final rule makes clear that "by requiring the submission of cargo declaration information 24 hours prior to lading, Customs is eliminating the requirement for vessel carriers to submit an additional cargo declaration upon arrival in the United States." The Coast Guard has before it a proposed rulemaking that would require cargo manifests to be filed with Customs 96 hours before vessel arrival. Now that Customs has finalized its rule, the Coast Guard rule has been overtaken by events. Will Customs please inform the Coast Guard that its proposed 96 hour rule should not apply to any carrier that is filing in AMS and complying with the new Customs advance manifest filing requirements?

Answer: Customs will require only one electronic manifest to be submitted by the carrier and will work with the Coast Guard to coordinate this transmission. The presentation of the paper manifest will have to be available to both agencies.

- 22. AMS/Batch Filing:**

1) Currently each manifest has one CF 1302 filing. Please explain how AMS will handle multiple CF 1302 filings for the same vessel.

Answer: The current AMS system does handle multiple cargo declaration filing as amendments from each port, if the vessel and voyage number are the same. If the vessel or voyage number changes the cargo declarations must be deleted and re-added with the new vessel and voyage number.

2.) The Comments state that: "The vessel AMS program was not designed to allow for the transmission of individual bills of lading, and such transmissions must be sent by batch." For the advance filing obligation under these rules, does batch filing require a single batch containing all containers to be loaded at a loading port, or can a carrier file more than one batch for a single loading port? (Example: file one batch 48 hours before loading and one additional batch 24 hours before loading.)

Answer: The example provided is correct. The carrier can file more than one batch for the same port on the same vessel and voyage.

- 23. Perishables:** Many perishable commodities (e.g., bananas, pineapples) are harvested and loaded within the 24-hour time window before vessel loading. Information (such as final seal number, precise quantity, and container number) will be preliminary 24 hours before vessel loading. How should this be handled?

Answer: The majority of the data elements should be known, the only unknown data elements would be the exact piece count and weight. This may require some prior planning of selecting a container to be loaded from a pool and a seal number from a batch. For these shipments approximate piece count and weights should be given and can be amended once the actual amounts are identified. Customs believes the shippers should be fairly close in their estimated piece counts and weights due to the redundancy of the shipment.

Customs recognizes the uniqueness of the perishable industry and is working with carriers to develop strategies to facilitate the industry and at the same time provide Customs with the cargo declaration information 24 hours prior to loading at a foreign port.

- 24. Equipment Change:** If a refrigerated container's cooling system fails after the CF 1302 has been filed, but prior to loading, can the carrier reload the perishables into a new reefer container, affix a new seal, load the container aboard the vessel, and correct the manifest information?

Answer: Customs will allow for changing of equipment due to failure. Carrier must file a Manifest Discrepancy Report to correct the container/seal #. Once Customs has been notified by the carrier, the exact procedures will be determined on a case by case basis.

- 25. AMS Acknowledgement of Manifest Receipt:** After the carrier submits the manifest, Customs currently returns an acceptance message that confirms receipt of the manifest data, quantity of BLs accepted, and quantity of BLs rejected. Can vessel carriers expect to receive this same message for manifest information submitted under the 24-hour regulation?

Answer: Yes, procedures will be the same. The carriers will receive these same messages.

How will manifest receipt message relate to NVOCC cargo, and what information will the vessel carrier receive regarding the NVOCC's filing?

Answer: The information that the vessel carrier receives today for automated slot charters will be the same information that the vessel operating carrier will receive. Please refer to previous answer.

- 26. Manifest Discrepancy:** Does Customs have any forecasted time when the new rules will be proposed for manifest discrepancy reports?

Answer: Within 30-days of publication of the final rule (October 31, 2002) the proposal for manifest discrepancy will be out of the Customs office to the Department of the Treasury.

Between now and then, is there any informal guidance Customs would offer to vessel carriers regarding how to deal with these issues?

Answer: Current procedures apply and can be found within 19 CFR 4.12.

- 27. Customs Operations:** Will Customs be manned 24/7 to process all manifests and provide the necessary hold responses?

Answer: Customs will provide the carriers with a designated location at CSI and local Customs ports to submit paper cargo declaration. The designated location will be a secured manner to be determined by the ports. Carriers and NVOCC's that do not receive a hold message within the 24-hour time frame after presentation of the cargo declaration will be allowed to load the cargo.

What will the procedures be if Customs has unplanned downtimes with AMS?

