

FAQ's
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FREQUENTLY ASKED QUESTIONS

24-HOUR ADVANCE VESSEL MANIFEST RULE

Revised April 16, 2004

Revised Question: 50

Customs and Border Protection (CBP) has received numerous questions concerning the 24 hour advance manifest regulation, we have provided our response, for now, of the most frequently asked questions. CBP is hopeful that this document will assist the trade community in understanding the expectations of CBP concerning the 24 hour manifest rule. The effective date of implementation was December 2, 2002. Carriers and/or automated NVOCC's are now required to submit a cargo declaration 24 hours before cargo is laden aboard the vessel at a foreign port. CBP will continue to update this list, adding questions and answers. Please continue to monitor this document for changes and updates.

1. Enforcement Date:

A) What will CBP's enforcement strategy be on **May 4, 2003?**

Answer: Compliance with the 24-hour rule is a matter of National Security. We applaud the efforts of those entities that have taken the rule and implementation period seriously and we caution those that have not, that incomplete and late data will not be tolerated from carriers and NVOCCs of any size. We encourage those entities to meet with their customers and explain the repercussions that will begin on May 4th.

Commencing on **May 4, 2003**, CBP ports will be responsible for initiating "Do Not Load" messages for cargo whenever an "invalid" cargo description is used. These selected non-compliant cargo targets will be referred to the National Targeting Center (NTC) for coordination of the issuance of the "Do Not Load" message to the carrier or NVOCC. Invalid and valid cargo descriptions are clearly listed in FAQ 30 below and should be followed as an example of invalid cargo descriptions. The major goal of this initiative is to require that the valid description be input by the carrier/NVOCC in the cargo description field and no other, including marks and numbers. Additionally, CBP is encouraging that the relevant description of cargo be placed in the beginning of the first or second description line of the manifest, or the HTS field as appropriate.

Also on **May 4, 2003**, CBP ports will be authorized to issue monetary penalties for egregious violations of timeliness. Seaports will be responsible for the review and enforce the timeliness of cargo declaration submissions. The selection of targets will be coordinated through the NTC. The issuance of penalties will also be coordinated and approved through Headquarters.

On **May 15, 2003**, seaports will also take enforcement action on egregious Consignee name and address violations leading to issuance of Headquarters approved "Do Not Load" messages. Consignee description requirements are relatively clearly defined, yet we still experience egregious errors including fields left Blank, or the use of "To Order" and "To Order of Shipper" without corresponding information in the consignee field (e.g., a bank's name and address) and notify party field or consignee name with no address, incomplete address (only city and state) or an invalid address.

These selected non-compliant cargo targets will be referred to the NTC for coordination and approval prior to the issuance of the "Do Not Load" message to the automated carrier or NVOCC. When selecting non-compliant cargo, CBP realizes that Foreign Remaining On Board cargo and some inbond movements will not have a U.S. or standardized addresses.

Also on **May 15, 2003**, CBP ports will be authorized to issue monetary penalties for Foreign Remaining On Board (FROB) cargo that has an invalid cargo description and that has been loaded on board the vessel without providing CBP a 24-hour time frame to place a "Do Not Load" message on the cargo. Carriers and NVOCC's may be subject to penalties and liquidated damages per each vessel arrival for violation of manifest requirements. On behalf of carriers, masters of vessels will be assessed penalties per vessel arrival in accordance with 19 USC 1436 (penalties of \$5,000 per first violation and \$10,000 for any subsequent violation attributable to the master). NVOCCs will incur claims for liquidated damages of \$5,000 per vessel arrival in accordance with 19 CFR 113.64(c) and 19 CFR 4.7(b) and/or 19 CFR 4.7a(c). If there are multiple automated NVOCCs in violation of the FROB requirements on a vessel arrival each automated NVOCC may be assessed liquidated damages.

These are the next steps in CBP's process of ratcheting-up enforcement procedures to ensure full compliance with the rule over the course in the near term.

2. Requirement of NVOCCs on December 2, 2002:

A) Will CBP rethink its policy regarding NVOCC automation or extend the time period by which NVOCCs may automate?

Answer: CBP has not required that NVOCCs become automated, but has authorized the option of automation. The time frame given for NVOCCs to submit paper cargo declarations directly to CBP expired on February 2, 2003. This time frame will not be extended. There are several interim options for this segment of the trade to provide information in an automated format to CBP. These options are: Utilizing a service provider, a port authority, direct interface with CBP, or submitting paper cargo declarations to the carrier for input into AMS or for inclusion on the non-automated carriers cargo declaration. It should be

noted that a direct interface with CBP requires a period of lead-time and therefore, companies may want to use one of the other options until their direct interface is completed.

