

particular, for automotive producers, it was stated that obtaining a complete and correct list of the Harmonized Tariff Schedule (HTS) numbers for all exports of automotive parts and components could be a daunting task. One shipment could contain many types of original equipment manufacturer (OEM) or replacement parts; it was instead urged that CBP accept a generic cargo description such as "New Autoparts" regardless of the mode of transportation involved.

**CBP Response:** CBP will issue an Acceptable and Non-Acceptable cargo description list as was done with the 24-Hour Rule for incoming vessel cargo. This list will be the same for all modes of transportation.

Generally speaking, CBP has defined a precise cargo description as a description precise enough for CBP to be able to identify the shapes, physical characteristics, and likely packaging of the manifested cargo so that CBP can discern any anomalies in the cargo when a container is run through imaging equipment. Also, the description must be precise enough to identify any goods which may emit radiation.

The requirement that a carrier/filer use cargo descriptions that would not be considered vague should not be overly burdensome. The CBP has undertaken continuous efforts prior to and since the promulgation of the 24-hour Advance Manifest Rule in the sea environment to educate all filers on cargo descriptions that would be considered vague as well as on issues raised by trade representatives. The cargo descriptions that are considered vague have been posted on the CBP Web site (Frequently Asked Questions) since March 2003. The descriptions were not designed to force carriers/filers to achieve entry level descriptions. In most cases, the descriptions require only one or two further qualification descriptors.

**Comment:** Participation in such an electronic data interchange as the Automated Manifest System (AMS) should be covered by regulations pursuant to the Administrative Procedure Act that provide uniform requirements for enrollment and acceptance into these electronic filing programs, and that govern the suspension, revocation or modification of participation in these programs.

**CBP Response:** Participation in the electronic systems described in this rulemaking was formerly voluntary as part of the National Customs Automation Program (NCAP) described in 19 U.S.C. 1411(a). As part of the Trade Act of 2002, Congress amended section 1411 to permit CBP to mandate

use of the electronic systems of NCAP. To effectuate the requirement in section 343 of the Trade Act of 2002 for the electronic transmission of section 343 cargo information in compliance with Congress's timetable, CBP is mandating use of several of these existing NCAP electronic systems.

The criteria for establishing connection with these systems were set forth in the notices of the tests of these systems (e.g., for the Vessel Automated Manifest System (Vessel AMS) program, see 61 FR 47782 (September 10, 1996), and 67 FR 77318 (December 17, 2002)); the eligibility criteria for these programs also appear on the CBP Web site: [http://www.cbp.gov/xp/cgov/import/operations\\_support/automated\\_systems/ams/](http://www.cbp.gov/xp/cgov/import/operations_support/automated_systems/ams/).

Because electronic filing is now mandatory, CBP will not prohibit or restrict use of the required systems by filers as it might under a voluntary test program. The CBP does reserve the right to take necessary technical steps to deny connections in the event of electronic attacks (e.g., denial of service attacks), but otherwise access will be available. Therefore, no procedures regarding suspension or revocation of access to these systems are required. Instead, CBP will ensure compliance with mandatory electronic filing requirements through monitoring by account managers, penalty assessments or claims for liquidated damages, as appropriate to the circumstances.

#### **Vessel Cargo Destined to the United States**

##### *Submission Time Frames*

**Comment:** Seven commenters advocated that the pre-arrival and post-loading data submissions acceptable for the other modes should also be acceptable for maritime cargo. There should be no significant differences in risk between air and maritime cargoes. The 24-hour pre-loading requirement could disrupt "Just In Time" (JIT) delivery systems.

**CBP Response:** As explained in the 24-hour rule (67 FR at 66319) and as reiterated in the proposed rule in this case (68 FR at 43577), the 24-hour pre-lading requirement for vessel cargo, especially containerized vessel cargo, is tied inextricably to the Container Security Initiative (CSI), a core element of which is to pre-screen vessel cargo containers at the foreign port of departure before they are loaded onto the vessel for shipment to the United States. To enable such pre-screening to be done fully and successfully, it is essential that the related cargo data be transmitted to CBP at least 24 hours

prior to lading the cargo aboard the vessel.

In relation to JIT deliveries, CBP requires the electronic transmission of cargo declaration information 24 hours in advance; CBP is not requiring that the cargo be ready for inspection or that the cargo be at the dock. However, CBP recognizes the 24-hour pre-lading reporting may occasion some changes in the practice of sometimes adding last minute loads to vessels, but only if such loads were not manifested 24 hours prior to their lading.

#### **Exemption From Advance Filing**

##### *Bulk/Break Bulk Cargo*

**Comment:** It was requested that consideration be given to exempting bulk cargoes from the requirement of electronically having to submit cargo declarations.

**CBP Response:** CBP has given bulk, and some break-bulk shipments, exemptions from the requirement to file 24-hours prior to loading, but these entities will still be required to file their cargo declarations electronically.

**Comment:** Section 4.7(b)(2), Customs Regulations (19 CFR 4.7(b)(2)), implied, erroneously, that only vessels exclusively carrying bulk or break bulk cargo could be exempted from having to report such cargo 24 hours prior to loading the cargo aboard the vessel in the foreign port.

**CBP Response:** The CBP agrees. Section 4.7(b)(2) will be revised to make it clear, in agreement with § 4.7(b)(4), that for vessels that carry both non-exempt cargo and exempt bulk/break bulk cargo, only the non-exempt cargo must be reported on the electronic cargo declaration 24 hours prior to loading such cargo in a foreign port.

#### **Data Elements**

##### *Precise Cargo Description; 6-Digit HTS Number*

**Comment:** Section 4.7a(c)(4)(vii) stated that either a precise cargo description or the 6-digit Harmonized Tariff Schedule (HTS) number for the cargo had to be provided. However, the Vessel AMS system in fact required a narrative cargo description and (if desired) an HTSUS 6-digit number for the cargo, or the transmitted bill of lading would be rejected.

**CBP Response:** Currently, AMS does require text in the description field of the electronic transmission, or AMS will reject the transmission, even though a 6-digit HTSUS number is also provided in the appropriate field of the transmission. The CBP intends shortly to effect programming changes to allow for either a precise cargo description or