Answer: Current procedures shown in the CAMIR document should be used. The CAMIR is located on the Customs web site along with Customs Directive 3240-075, Vessel Automated Manifest System, that is available to the trade community. Current acceptable down time is 2 hours; however, it is within the port director's discretion to allow more than the recommended 2 hours if circumstances warrant. Carriers whose systems are down for extended periods of time should notify their client representative and refer to the procedures outlined in the directive on how to submit paper cargo declaration information to Customs. Customs has made the Customs Directive available on the Customs web site. Please continue to monitor the Customs web site (www.customs.gov) for information related to the 24-hour rule.

Customs will adjust work hours in ports for proper coverage. Carriers should not be lading cargo prior to the expiration of the 24 hours.

Will Customs establish a communication channel/help line for carriers?

Answer: Carriers currently have designated Customs personnel or a designated office that they contact to assist them. Additionally, Customs has set up a telephone line for questions from both the field offices and the trade community for 60 days. The number is: (202) 927-0224, Monday – Friday, 8:00 – 4:00 EST.

- 28. Vessel Sharing Carriers:** It seems reasonably clear that pre-loading “hold” notices will be communicated by Customs to the filing vessel carrier, which may or may not be the vessel operator. Vessel carriers will need to develop good

communication systems amongst themselves to ensure that such hold notices are communicated in a timely manner prior to loading, and that their respective responsibilities and liabilities are clear.

While such agreements may work amongst vessel carriers sharing ships, this model would not be satisfactory for communications between vessel carriers and NVOCCs regarding holds.

Answer: For carriers that are AMS, the second notify party will be used.

- 29. Data Element #6 – Port:** Item (vi) requires the filing carrier to state: “The first foreign port where the carrier takes possession of the cargo destined to the United States”. Does “foreign port” mean “port” or place where the filing carrier takes possession. For example, Carrier contracts to move container from Berlin to Chicago under a through transportation contract. Carrier picks up container in Berlin, trucks it to Hamburg. The carrier loads it aboard the vessel in Hamburg, sails to Southhampton, and then New York. In this case, is item (vi) Berlin (the place where the carrier takes possession) or Hamburg (the first foreign port)?

It is assumed that item (i) - “the last foreign port before the vessel departs for the US” - is Southhampton, and item (xi) - “the foreign port where the cargo is laden on board” - is Hamburg.

Answer: The example and assumptions made are correct. For data elements (i) - “the last foreign port before the vessel departs for the US” (NEW DATA ELEMENT)- is Southhampton, (vi) - “the first foreign port where the carrier takes possession of the cargo destined to the United States”- is Berlin and (xi) - “the foreign port where the cargo is laden on board”- is Hamburg.

- 30. Data Element #7 – Cargo Description:** Item (vii) requires a “precise description and weight of the cargo or, for a sealed container, the shipper’s declared description and weight of the cargo.”

A) Carriers commented on and fully supported the regulation providing that a carrier can rely on “for a sealed container, the shipper’s declared description and weight of the cargo”. Please confirm that Customs does not intend to penalize carriers for shippers’ containerized cargo misdescriptions.

Answer: The party that provides the cargo declaration information to Customs is responsible for ensuring that the information is accurate. Customs will continue to use the same guidelines for sealed containers and shipper’s load and count. Customs will initially use informed compliance with the carriers, but if repeated violations occur Customs may assess penalties as outlined in 19 CFR 4.3a.

B) There is a question under these regulations about what constitutes a precise and accurate shipper’s declaration. It is clear that 6 digit HTS is acceptable and

desired, but is not required of shippers. The Federal Register comment and regulation make it clear that FAK, “general cargo”, “chemicals”, and “foodstuffs” are not acceptable. Are descriptions such as “plastic toys”, “electronic goods”, “footwear”, “women’s cardigan,” “plastic toys,” or “ink powder” sufficiently precise? In the case of chemical compounds and mixtures, are formulas necessary? What might be the repercussions for importers if the entered classifications and the manifest classifications using the HTS designations are not identical?

Answer: Some examples of precise cargo description are: “women’s cotton pants” (as opposed to “apparel”); “computer hard drives” (as opposed to “electronics”); and “automobile brakes” and “glass windshields for automobiles” (as opposed to “auto parts”). Although a formula is not necessary for chemical compounds, the chemical name is required.

