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COAC Submits Extensive "Unofficial" Comments on 10+2 Proposal –

By Broker Power Inc.



The Chair of the Departmental Advisory Committee on Commercial Operations of U.S. Customs and Border Protection and Related Homeland Security Functions (COAC)¹ has submitted "unofficial" comments on CBP's proposed rule to amend 19 CFR to require Security Filing (SF) information from importers and additional information from carriers (10+2) for vessel (maritime) cargo before it is brought into the U.S.

These unofficial comments are from the COAC Advance Data Elements Subcommittee but were submitted by the COAC Chair in his capacity as a citizen, in order to meet the proposed rule's March 18, 2008 comment deadline.²

The following are highlights of the comments submitted:

COAC Urges ACE be Used for Final Production Version of ISF

COAC strongly urges that the Automated Commercial Environment (ACE) be used for the final production version of the importer SF (ISF). The Automated Manifest System (AMS) and Automated Broker Interface (ABI) may be practical for incremental testing and initial implementation, but they have limitations. The ISF must be designed with ACE as the ultimate tool.

COAC Recommends a Planned, Incremental Approach to Phasing in ISF

COAC states that a planned, incremental approach to phasing in ISF is necessary as it is orders of magnitude more complex than the 24 hour rule, which was primarily implemented by a limited set of ocean carriers and focused on traditional manifest data already in the hands of the carriers.

Some data elements never before collected by importers, service providers. With ISF, at one end of the extreme, CBP will potentially affect over 800,000 individual importers. At the other end, CBP will minimally require closer coordination of those importers with their service providers. Some of the data elements required by CBP under ISF have never before been collected by importers or service providers, nor incorporated into existing supply chain information systems, much less been available prior to loading, especially 24 hours prior to loading.

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Volume of data could pose challenge, risk to CBP legacy systems. The volume of data under ISF could present a significant challenge and risk to CBP’s legacy systems. The preliminary projections of the huge increase in data volumes based on Advance Trade Data Initiative (ATDI) are substantial and warrant incremental system development, utilizing a representative group of importers and their agents. This test phase would include stress testing and a technical correction process.

The trade as well as CBP is totally reliant on the efficient performance of the Automated Commercial System (ACS), ABI, and AMS; it could be harmful to both industry and CBP to risk the performance and reliability of those legacy systems which already are recognized to be operating beyond planned capacities. In addition, this phased implementation strategy would facilitate a structured, logical development approach for the programming needed to embed ISF into the eventual incorporation into ACE.

Trade is Prepared to Assist CBP in Identifying Participants

The trade is prepared to assist CBP in identifying an initial set of willing importer participants representing a cross-section of industry sectors to aid CBP in the first round of implementation. A formal process could be established to ensure progressive participation that would ultimately lead to full mandatory trade participation on a global basis. This could be similar to CBP’s approach with ATDI, but the intent would be to gradually introduce a limited set of importers and ISF filers to facilitate testing and refinement of the ISF technical and operational requirements. As ISF matures, additional participants could be brought into the ISF using a planned, staged methodology that would ensure CBP’s existing legacy systems are not adversely impacted.

No Fines, Punitive Messages During Phased-In Implementation Period

COAC believes it would be inappropriate to impose fines, “no-load messages,” or any other punitive measures during any phased-in implementation period. Rather, during the phase-in period, the ISF may undergo changes and improvements, according to lessons learned, adjustments, corrections and new technology.

An “informed compliance” approach to enforcement of the SF requirement would be appropriate during this period. If fines are to be assessed, this should be well after the SF requirements are fully tested, refined and implemented and best practices are clearly established.

Comment Period for 10+2 Proposed Rule Closed on March 18, Over 90 Comments Posted

The comment period on the 10+2 proposed rule closed on March 18, 2008. As of the afternoon of March 18, 2008, over 90 comments were posted to the Federal eRulemaking Portal. (Comments can be viewed, see below.)

¹Formerly known as the "Commercial Operations Advisory Committee."



