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"NEWS-UPDATE"

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"10+2" Proposed Rule Published

Agency: U.S. Customs and Border Protection, Department of Homeland Security
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U.S. Customs and Border Protection (CBP) has published its long-awaited proposed rule on "10+2" information collection requirements for incoming cargo.

CBP proposes to require both importers and carriers to submit additional information pertaining to cargo before the cargo is brought into the United States by vessel. The agency must receive this information by way of a CBP-approved electronic data interchange system. The agency believes the information required is reasonably necessary to improve the ability of CBP to identify high-risk shipments so as to prevent smuggling and ensure cargo safety and security. The proposed regulations are specifically intended to fulfill the requirements of section 203 of the SAFE Port Act of 2006 and section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002.

Currently all cargo vessels must comply with the 24 Hour Rule. Under the rule, an electronic manifest must be submitted to CBP 24 hours prior to lading of containerized and non-exempt break bulk cargo at a foreign port. The proposed new rule,

commonly referred to as "10+2," would mandate several additional pieces of information, with some of the data elements required from carriers and others required from importers (as defined in the proposed regulation). As defined in the *Federal Register* notice,

carriers would be generally required to submit a vessel stow plan and container status messages regarding certain events relating to containers loaded on vessels destined to the United States (the "2" of "10+2"). Importers, as defined in these regulations, would be required to submit an Importer Security Filing containing certain data elements (the "10" of "10+2"). For purposes of the proposed regulations, importer means the party causing goods to arrive within the limits of a port in the United States. For foreign cargo remaining on board (FROB), the importer is construed as the carrier. For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a foreign trade zone (FTZ), the importer is construed as the party filing the IE, T&E, or FTZ documentation with CBP.

Listed on the pages that follow are brief descriptions of the ten data elements that would be required of importers and the two elements for which carriers would be responsible. Given the acronym-rich nature of 10+2, readers may want to consult the key below.

Acronyms Related to the 10+2 Rule

CBP = U.S. Customs and Border Protection

COAC = Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions

CSM = Container Status Messages

DHS = Department of Homeland Security

EIN = Employer Identification Number

FROB = Foreign Cargo Remaining on Board

FTZ = Foreign Trade Zone

HTSUS = Harmonized Tariff Schedule of the United States

IE = Immediate Exportation

IMO = International Maritime Organization

IRS = Internal Revenue Service

MID = Manufacturer Identification

SAFE = Security and Accountability for Every [Port]

SSN = Social Security Number

T&E = Transportation and Exportation

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Importer Information Requirements

CBP is proposing to require importers or their agents to transmit an Importer Security Filing to CBP, for cargo other than FROB, no later than 24 hours before cargo is laden aboard a vessel destined to the United States. Because FROB is frequently laden based on a last-minute decision by the carrier, the Importer Security Filing for FROB would not be required 24 hours prior to lading. Rather, the Importer Security Filing for FROB would be required any time prior to lading.

The ten required elements are:

1. **Manufacturer (or supplier) name and address.** Name and address of the entity that last manufactures, assembles, produces, or grows the commodity or name and address of the supplier of the finished goods in the country from which the goods are leaving. In the alternative, the name and address of the manufacturer (or supplier) that is currently required by the import laws, rules and regulations of the United States (i.e., entry procedures) may be provided (this is the information that is used to create the existing MID number for entry purposes).
2. **Seller name and address.** Name and address of the last known entity by whom the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided.
3. **Buyer name and address.** Name and address of the last known entity to whom the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided.
4. **Ship to name and address.** Name and address of the first deliver-to party scheduled to physically receive the goods after the goods have been released from customs custody.
5. **Container stuffing location.** Name and address(es) of the physical location(s) where the goods were stuffed into the container. For break bulk shipments, the name and address(es) of the physical location(s) where the goods were made “ship ready” must be provided.
6. **Consolidator (stuffer) name and address.** Name and address of the party who stuffed the container or arranged for the stuffing of the container. For break bulk shipments, the name and address of the party who made the goods “ship ready” or the party who arranged for the goods to be made “ship ready” must be provided.
7. **Importer of record number/FTZ applicant identification number.** IRS number, EIN, SSN, or CBP assigned number of the entity liable for payment of all duties and responsible for meeting all statutory and regulatory requirements incurred as a result of importation. For goods intended to be delivered to an FTZ, the IRS number, EIN, SSN, or CBP assigned number of the party filing the FTZ documentation with CBP must be provided. The importer of record number for Importer Security Filing purposes is the same as “importer number” on CBP Form 3461.
8. **Consignee number(s).** IRS number, EIN, SSN, or CBP assigned number of the individual(s) or firm(s) in the United States on whose account the merchandise is shipped. This element is the same as the “consignee number” on CBP Form 3461.
9. **Country of origin.** Country of manufacture, production, or growth of the article, based upon the import laws, rules and regulations of the United States. This element is the same as the “country of origin” on CBP Form 3461.
10. **Commodity HTSUS number.** Duty/statistical reporting number under which the article is classified in the HTSUS. The HTSUS number is required to be provided to the 6 digit level. The HTSUS number may be provided up to the 10 digit level. This element is the same as the “H.S. number” on CBP Form 3461 and can only be used for entry purposes if it is provided at the 10 digit level or greater.