B) How can I get my manifest data electronically to CBP?

Answer: You may either utilize a service center or port authority to transmit data on your behalf or you may elect to develop a direct interface between your company and CBP. A list of those entities which have developed a Sea AMS interface can be found under the heading of Sea AMS Data Processing Services on the following CBP web site:

http://www.customs.treas.gov/xp/cgov/import/operations_support/automated_systems/ams/

Those companies electing to establish a direct interface must develop all the necessary records required by the module. AMS recognizes transmission of data in either the ANSI X12 (version 4010) format or the Customs Automated Manifest Interface Requirements (CAMIR) format. In addition, those users electing to develop a direct interface or purchasing a vendor's software package must successfully complete a 4 step test phase.

C) What type of communication options are available to overseas parties looking to interface with CBP.

ANSWER: Those parties located overseas may choose to utilize frame relay/MQ access via an affiliate within the continental U.S., a Value Added Network (VAN) with a global service or utilize a service center/port authority. Many service centers can receive a user's data via the Internet and then pass to CB P.

D) Does an automated NVOCC possess the same system capabilities as an automated carrier?

Answer: Automated NVOCCs are afforded the same AMS features as an automated carrier, such as auto arrival of the vessel, electronic request for permit to transfers (PTT), Second Notify Party designation and participation in the Paperless Master In-bond Program (AMS/MIB).

3. Implementation at CSI and Non-CSI Ports:

How does the application of this rule differ between CSI and non-CSI ports? How will holds on cargo from non-CSI ports be handled? Besides electronic messages through AMS, how will CBP notify origin ports of cargo to be held or examined?

Answer: Requirements for implementation of the 24-hour rule at CSI and non-CSI ports will be the same for vessel AMS participants. For non-automated carriers at CSI ports, paper manifests will be presented to CBP personnel at a designated location in these ports.

For non-automated carriers at non-CSI ports, paper cargo declaration must be presented to each port of unloading in the U.S. 24-hours prior to lading in the foreign port. Facsimiles and non-AMS electronic messages sent directly to CBP are not authorized. Non-automated vessel carriers may enlist the automated services of a Vessel Agent, Service Provider, local Port Authority, or a business partner in the U.S. The domestic party in receipt would deliver the cargo declaration information directly to CBP. When a non-automated vessel carrier has elected to submit a paper cargo declaration directly to CBP in the United States, the non-automated carrier is responsible for ensuring that complete cargo declaration information for each port of call in the United States is submitted to each CBP location for review 24 hours prior to lading at the foreign port.

For non-automated carriers that submit a paper a manifest, the party designated to present the cargo declaration to CBP will be the one to receive notifications from CBP of any cargo "do not load" messages. "Do not Load" notices must also be provided to the vessel carrier from the non-automated NVOCCs.

4. Trade Act of 2002:

Does CBP contemplate new rulemaking under the 2002 Trade Act? If yes: Would CBP entertain modifications to the current rule under that process? Does CBP also expect to modify the rule as ACE comes on line to provide alternative means of information collection? What sort of transition would CBP contemplate?

Answer: CBP does not anticipate new rule making under the Trade Act of 2002 that would limit or restrict the requirements of the 24-hour rule.

As the various releases of ACE are completed and the ability to collect data and information is enhanced, CBP will re-evaluate the rule.

Questions pertaining to the transition will be addressed once CBP and its trade partners involved with the development of ACE have identified the specific elements within ACE pertaining to this issue.

5. Confidentiality:

A) It appears that the only protection of business confidentiality would be by CBP delaying the release of the information. How does that prevent information from getting into the hands of a company's competitors or criminals?

Answer: The fact that information is provided directly to CBP addresses the concern of NVOCCs wishing to safeguard their clients' information from competitors. CBP has issued a separate Notice of Proposed Rulemaking dated January 9, 2003 (68 FR 1173) to expand the list of parties who may file a biennial certification that would allow those parties to file on behalf of the importer or

consignee. This separate Notice of Proposed Rulemaking is necessary because comments received on this issue were outside the scope of the original Notice of Proposed Rulemaking dated August 8, 2002.

