

Other Government Agencies; Single Portal for Collecting Data

Comment: It was advocated that CBP and the U.S. Food and Drug Administration (FDA) should harmonize the data elements and time frames for advance information that both agencies would now require. A single integrated computer system should be developed for the submission of advance information.

CBP Response: The CBP is working diligently with the FDA towards integrated filing and risk management mechanisms. In fact, an agreement was reached in May 2003 between CBP and FDA to modify CBP's Automated Commercial System (ACS) to enable importers, in most cases, to use this system to satisfy the advance informational requirements of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188) (the Bioterrorism Act) and implementing regulations. In the **Federal Register** of October 10, 2003 (68 FR 58974), FDA, in conjunction with CBP, issued an interim final rule requiring prior notice of food imported into the United States, beginning on December 12, 2003. The interim final rule requires that the prior notice be submitted to FDA electronically via either the CBP's Automated Broker Interface (ABI)/ACS Interface or the FDA's Prior Notice System Interface. The interim final rule on prior notice of imported food shipments is available at <http://www.cfsan.fda.gov/~lrd/fr03o10b.html>. The CBP is also making modifications to ACS to allow ACS to be used to satisfy the prior notice requirements of the Bioterrorism Act.

The CBP's Automated Commercial Environment (ACE) is intended to operate as a single window for the submission of import information to the Government, once it is developed and implemented as part of the International Trade Data System (ITDS). Nevertheless, in light of the urgent need, in particular, to implement both section 343(a), as amended, and the Bioterrorism Act, the Government cannot delay such implementation until a fully-interfaced, multi-agency electronic data interchange system is in place, either within ACS or ACE.

The Automated Commercial Environment (ACE)

By way of additional perspective on the Automated Commercial Environment (ACE), CBP Modernization began in 2001, with the ACE focusing on import and export cargo operations. The ACE, as just noted, along with other entities will ultimately form one system

providing a "single screen" for the international business community to interact with CBP and other government agencies on import/export requirements. The ACE will power an expedited release process for carriers and shippers that have prefiled, been pre-approved, and have been subject to enforcement prescreening and targeting. An integrated risk management and targeting system will implement all types of enforcement and selectivity screening for commercial shipments. The ACE will provide both CBP and the business community with the tools and technology to ensure secure supply-chain management. The program will include tools that will provide for: advanced manifesting system for all modes of transportation; tracking of intermodal shipment movements and cargo moving in-bound; enhanced conveyance and transit cargo tracking for shipments from origin to destination. Finally, when exports are processed in ACE, CBP will have a complete end-to-end record of cross-border processing and international supply chain information.

To date, ACE has provided the infrastructure to support the establishment of 41 Importer Accounts. These accounts have access to a quick view of their importing and compliance history as well as the functionality to print numerous reports. This functionality also provides for interaction between the Accounts and CBP in the form of an Action Plan and a Significant Activity Log. Both the Trade Community and CBP now have access to an electronic automated Harmonized Tariff Schedule. Near term functionality for ACE will include the establishment of 1100 Accounts to include brokers, importers and truck carriers. The establishment of these accounts will allow the account holders to pay duties and fees on a Monthly Periodic Statement (April 2004) and provide for the capability of truck carriers to file an advanced electronic Truck Manifest (October 2004), which will support the legislative requirements of the Trade Act of 2002.

Time Period for Implementing Advance Cargo Data Reporting

Comment: Consideration should be given to making the advance reporting provisions operational on a region-by-region "roll out." There should also be a liberal "grace period" permitted prior to enforcement of the new regulations so that both Government and the trade would have sufficient time to adjust to the new security requirements without disorganization or disruption.

CBP Response: It is stressed that the differing effective dates of these regulations may be further delayed for the several modes, both inbound and outbound, as already provided variously in §§ 122.48a(e) (for inbound air cargo), 123.91(e) (for inbound rail cargo), 123.92(e) (for inbound truck cargo), and 192.14(e) (for outbound cargo, all modes). Only as to incoming vessel cargo is there a firm effective date of March 4, 2004, by which time all participating advance cargo data filers must be operational on the Vessel Automated Manifest System (Vessel AMS).

However, no matter when the various regulations in this final rule go into effect, CBP will adopt a phased-in enforcement process for these Trade Act Regulations similar to that which was utilized when the 24-Hour Rule was implemented. Depending on the circumstances, CBP may take an "informed compliance" approach during a short period following the effective date of the rule. In appropriate circumstances, this approach would consist of performing audits of the carriers' and NVOCCs' (Non Vessel Operating Common Carriers') submissions and advising their owners or operators of problem areas that could have been subject to enforcement action.

Following an initial 2-month period after issuance of the 24-Hour rule, CBP created an enforcement approach that focused first on egregious violations. The CBP experienced an enormous decrease in the instances of such problem submissions immediately before, and after, expiration of the initial period when the "informed compliance" approach was implemented.

Therefore, in implementing these Trade Act Regulations, CBP has demonstrated experience in implementing a phased-in enforcement strategy and expects to develop similar plans with respect to these new advance cargo reporting requirements.

Furthermore, as with the 24-hour rule, CBP intends to continue to work with the trade to achieve compliance with the requirements of these regulations. However, CBP does not believe that a region-by-region implementation of the regulations would be either advantageous or advisable under the circumstances.

Comment: Two commenters wanted a uniform advance notification enforcement date for all modes to include both outbound and inbound shipments.

CBP Response: The implementation dates for all modes will vary, due to the readiness and availability of the