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New requirements for Maritime Cargo Carriers and Importers (10 + 2)

The following is compiled by Russell A. Farrow (U.S.) Inc. based on a news release issued by the U.S. Department of Homeland Security.

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The U.S. Department of Homeland Security announced new information requirements on maritime cargo destined for the United States. ***The Importer Security Filing and Additional Carrier Requirements (10+2) interim final rule will require maritime cargo carriers and importers to submit additional data to U.S. Customs and Border Protection (CBP) before vessels are permitted entry into the country.***

The rule requires carriers to submit a vessel stow plan and container status messages under certain scenarios where cargo containers are destined for the United States. ***The rule also requires importers or their agents to submit an Importer Security Filing (ISF) with eight data elements, no later than 24 hours before the cargo is laden aboard a vessel destined for the United States. The eight data elements are:***

1. Seller;
2. Buyer;
3. Importer of record number / foreign trade zone applicant identification number;
4. Consignee number(s);
5. Manufacturer (or supplier);
6. Ship to party;
7. Country of origin; and
8. Commodity Harmonized Tariff Schedule of the United States (HTSUS) number

The rule provides flexibility for importers with respect to the submission of four of these data elements. In lieu of a single specific response, importers may submit a range of responses for each of the following data elements: manufacturer (or supplier), ship to party, country of origin, and commodity HTSUS number. The ISF must be updated as soon as more accurate or precise data becomes available and no later than 24 hours prior to the ship's arrival at a U.S. port.

The ISF will also need to include two data elements that must be submitted as early as possible, but no later than 24 hours prior to the ship's arrival at a U.S. port. These data elements are:

1. Container stuffing location; and
2. Consolidator.

In addition, the interim final rule requires five data elements in the ISF for shipments consisting entirely of foreign cargo remaining on board (FROB), shipments consisting entirely of goods intended to be transported in-bond as an immediate exportation (IE), or shipments for transportation and exportation (T&E). Importer Security Filings for IE and T&E shipments must be submitted no later than 24 hours before the cargo is laden aboard a vessel destined for the United States, and any time prior to lading for FROB shipments. The following five data elements must be submitted for FROB, IE and T&E shipments:

1. Booking party;
2. Foreign port of unloading;
3. Place of delivery;



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4. Ship to party; and
5. Commodity HTSUS number.

CBP has made several significant changes from the proposed rule based on public and stakeholder feedback. The interim final rule includes a delayed compliance date of 12 months after the interim final rule takes effect. During this 12-month period, CBP has stated they will show restraint in enforcing the rule. CBP has stated they will take into account difficulties that importers may face in complying with the rule as long as importers are making a good faith effort and satisfactory progress toward compliance.

CBP also has stated they will conduct a review to determine any specific compliance difficulties that importers and shippers may experience in submitting all 10 data elements, 24 hours before lading. The structured review will cover a range of enterprises, from small to large, and will include both integrated and nonintegrated supply chains.

The Importer Security Filing and Additional Carrier Requirements (10+2) interim final rule has been submitted to the Federal Register and will take effect 60 days after publication. CBP invites written comment on the six data elements for which some type of flexibility has been provided, and on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. Comments must be received on or before June 1, 2009, which marks the end of the information gathering phase of the structured review.

Based on the information obtained during the structured review and public comment periods, CBP will conduct an analysis of the elements subject to flexibility. The analysis will examine compliance costs for various industry segments, the impact of the flexibilities, the barriers to submitting the data 24 hours prior to lading, and the benefits of collecting the data. Based upon the analysis, DHS will determine whether to eliminate, modify or maintain these requirements.

To review the Fact Sheet: New Cargo Security Requirements for Maritime Carriers and Importers, please go to

www.dhs.gov/xnews/releases/pr_1227548591399.shtm

The following is a link to the Federal Registrar's interim final rule on Importer Security Filing and Additional Carrier Requirements:

<http://edocket.access.gpo.gov/2008/pdf/E8-27048.pdf>

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