

Customs finalises cargo-filing proposal

Excerpt from the **JOURNAL of COMMERCE ONLINE** By **R.G. Edmonson**

WASHINGTON — The Bureau of Customs and Border Protection has finally finished its proposal for cargo security regulations that Congress required in the Trade Act of 2002.

Under the new rules, carriers in all modes must electronically file cargo data before their aircraft, train, truck or ship arrives in the U.S., and before they ship export cargo.

The rules became available for public inspection on Thursday afternoon. They will be published in the Federal Register on July 23. With a few exceptions, the rules will be effective in 90 days, or around Oct. 21. Customs is accepting comments for 30-days.

While the proposed regs have been the focus of speculation among trade interests since Customs held public meetings in February, it's apparent that the agency has attempted to accommodate the industry while complying with the trade act.

Since the February meetings, Customs officials have indicated they were making changes from the "strawman" proposals they put out for discussion.

In their official form, carriers should find few surprises:

Vessels

- Imports: Virtually no change from the current 24-hour rule, except cargo data must be filed electronically using the Automated Manifest System (AMS).
- Exports: 24 hours before the vessel departs using the Census Bureau's Automated Export System (AES). Licensed exports must give 72 hours advance notice.

Railroads

- Imports: Two hours before arrival at the U.S. border using Rail AMS.
- Exports: Four hours before a locomotive is connected to a train that is due to depart for Canada or Mexico using AES.

Air carriers

- Imports: At "wheels up" for cargo that originates in the Americas north of the Equator. All other cargo, four hours before arrival in the U.S. Both use the Air AMS system.
- Exports: Two hours before departure using AES.

Motor carriers

- Imports: 30 minutes to 1 hour before arrival, depending on which reporting systems they use.
- Exports: One hour prior to arrival at the border using AES.

Customs is relying on the industry's use of existing electronic systems to meet the tight deadlines that Congress imposed. In all but one case, AMS and AES are the reporting mechanisms, until their functions can be included in the new Automated Commercial Environment (ACE) that is in development.

That creates problems for truckers that never have been included in AMS. A truck manifest system will be among the first modules in ACE. In the interim, Customs will allow trucks to use four systems: the Free and Secure Trade (FAST) system, the Pre-arrival Processing System (PAPS), the Border Release Advanced Screening and Selectivity system (BRASS), or the Customs Automated Forms Entry System (CAFES)

Carriers, shippers and intermediaries that are familiar with the cargo data that Customs now requires for ocean shipments will find the data requirements for other modes very similar.

In general, carriers must report carrier identification, origin, destination, complete cargo description, and the names and addresses of shipper and consignee.

Shippers will not be able to report their own data directly to Customs to protect confidential business information. Customs said the existing systems are not set up to receive it.

But Customs said any data that is not in the public domain under the Tariff Act of 1930 will be kept confidential.

Customs' proposal does not provide relief for the anxiety the industry has had about proposed rules from the Food and Drug Administration that require advance reporting of food imports.

Customs and the FDA reportedly have worked out a way so importers will only have to report cargo data once. All the proposed regulations say is that Customs "will work with other interested agencies to share information."

Customs noted that the industry strongly favored Option 4 for exporters using AES. The option allows the filing of export declarations after cargo has been shipped.

While port-departure reporting is counter to the trade act requirements, Customs said it will work with Census and the Transportation Security Administration to expedite exports.

The agency said it might find a way to expedite cargo for participants in the known-shipper program, and Customs-Trade Partnership Against Terrorism.

Customs said it supports a "structured system of exemptions or pre-approval programs that recognize varying degrees of risk." It would support post-departure reporting by "highly compliant exporters."