Absent fraud it is not anticipated that the importer would incur penalties in these situations. Customs will work with the carrier to correct errors and through post audits we will be able to notify carriers that certain cargo descriptions are not precise. If it is determined that the carrier is consistently submitting conflicting information and Customs has routinely notified the carrier of this problem, penalties can be assessed. When there is conflicting information, the importer should notify the shipper of any incorrect classifications to ensure it is corrected for future submissions.

As for the HTS number, Customs is referencing the United States Harmonized Tariff Schedule. If there is a doubt as to what number to input, the shipper could provide a detailed description.

C) Will cargoes loaded onto Mafi or bolster type container equipment (that is, container platforms with open tops and no sides) be considered containerized and therefore the carrier can rely on “shippers declared description and weight of cargo”.

Answer: Since the cargo is visible and is not sealed Customs will not accept Shipper’s Load and Count.

- 31. Data Element #8 – Shipper’s Name and Address:** Freight forwarders may contract with carriers under FMC service contracts as “agents for” various shippers. Is it correct that the name and address of the actual shipper, and not the name and address of the freight forwarder, must be used? If the forwarder appears “as agent for” the shipper, is it correct that the shipper should be the second named party?

Answer: The name and address of the actual shipper must be used. The second notify party is to allow parties that are automated with Customs to receive electronic information concerning the shipment. Therefore, listing the shipper as the second notify party is not acceptable for this data element.

32. **Data Element #9 – Consignee and To Order Bills:** Item (ix) provides that for “to order” bills of lading, where there is no consignee, this information item should include the name of the cargo “owner or the owner’s representative”. The regulation does not state any limitation or definition of who an “owner’s representative” can be, so we assume it does not require a name or address in the United States, and can be whoever the shipper states on the bill of lading. Please confirm.

Answer: The owner or the owner’s representative will require that a U.S. name and address be provided.

33. **Data Element #14 --Seals:** Item (xiv) requires the “seal numbers for all seals affixed to containers.” We find no requirement in law that a shipper loading a container must seal the container. Nor can a vessel carrier confirm who affixed the seal when the container is stuffed. Only the shipper is in a position to do that. The carrier, however, can check the seal number when it receives the container.

A. If a carrier receives a container from a shipper without a seal, the carrier will generally put a seal on the container. In those rare cases, does Customs want the carrier to state “None” for the seal number? We assume that simply listing the number of the seal the carrier may have affixed is not what Customs would want.

Answer: Many vessel carriers are participants in C-TPAT and have agreed to ensure that high security seals or locks are affixed containers. Therefore, if a loaded container is delivered to the carrier without a seal the carrier is obligated under its C-TPAT agreement to seal the container. The carrier should then input the seal number that they placed on the container. Ideally, Customs is in agreement that the shipper loading the container should be required to seal it. Presently, C-TPAT is not available to foreign shippers, once this piece to C-TPAT is open, seals will be addressed with the foreign shippers.

B. When a carrier becomes aware that the number of the seal affixed to the container it has received does not match other shipment documentation indicating what the originally fixed seal number should have been, what does Customs want the filing carrier to do for this item?

Answer: The carrier should notify Customs at the same location where they are submitting their cargo declaration. Additionally, carriers should try to obtain documentation that an export examination was conducted by a foreign agency. Customs has continually stated that if cargo declarations are amended or

changed the 24-hour clock would begin from the date and time that Customs received the last transmission. However, if the carrier or NVOCC can provide documentation from foreign customs to the Customs port where the cargo declaration was submitted, the port may waive the requirement for a new 24-hour clock.

C. It is not unusual for offshore customs authorities to inspect an export container just prior to vessel loading, and then affix a new seal. This will occur after the CF 1302 with the original seal number has been filed with US Customs. Under the Carrier and Super-Carrier Initiatives, carriers have procedures to track seal changes, and Customs follows-up on a case-by-case basis. Please confirm that this procedure is the way to address seal changes post - CF 1302 filing.

Answer: The carrier should notify Customs at the same location where they are submitting their cargo declaration. Additionally, carriers should try to obtain documentation that an export examination was conducted by a foreign agency. Customs has continually stated that if cargo declarations are amended or changed the 24-hour clock would begin from the date and time that Customs received the last transmission. If the carrier or NVOCC can provide documentation from foreign customs to the Customs port where the cargo declaration was submitted, the port may waive the requirement for a new 24-hour clock.

