

Non Vessel Operating Common Carriers (NVOCCs) be eliminated, due to a number of operational problems experienced by incoming carriers, that have resulted from limitations said to be inherent in the Vessel Automated Manifest System (AMS) when NVOCCs, as opposed to the vessel carriers, transmit shipment information to CBP; at the same time, though, it was advocated that importers should be permitted, at their discretion, to file through AMS certain information that would likely best be known to them as to the identification and nature of the incoming cargo. Also, it was asked that definitions be added to the regulations regarding those data elements pertaining to shipper and consignee information. In addition, it was asked that Department of Defense-contracted conveyances be exempted from the 24-hour rule.

CBP Response

In sum, CBP stands by the 24-hour rule for incoming vessel cargo and does not contemplate any major change to it under this rulemaking, with one exception: to introduce the mandate that vessel carriers file their advance cargo manifest information with CBP electronically.

As explained in the final rule (67 FR at 66319), the 24-hour pre-lading requirement for incoming vessel cargo, especially containerized vessel cargo, is tied inextricably to the Container-Security Initiative (CSI). CSI was developed to secure an indispensable, but vulnerable, link in the chain of global trade: containerized shipping. Annually, more than 6 million cargo containers are off loaded at U.S. seaports. A core element of CSI is to pre-screen such containers at the port of departure *before* they are shipped. To enable this pre-screening to be done fully and effectively, it is essential that the required advance cargo declaration information be presented to CBP at least 24 hours prior to lading the cargo aboard the vessel at the foreign port.

With the implementation of CSI and the 24-hour rule, CBP has been able to identify shipments that have posed potential threats; and security-related seizures of problematic shipments have occurred. In short, these programs—CSI coupled with the 24-hour rule—have become a critical bulwark against threats to the safety and security of United States seaports, trade, industry, and the country.

Non Vessel Operating Common Carriers (NVOCCs)

In consideration of the competitive relationships that exist in the

international freight forwarding field, those NVOCCs that seek to file required business proprietary and other confidential cargo information for their incoming shipments directly with CBP should be allowed to do so, rather than having to furnish such information to vessel carriers for electronic presentation to CBP. The CBP is confident that operational issues that have arisen in relation to the implementation of the 24-hour rule will over time be satisfactorily addressed; toward this end, CBP will continue to be available to assist the trade in resolving such issues.

There is no consensus in the trade community as to whether importers should provide sea cargo data to CBP. When this split is coupled with the current design and functionality of the AMS system, CBP finds that allowing importers, at their discretion, to participate in advance electronic filing through the system would at this time be neither advisable nor practicable.

Government Vessels

Government vessels falling within the purview of § 4.5(a), Customs Regulations (19 CFR 4.5(a)), are exempt from the requirement to make entry, and, as such, they would already be exempt from having to comply with advance cargo declaration reporting under the 24-hour rule (*see* 19 CFR 4.7(a), (b)(2)). For purposes of enlarging upon those vessels that would be subject to such exemptions, it is noted that by a separate, interim rule, CBP will expand the definition of government vessels.

Data Elements—Shipper, Consignee; Date and Time of Departure

With reference to the identity of the shipper, at the master bill level, for consolidated shipments, the identity of the Non Vessel Operating Common Carrier (NVOCC), freight forwarder, container station or other carrier would be sufficient. For non-consolidated shipments, and for each house bill in a consolidated shipment, the identity of the actual shipper (who is both the owner and the exporter) of the cargo from the foreign country would be needed. To elaborate, the foreign owner of the goods just before they are delivered for export, and who initially consigns and ships them from the foreign country, is the party who ultimately decides that the goods are to be disposed of in another country, such as the United States. The foreign shipper and owner of the goods is, therefore, the exporter, because this is the party initially responsible for causing the export. Section

4.7a(c)(4)(viii), Customs Regulations (19 CFR 4.7a(c)(4)(viii)), would be revised to include the additional meaning of this data element.

In addition, with reference to the identity of the consignee, for consolidated shipments, at the master bill level, the identity of the NVOCC, freight forwarder, container station or other carrier would be sufficient. However, parties identified as “consolidators,” even though they may also be NVOCCs, may not participate in Vessel AMS.

For non-consolidated shipments, and for each house bill in a consolidated shipment, the consignee would be the party to whom the cargo would be delivered in the United States, with the exception of “FROB” (Foreign Cargo Remaining On Board). If the name of the consignee, as described, is available, the carrier must disclose this information. However, where cargo is shipped “to the order of [a named party],” which is a common business practice, the carrier must report this named “to order” party as the consignee in the advance cargo information submission; and, if there is any other commercial party listed in the bill of lading for delivery or contact purposes, the carrier must also report this other commercial party’s identity and contact information (address/phone number) in the “Notify Party” field of the advance electronic data transmission to CBP, to the extent that the CBP-approved electronic data interchange system is capable of receiving this data. Section 4.7a(c)(4)(ix) would be revised to include the added meaning of this data element.

Also, § 4.7a(c)(4) would further be amended to require the date and time of the departure of the vessel from foreign, as reflected in the vessel log.

Overview; Vessel Cargo Destined to the United States

Electronic Filing Mandate

Under this proposed rule, in principal part, the 24-hour rule would be amended to provide that vessel carriers must present their cargo declarations to CBP by means of a CBP-approved electronic data interchange system, 24 hours before lading the cargo aboard the vessel in the foreign port.

Transition/Timetable for Compliance With Electronic Filing Mandate

Within 90 days of the publication of this advance electronic cargo information requirement as a final rule in the **Federal Register**, all ocean carriers, and NVOCCs choosing to participate, must be automated on the Vessel AMS system at all ports of entry