²The comments were submitted by the Chair as an individual citizen; however, they contain the COAC Advance Data Elements Subcommittee's recommendations and reflect the views of most members of the full COAC committee.

COAC previously submitted eight summary recommendations in response to the proposed rule, but timing and procedural issues prevented the COAC from adopting a more detailed document. COAC continued to work on the comments and recommendations but could not adopt them at a public meeting prior to the deadline; therefore, the Chair submitted them as an individual. (See *ITT's Online Archives* or 02/21/08 news, (Ref: [08022105](#)), for BP summary of COAC's eight recommendations.)

(See *ITT's Online Archives* or 01/17/08 news, (Ref: [08011710](#)), for the final part of BP's summary of the 10+2 proposed rule, with links to previous parts. See *ITT's Online Archives* or 02/04/08 news, (Ref: [08020405](#)), for BP summary of CBP's 10+2 comment period extension notice.)

COAC subcommittee comments submitted by Chair Bruce Leeds, and all other comments on the 10+2 Proposed Rule available at <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=USCBP-2007-0077>

Coast Guard Announces Conditions of Entry for Vessels Calling in Iran –

Published by Sandler Travis & Rosenberg P.A.



The Coast Guard has announced that as of April 2 it will impose certain conditions of entry on vessels that visited ports in Iran during their last five port calls. This action follows the Coast Guard's determination that ports in Iran are not maintaining effective anti-terrorism measures. Iran will join the following countries on the list of those for which such a determination has been made: Cameroon, Equatorial Guinea, Guinea-Bissau, Indonesia,

Liberia, Mauritania and Syria.

OTEXA Vietnam Textile and Apparel Monitoring Home Page, at <http://ia.ita.doc.gov/download/vietnam-textile-monitoring/vtm-index.html> (see 'Monitored Import Data' for January 2008 data.)



FTC Proposes New Labeling Requirements for Metal Halide Lamp Fixtures – by Sandler Travis & Rosenberg P.A.

The Federal Trade Commission is seeking comments by April 28 on a proposed rule that would create new energy labeling requirements for metal halide lamp fixtures and ballasts subject to Department of Energy efficiency standards. Under the Energy Independence and Security Act of 2007, these labeling rules must apply to any such fixture manufactured on or after Jan. 1, 2009.

According to the FTC, the EISA defines a “metal halide lamp” as a “high intensity discharge lamp in which the major portion of the light is produced by radiation of metal halides and their products of dissociation, possibly in combination with metallic vapors.” These lamps produce a bright white light and offer high-color rendition compared to other high-intensity lighting. They are used to light large indoor areas such as gymnasiums and sports arenas as well as outdoor areas such as car lots.

Consistent with the EISA, this proposed rule would require:

- a capital letter “E” printed within a circle to be clearly and conspicuously disclosed in color-contrasting ink on the label of metal halide lamp fixture packages and the ballasts contained in those fixtures to indicate that they meet applicable DOE energy efficiency standards;
- retail catalog sellers to include the capital letter “E” printed within a circle in their descriptions of metal halide lamp fixtures;
- disclosures in point of sale promotional material; and
- annual reports on metal halide lamp fixtures in current production that include information such as trade names, model numbers, voltage and ballast efficiency.

Port of Los Angeles Approves Key Elements of Clean Truck Program (Truck Concession Requirements, Etc.) – by Broker Power, Inc.



On March 20, 2008, the Los Angeles Board of Harbor Commissioners approved key elements of its Clean Trucks Program, including truck concession provisions requiring employee drivers.

(The Port of Long Beach earlier approved its own Clean Truck Program truck concession provisions which allow employee drivers, independent contractor drivers or a combination of employee and contractor drivers, among other things. *See ITT's Online Archives or 02/21/08 news, (Ref: [08022110](#)), for BP summary.*)

Highlights of Key Elements Approved

The following are highlights of key elements approved (*partial list*):

Concession requirements. The following concession requirements were approved:

- All drivers of trucks being used to carry out a concession (i.e., trucks accessing port property) must be employees of the concessionaire upon the completion of a five-year transition period. (Long Beach's requirements allow employee drivers, independent contractor drivers or a combination of employee and contractor drivers to work the Port of Long Beach - as they do now.)
- Concessions will only be provided to Licensed Motor Carriers (LMCs), not individual truck owner-operators.