CBP is regulated by statute (19 USC 1431(c)) regarding disclosure of manifest data. Congress must enact any changes to the statute.

B) How can shipper information contained in vessel manifests be insulated from release to the public under 19 U.S.C. 1431(c)?

Answer: Since the enactment of Public Law 98-573 (October 30, 1984), it has been possible for authorized parties to request of CBP to withhold shipper identity information from release for public dissemination. The 1984 Act, in pertinent part, amended the manifest statute (19 U.S.C. 1431) by adding subsection (c), the provision which enables importers and consignees of merchandise to file biennial certifications with CBP whereby certain limited information may be withheld.

The statute itself allows these named entities to request confidentiality of the name and address of the importer or consignee, as well as the name and address of the shipper of goods to either of those parties. The implementing regulations (19 CFR 103.31) established that authorized employees, attorneys or officials may submit confidentiality certifications to CBP on behalf of the statutory parties (importer or consignee).

There is no prescribed format for the preparation of confidentiality certifications. They should, however, include the requestor's IRS Employer Number, if available. Certifications must be submitted to the Disclosure Law Officer, Headquarters, Customs and Border Protection, 1300 Pennsylvania Avenue, NW., ATTN: Mint Annex, Washington, D.C. 20229.

C) How does an importer or consignee request confidential treatment under Section 1431?

Answer: Title 19 of the Code of Federal Regulations section 103.31(3)(d), (19 CFR 103.31(3)(d)) states that an importer or consignee may request confidential treatment of its name and address contained in inward manifests, to include identifying marks and numbers. In addition, an importer or consignee may request confidential treatment of the name and address of the shipper or shippers to such importer or consignee by using the following procedures:

An importer or consignee, or authorized employee, attorney or official of the importer or consignee must submit a certification claiming confidential treatment of its name and address. The name and address of an importer or consignee includes marks and numbers, which reveal the name and address of the importer

or consignee. An importer or consignee may file a certification requesting confidentiality for all its shippers.

There is no prescribed format for a certification. However, the certification shall include the importer's or consignee's Internal Revenue Service Employer Number, if available. There is no requirement to provide sufficient facts to support the conclusion that the disclosure of the names and addresses would likely cause substantial harm to the competitive position of the importer or consignee.

The certification must be submitted to:

Disclosure Law Officer
Headquarters
Customs and Border Protection
1300 Pennsylvania Ave., NW
Washington, DC 20229

Each initial certification will be valid for a period of two years from the date of receipt. Renewal certifications should be submitted to the Disclosure Law Officer at least 60 days prior to the expiration of the current certification. Information so certified, may be copied, but not published, by the press during the effective period of the certification. An importer or consignee shall be given written notification by CBP of receipt of its certification of confidentiality.

To ensure that requested information deleted from public disclosure, the importer or consignee should ensure that the company's name and shipper's name is identified to CBP in all known variations that may be used on shipping documentation such as bills of lading, purchase orders and manifests. The computer searches for the exact spelling that is included on the request for confidentiality and any variations of the company/commercial party name not specified in the confidentiality request may not be deleted from the public disclosures.

D) How long does it take to process a request for confidentiality under Section 1431?

Answer: Presently, it takes between 1 to 5 days from the time of receipt of a request to the time the request is processed and placed into the system. Protection is effective once the information is placed into the system, and the requestor will be notified that this has been done. CBP processes requests on a daily basis. CBP will continue to carefully monitor the cycle time of processing these requests to ensure that they are handled in an expeditious manner.

6. Non-AMS Carriers:

How does the rule accommodate those who do not presently have access to the Automated Manifest System?

Answer: Carriers that are not automated will be required to submit a paper cargo declaration 24 hours prior to lading at the foreign port. NVOCCs that are not automated will be required to submit their cargo declarations to the carrier for input into AMS, 24 hours prior to lading at the foreign port.

7. C-TPAT:

A) How will it be advantageous to be a C-TPAT participant under this rule?

Answer: CBP expects that its partners in C-TPAT will provide the required information under this rule as a regular part of their security-related procedures. Accurate and timely cargo declarations are critical to the delivery of the cargo release benefits that are part of C-TPAT participation. While C-TPAT participants will not be excluded from the advance reporting requirements, their participation in the program will be taken into account during the targeting process.

B) Will C-TPAT participation by a carrier or a NVOCC be a mitigating factor in determining penalties for violations of the regulation?