- 34. NVOCCs:** What appears clear is that Customs will require NVOCCs' cargo descriptions and house bill of lading information to be filed electronically in AMS:
- by the NVOCC itself obtaining a bond and becoming automated,
 - by the NVOCC using a vessel carrier to file in AMS its cargo declaration and house bill of lading information for it,
 - by the NVOCC using an automated NVOCC to file the information for it, or
 - by the NVOCC using an automated third party filing service.

Answer:

Bullet 1 - In this example, the automated NVOCC will file their cargo declarations directly to U.S. Customs. This process is the same as the carriers who file directly to Customs. The additional requirement is that the NVOCC must place the contracting vessel carrier (meaning the vessel carrier issuing the bill of lading to the NVOCC), not the vessel operating carrier in the second notify party location. Each second notify party that is identified will receive messages from Customs every time a bill of lading has been changed, held and released. The identifiers included in the transmission are:

- | | |
|---------------|--------------------|
| - SCAC | - Bill of Lading # |
| - Vessel Name | - Disposition Code |
| - Voyage # | - Quantity |

- | | |
|-----------------------|------------------------|
| - Manifest Sequence # | - Entry Type |
| - IMO # | - Entry # |
| - Port of Unlading | - Action Date and Time |
| - Date | - Container # |

Bullet 2 – Due to business and IT issues, Customs will work on this via COAC to develop clear procedures. However, Customs has been made aware of several carriers who have developed procedures to input the NVOCCs bills of lading. Hopefully, a best practices document would be distributed amongst the carriers.

Bullet 3 - In this example, the non-automated NVOCC must submit their cargo declaration information to the AMS NVOCC who is presenting the container to the carrier. The AMS NVOCC will input the cargo declaration as if it was their own. A freight forwarder or NVOCC can not be listed, only the designated shipper and consignee. Contracting vessel carrier must be listed as the second notify party.

Bullet 4 - In this example, if the non-automated NVOCC elects to submit their cargo declaration information to a Service Provider or Port Authority to transmit to U.S. Customs, then the non-automated NVOCC must obtain an International Carriers Bond. The vessel carrier must be listed as the second notify party.

NOTE: All parties must submit a hard copy of their cargo declaration to the carrier to comply with the requirement to maintain a copy of the manifest onboard the vessel.

- 35. Data Element Requirements for Vessel Carrier:** The vessel carrier does issue bills of lading to its NVOCC customer. Is there any information that a vessel carrier must include on its CF 1302 regarding containers it is transporting for an NVOCC that is filing in AMS?

Answer: NVOCCs that become automated will be required to submit a completed cargo declaration to Customs. The automated NVOCC must include the vessel carrier that has contracted with the NVOCC as the second notify party. If the vessel carrier is transmitting the cargo declaration to Customs for a non-automated NVOCCs the NVOCC must provide complete cargo declaration for all bills of lading to the vessel carrier.

To whom and when would information pursuant to cargo examinations be made available?

Answer: Holds and subsequent removal messages will be sent to the party that transmitted the manifest data to Customs through AMS and also to any parties designated for secondary notification. For carriers that submit paper cargo declarations, the party presenting the cargo declaration to Customs will receive the notifications.

The Comments to the regulation state that “the vessel operator is only responsible for ensuring that the NVOCC’s Standard Alpha Code (SCAC) ... is included on the Customs Form (CF) 3171 that is presented to Customs.” The CF 3171, however, is not filed prior to vessel loading, but as the Comments state, “48 hours prior to arrival in the United States”.

Answer: For vessels that arrive in the United States, Customs only receives one CF 3171 per port that includes reporting all SCAC codes for that vessel. The arriving vessel is responsible for supplying this information to Customs, since the vessel carrier is the second notify party they must inform the vessel operator of all SCAC codes transported on the vessel. The vessel carrier must notify the automated NVOCC of any changes they made to the cargo that was manifested by the NVOCC (overages/shortages).

- 36. Second Notify Party:** It is essential that a vessel carrier know of any hold messages regarding an NVOCC’s box before vessel loading commences. It seems clear that a vessel carrier which is chartering slots would list the vessel operator in this situation. It is assumed an automated NVOCC would be required to list the vessel carrier with whom it has contracted. Is this correct? Would it have to also list the vessel operator if the vessel carrier is a slot charterer, or is the communication to the vessel operator in that case the responsibility of the slot charter?

Answer: The automated NVOCC would be required to list the vessel carrier as the second notify party.

Is it correct that the Second Notify Party field must “be completed” by the NVOCC to include the vessel carrier transporting the box, and that without this field completed, the NVOCC’s filing will be incomplete and not accepted?