- Concessionaires will pay a \$2,500 fee for a five-year permit plus an annual fee of \$100 per truck. (Long Beach's concession requirements calls for the concessionaire to pay an application fee of \$250.00 plus an annual fee of \$100 per truck operating under its authority.)
- Concessions may be revoked at any time if the concessionaire is not compliant with the requirements for licensing, bonding, insurance, maintenance, safety or security.
- Concessionaires must agree to meet port standards for technology and efficiency (promoting the use of current or future tools like the virtual container yard).

Revision of start date for Clean Trucks cargo fee. A revision of the start date for the collection of the Clean Trucks cargo fee (\$35 per twenty-foot container (TEU)) to October 1, 2008 (from June 1, 2008) in order to align implementation dates with the Port of Long Beach's clean truck initiative and allow more time for distribution of radio-frequency tags and reader installation at terminal gates.

Cargo fee exemptions. The following cargo fee exemptions/partial exemptions were approved:

- All privately funded 2007 compliant trucks – including retrofits, Liquefied Natural Gas (LNG), electric, alternative fuel or other acceptable “best technology” vehicles (e.g. hybrid or hydrogen) - will be exempted from the \$35 per TEU Clean Trucks Fee at Port of Los Angeles terminals.
- Concessionaires with privately funded 2007 compliant trucks will not be required to turn in an old truck to scrap as part of their permit agreement.
- All publicly funded LNG, electric, alternative fuel or other acceptable “best technology” vehicles will be exempted from the Clean Trucks Fee at Port of Los Angeles terminals.
- No exemption will be given to publicly-funded 2007 compliant diesel trucks or retrofits.
- Port of Los Angeles Clean Truck Program-funded trucks will require a truck trade-in for scrapping and must become a regular use drayage vehicle (an average minimum of six trips per week).

LA notice on approval of the Clean Trucks Plan available at
http://www.portoflosangeles.org/News/2008/news_032008ctp.pdf

Additional information available at
<http://www.portoflosangeles.org/>

China-U.S. Join Forces on Trade Security Pilot Program - *U.S. Customs and Border Protection* - http://www.customs.gov/xp/cgov/newsroom/news_releases/03242008.xml#contacts

Washington — Cooperation between U.S. Customs and Border Protection and the General Administration of China Customs to enhance global supply chain security took a step forward last week with the start of a pilot validation program in China. The pilot involved three Customs-Trade Partnership Against Terrorism importer partners whose supply chains predominately originate in China.

The U.S. companies were invited to participate in the pilot based upon several factors including volume, product type and location of their supply chains in China. They voluntarily agreed to participate in the pilot with the concurrence of both administrations.

China Customs headed the validation initiative using the C-TPAT minimum security criteria as a guide and with CBP supply chain specialists providing technical assistance.

The companies had been receiving minimum program benefits due to C-TPAT's previous inability to validate the security procedures they have in place. Now C-TPAT will use the information gathered to decide whether they can receive a higher level of benefits.

Both agencies will jointly evaluate the pilot and determine next steps.

"It took several months of intense discussions to get to this point and we look forward to continuing this effort as we explore future cooperation," said C-TPAT Director Bradd Skinner. "It is a win-win for all. CBP and China Customs have the knowledge that all parties involved have good security practices in place and the companies can benefit by receiving fewer exams."

C-TPAT is an important layer in CBP's cargo enforcement strategy. Through this initiative, CBP is asking businesses to ensure the integrity of their security practices and communicate and verify the security guidelines of their business partners within the supply chain.

Since 2003, C-TPAT has performed more than 7,200 total validations. In 2007, C-TPAT visited manufacturing and logistics facilities in 79 countries, validated 3,011 supply chains and certified 2,601 new members.



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