Answer: C-TPAT participation by the carrier or automated NVOCC will be a mitigating factor for penalties and liquidated damages.

8. COAC:

How will the consultation process envisioned in the rule and the 2002 Trade Act involve the COAC and non-COAC members?

Answer: This final rule is completely separate from the Trade Act of 2002. CBP will notify the trade community on how it will achieve the requirement to “consult the trade”. This final rule does indicate that CBP will request that COAC form a sub-committee to act as a consultant on the implementation of the final rule.

9. Canada/Mexico Shipments:

Please clarify whether the final rule applies to cargo shipped from a foreign port to Canada or Mexico and then trucked or railed across the border to a final U.S. destination. How will CBP address the concern that cargo may be diverted from ocean carriers to truck or rail carriers as a means of circumventing the rule?

Answer: The final rule does not apply to cargo that is shipped to Canada or Mexico and subsequently trucked or railed into the U.S., if the vessel does not call on a U.S. port. CBP has targeting personnel stationed at seaports in Canada

and cooperation with Canadian authorities has been excellent. If either Customs administration suspected that goods were being routed in an attempt to evade scrutiny, those goods would likely be treated as high risk. For vessels that are departing Canada or Mexico with cargo destined for the United States, the 24-hour rule does apply.

10. Containers at Dock:

In response to concerns from the trade that containers will have to be delivered to a carrier several days before lading, CBP has said that it wants the information on cargo delivered earlier, not the container. Will CBP mandate that carriers enter information about a container on a manifest before the carrier has actually received the container?

Answer: CBP is not mandating that carriers submit cargo declaration information to CBP prior to receiving the container. That is a business decision for the carrier to determine. Many comments received stated that the container had to be physically located at the foreign port (dock) in order for the carrier to transmit the cargo declaration to CBP. CBP was clarifying that, for CBP purposes, the container did not have to be physically located at the dock for the carrier to transmit the cargo declaration to CBP.

11. Liability:

If a container is examined by CBP, either in the United States or at a foreign port, and the manifest description of the contents is, in CBP opinion, inaccurate, will the carrier be held liable for penalties or liquidated damages? What does CBP recommend carriers do to protect themselves from misleading descriptions on bills of lading?

Answer: Yes, in the stated circumstances, carriers can be held liable for penalties and NVOCC's can be held liable for liquidated damages. Carriers should establish business relationships with shippers to ensure accurate information is provided.

12. Bonds:

If a carrier or NVOCC believes that port director is not following the minimum standards or has set an unreasonable bond amount or have any other questions concerning bonds, they should contact Donald Yando, Branch Chief, Entry and Drawback Management, at (202) 927-0300.

A) What are the mitigation guidelines for an NVOCC bond? What is the proposed penalty and potential mitigation if the information is not supplied, if it is supplied but untimely, if it is supplied but CBP finds it to be too general and potential liabilities if the information is inaccurate? Who is responsible the carrier or NVOCC if it relied on the information supplied by the shipper (product description and/or HTS number, quantity, etc)? Assuming that the carrier had no

actual knowledge that the goods in the container were other than as described or that any of the other information might be inaccurate, who is liable? It is assumed that surety companies will only be held liable for claims under these new provisions for bonds issued on or after the effective date of the new regulations. Is that assumption correct? If so, can the field receive appropriate notification to avoid unnecessary claims?

Answer: Currently, CBP is formulating policy with regard to the assessment of penalties and claims for liquidated damages. Once the assessment policy has been approved, CBP will establish mitigation guidelines. The final rule indicates that in addition to penalties applicable under other provisions of law, carriers may be liable for civil penalties under 19 USC 1436 and NVOCCs may be liable for liquidated damages under 19 CFR 113.64(c).

The party that provides the cargo declaration information to CBP is responsible for ensuring that the information is accurate. CBP will initially use informed compliance with the carriers, but if repeated violations occur CBP may assess penalties or claims for liquidated damages.

The assumption is not correct that sureties will only be held liable under bonds issued on or after the effective date.

Current bonds guarantee payment of penalties and will be used and claims will be filed against these active bonds.

B) Who is required to obtain an international carriers bond?

Answer: NVOCCs that are transmitting their cargo declarations electronically to CBP, whether directly or through the use of a service provider or port authority, must obtain an international carriers bond. Once a bond is on file with CBP it is good for all ports of entry.

C) How is the type 3 CBP International Carrier Bond amounts set?