Vessel Stow Plan Information

1. Under the proposed regulations, the vessel stow plan must include standard information relating to the vessel and each container and unit of break bulk cargo laden on the vessel. The vessel stow plan must include the following standard information: With regard to the vessel,
2. Vessel name (including IMO number);
3. Vessel operator; and
4. Voyage number.
5. With regard to each container or unit of break bulk cargo,

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6. Container operator, if containerized;
7. Equipment number, if containerized;
8. Equipment size and type, if containerized;
9. Stow position;
10. Hazmat-UN code;
11. Port of lading; and
12. Port of discharge.

Container Status Messages

1. CBP is proposing to require carriers to submit CSMs daily for certain events relating to all containers laden with cargo destined to arrive within the limits of a port in the United States by vessel. The events for which CSMs would be required are:
 2. When the booking relating to a container which is destined to arrive within the limits of a port in the United States by vessel is confirmed;
 3. When a container which is destined to arrive within the limits of a port in the United States by vessel undergoes a terminal gate inspection;
 4. When a container, which is destined to arrive within the limits of a port in the United States by vessel, arrives or departs a facility;
 5. When a container, which is destined to arrive within the limits of a port in the United States by vessel, is loaded on or unloaded from a conveyance;
 6. When a vessel transporting a container, which is destined to arrive within the limits of a port in the United States by vessel, departs from or arrives at a port;
 7. When a container which is destined to arrive within the limits of a port in the United States by vessel undergoes an intra-terminal movement;
 8. When a container which is destined to arrive within the limits of a port in the United States by vessel is ordered stuffed or stripped;
 9. When a container which is destined to arrive within the limits of a port in the United States by vessel is confirmed stuffed or stripped; and
 10. When a container which is destined to arrive within the limits of a port in the United States by vessel is shopped for heavy repair.

For each CSM submitted, the following information must be included:

1. Event code being reported, as defined in the ANSI X.12 or UN EDIFACT standards;
2. Container number;
3. Date and time of the event being reported;
4. Status of the container (empty or full);
5. Location where the event took place; and
6. Vessel identification associated with the message.

CBP Discusses Comments

The remainder of the notice includes a discussion of the evolution of the 10+2 rule as it has been debated in the Departmental Advisory Committee on Commercial Operations of Customs and Border Protection and Related Homeland Security Functions (COAC), of which AAIE is a member. CBP held several meetings with COAC, as well as with individual industry representatives, to consider the proposed “10+2 Strawman” data requirements. The *Federal Register* notice describes the questions raised about all aspects of “10+2” in the course of several months and CBP’s reactions to those questions and comments.

CBP is now inviting interested persons to submit written data, views, or arguments on all aspects of the notice of proposed rulemaking. DHS also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposal. Comments that will provide the most assistance to DHS in developing these procedures will reference a specific portion of the proposal, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

The NPRM (Notice of Proposed Rulemaking) will soon be published in the Federal Register. Persons wishing to comment on the proposed rule may access the Federal e-Rulemaking Portal at the Regulations.gov website and follow the instructions for submitting comments to docket number USCBP-2007-0077. ([Regulations.gov](http://www.Regulations.gov))