Answer: The second notify party will be a required field for NVOCCs.

What information is the Second Notify Party given other than access to Customs “hold” messages? Will container number and NVOCC SCAC code (or other identifier) be included in Second Notify Party information?

Answer: The second notify party will receive messages from Customs every time a bill of lading has been changed, held, and released. Customs is currently evaluating the programming it would take to limit the information that is sent to second notify parties. The identifiers included in the transmission are:

- | | |
|-----------------------|--------------------|
| - SCAC | - Bill of Lading # |
| - Vessel Name | - Disposition Code |
| - Voyage # | - Quantity |
| - Manifest Sequence # | - Entry Type |

- IMO #
- Port of Unlading
- Date
- Entry #
- Action Date and Time
- Container #

What is required from an IT/systems perspective to ensure that all NVOCC Second Notify Party listings will result in any “hold” notices for the NVOCC’s cargo being effectively transmitted via AMS to the vessel carrier before vessel loading?

Answer: All AMS participants are required to test their system with the Office of Information and Technology before they are allowed to transmit data in AMS.

Does Customs have a program to inform NVOCCs, especially overseas NVOCCs, how to become AMS and bond compliant within 90 days?

Answer: Presently, the Office of Information and Technology has a defined implementation program for automating carriers in AMS. These same requirements will be used to automate NVOCCs. Customs utilizes the Federal Register and Shipping Organizations, the carriers should be distributing information to their foreign shippers advising them of the new requirements.

37. Co-loading:

Is the master NVOCC the responsible filing party for all bills of lading in a co-loaded container?

Answer: Customs is defining the term "master NVOCC" as the party responsible for presenting the container to the vessel carrier. An automated master NVOCC will be the responsible filing party for all parties that are not automated. A non-automated master NVOCC will be responsible for providing paper cargo declaration to the carrier or an approved automated third party service provider for all parties that are not automated.

If all the NVOCCs in a co-loaded box are “automated”, can each NVOCC file the information needed from its own bills of lading in AMS?

Answer: Automated Master NVOCC will be responsible for all paper cargo declarations. Any automated NVOCC that is co-loading must file directly to Customs in AMS. Non-automated NVOCC must provide the cargo declaration information to the master NVOCC or use a service provider/port authority that can transmit the information to Customs. Non-automated NVOCC will not be authorized to present their cargo declaration to the vessel operator, when co-loading with an automated master NVOCC.

Non-automated master NVOCC must submit the cargo declaration for all non-automated parties co-loading within the container to the vessel carrier or a third party service provider for input into AMS. Automated NVOCCs that are co-loading, will be required to transmit their cargo declaration to Customs in AMS. All automated parties within the container must include the vessel carrier as the second notify party.

If each NVOCC can file, does the vessel carrier need to know how many NVOCCs are obliged to file in AMS for a container it is loading and transporting, and how would it know this? Will each co-loading NVOCC have to list the vessel carrier as the Second Notify Party for its filing to be acceptable?

Answer: The automated NVOCCs will be required to give complete cargo declaration information for all bills of lading and have the vessel carrier as the second notify party. AMS will not notify the vessel carrier of how many NVOCCs have filed in AMS for a container. If this information is requested or needed by the vessel carrier it would not be captured in AMS.

The commentary states that if a non-automated NVOCC is co-loading with an automated "master" NVOCC, the non-automated NVOCC "must fully disclose and present the required manifest for their cargo to the automated NVOCC who would be required to present this information to Customs via vessel AMS." If the non-automated co-loading NVOCC does not want to give its bill of lading information to the master NVOCC (a potential competitor), but comes to the vessel carrier to file its cargo declaration information via AMS, do the regulations permit this or is the AMS filing only to be done by the automated NVOCC?

Answer: No, please refer back to previous answers provided in #37 Co-loading, question 2.

- 38. SCAC:** How does a carrier or NVOCC obtain a Standard Carrier Alpha Code (SCAC)?

Answer: SCAC codes can be obtained from the National Motor Freight Traffic Association (NMFTA), located in Alexandria, VA. The phone number is: (703) 838-1810, or go through their web site at: www.nmfta.org/scac2.htm

- 39.** What does a carrier or NVOCC do once they have obtained a SCAC code?

Answer: Fax a copy of the document that is received from NMFTA that identifies the SCAC code, to U.S. Customs, Office of Information and Technology at (703) 921-7173 for input into the Automated Commercial System.