Answer: AMS participants, including NVOCCs, are required to have a type 3 CBP International Carriers Bond. CBP has issued guidelines on these bonds to our field offices. The minimum bond amount has been established at \$50,000.00, but the amount may be higher. Actual bond amounts are determined by the port director where the bond is filed and are based on risk.

D) How are type 2 Custodial Bond amounts sets and what is the fee to obtain one?

Answer: AMS participants are required to have a type 2 Custodial Bond if business practices involve creating in-bond shipments, initially bond requirements will be set in the amount of \$50,000. However, Port Directors may

increase the bond amount at their discretion. If you do not have a Custodial Bond, contact a surety company from a list of Treasury approved surety companies that are listed at: www.fms.treas.gov/c570/index.html/ to obtain a bond. Information on the bond requires that foreign entities have a CBP assigned number. Request for CBP Assigned numbers must be made on CF 5106 "Importer ID Input record", the form can be found on the CBP web site: www.customs.gov. Completed forms should be sent to the Entry Branch of the local port for input into ACS. Upon receipt of a completed CF 5106, CBP will assign an "Importer Number" to a foreign-based entity. This CF 5106 can be completed by the foreign entity and submitted to CBP, there is also a \$50 processing fee associated with this transaction. A copy of the form, with the CBP-assigned number indicated in block 2D, will be returned to the applicant. This CBP-assigned number will be the identifying number for the foreign entity on the bond application.

E) Automated NVOCCs and in-bond movements.

- 1) NVOCC can obtain a Custodial type 2 bond and establish themselves as a paperless master in-bond participant.
- 2) NVOCC can approach the ocean carrier or contract with another bonded carrier and obtain a Power of Attorney to obligate their custodial bond. The NVOCC would then use an AMS conventional in-bond. The NVOCC would request and receive authorization to move cargo in-bond by transmitting through AMS a nine digit in-bond control number and bonded carrier identification number. It is not necessary to submit the paper CF 7512 at the port of in-bond origin (port of unloading), but the in-bond documentation must be presented to CBP at destination. The NVOCC is responsible for ensuring that the paper CF 7512 is presented to CBP at the destination port prior to the cargo being released to the consignee or exported as well as arriving and exporting the cargo in AMS.
- 3) Contract the in-bond movement to a bonded carrier that will create a paper CF 7512 to present to CBP at port of origin and destination.
- 4) Brokers in the ABI module can use the "QP" application or the "CAFES" application to create In-bond movements against AMS bills of lading.

Note: CBP will continue to work with the Trade to resolve in-bond issues as they arise.

13. Automation Outline:

What is the process a NVOCC/Carrier must go through to automate with CBP?

Answer: Participants in AMS are required to have a Standard Carrier Alpha Code (SCAC) issued by the National Motor Freight Traffic Association, located in

Alexandria, VA. If they do not have a SCAC, information can be obtained from the web site: www.nmfta.org/scac2.htm or the association can be called at 703-838-1810. Once you have received the confirmation letter for your SCAC code from the National Motor Freight, fax a copy of the letter to CBP, attention Charles Bennett at (703) 921-7173 and indicate if you are a carrier or NVOCC.

AMS participants are also required to have a type 3 CBP International Carriers Bond and a type 2 Custodial Bond if business practices involve creating in-bond shipments, initially bond requirements will be set in the amount of \$50,000. However, Port Directors may increase the bond amount at their discretion. If you do not have an International Carriers Bond or a Custodial Bond, contact a surety company from a list of Treasury approved surety companies that are listed at: www.fms.treas.gov/c570/index.html/ to obtain a bond. Information on the bond requires that foreign entities have a CBP assigned number. Request for CBP Assigned numbers must be made on CF 5106 "Importer ID Input record", the form can be found on the CBP web site: www.customs.gov. Completed forms should be sent to the Entry Branch of the local port for input into ACS. Upon receipt of a completed CF 5106, CBP will assign an "Importer Number" to a foreign-based entity. This CF 5106 can be completed by the foreign entity and submitted to CBP, there is also a \$50 processing fee (for type 2 Custodial Bonds only) associated with this transaction. A copy of the form, with the CBP-assigned number indicated in block 2D, will be returned to the applicant. This CBP-assigned number will be the identifying number for the foreign entity on the bond application.

Once this is complete there are three basic ways for an NVOCC to participate in AMS:

1. Through a service center/port authority:
 - A service center/port authority can transmit the NVOCC's data to CBP.
 - Their data remains confidential from the operating carrier.
 - This is the fastest way to start AMS participation.
2. Purchase a software and communications package from a software vendor:
 - The software vendor will set up required interface software.
 - The NVOCC will have to be certified in AMS prior to submitting actual manifest data.
3. Program their own software interface:
 - This process requires a full AMS certification test be completed prior to submitting actual manifest data.

Interested participants in the Sea Automated Manifest System (AMS) Program are required to submit a written letter of intention on company letterhead and

include a point of contact, name, title, phone number, e-mail address and office location. In addition, please identify your interest in Sea AMS (i.e., becoming a Sea AMS carrier, service center, software vendor, NVOCC, etc.). This letter can be mailed or faxed to the following location:

Customs and Border Protection
Client Representative Branch
7501 Boston Blvd.
Room 211
ATTN: Sea AMS LOI
Springfield, VA 22153
Phone: (703) 921-7500
FAX: (703) 921-7563

14. Paperless Master In-bond:

A) How can I become a Paperless Master In-bond (AMS/MIB) participant?

Answer: To participate in the Paperless Master In-bond Program the carrier or the NVOCC must acquire a CBP Type 2 - Custodian Bond. The interested party will then prepare on their letterhead a request to participate in the program identifying their assigned IRS# and what in-bond entry types they would like to be designated to transmit for. They may elect - Immediate Transportation (IT- entry type 61), Transportation and Exportation (T&E - entry type 62), Immediate Exportation (IE - entry type 63) or all three. The letter should be provided to their Client Representative for action. The IRS# will be validated against a bond table existing in ACS and if valid, a "V#" will be assigned to the carrier or NVOCC. The carrier or NVOCC will then create a control number using the "V#" and the in-bond movement will be tracked in AMS. The party initiating the paperless master in-bond move will then be responsible for the arrival/export of the movement in the system.

15. Public Lists:

A) Will CBP make public a list of those NVOCCs who are approved for AMS manifesting and have obtained an International Carrier Bond?

Answer: CBP has posted a list of AMS carriers on the CBP web site. This document is continuously changing and cannot be used as 100% accurate. NVOCCs will not be authorized to transmit in AMS without an International Carriers Bond.

B) Will CBP publicize what third party service providers are available to perform NVOCC electronic manifest filing in AMS, as vessel carriers may have difficulty performing this function?

Answer: A listing of 3rd party service providers can be found under the heading of Sea AMS Data Processing Services on the following CBP web site:

http://www.customs.treas.gov/xp/cgov/import/operations_support/automated_systems/ams/

This document contains 2 attachments. The first is a list of service centers, port authorities, and software vendors that presently have the capability to provide carriers/NVOCC's with an interface to CBP. The second is the Sea AMS Respondent Checklist that interested parties must complete. This one page document should then be faxed to the number provided (703) 921-7563 and a client representative will then be assigned to work with the company.

16. Earlier Security Screening for Transshipments:

Some ocean carriers have expressed an interest in how they could have security prescreening done by CBP before the first leg of a voyage of a container that will be transshipped. For example, Carrier agrees to transport a container from Karachi to LA. The first leg of the voyage is on Vessel A from Karachi to Singapore. It is then loaded in Singapore onto Vessel B that sails for LA. Under this regulation, the security screening is done before Vessel B loads in Singapore. If there is a problem with the container, it is now stuck in Singapore. Is there a way for a carrier to have the option to have the security screening done at the first port of loading, so that if there is a problem, the container will not begin the voyage until the problem is addressed?

Answer: CBP would eventually like to receive this information, but current limitations in the AMS system does not allow for this type of transaction. With the development of ACE, CBP will be looking to accept this type of electronic information.

17. "Do Not Load" Procedures:

A) When and how will "do not load" messages be implemented by CBP?

Answer: In support of the 24 Hour Manifest Filing Requirement of the Office of Field Operations and to better inform the trade participants in the Sea Automated Manifest System application, two new disposition codes have been programmed in AMS by CBP. Effective immediately CBP will issue dual "do not load" messages, one being in AMS and the other will be done telephonically/fax or email. Understanding the importance of the critical nature of this programming, Headquarters is going to authorize a 30 day implementation period. All participants of the Sea AMS application must have this programming in place on **March 4, 2003**, at this time CBP will only issue "do not load" messages in AMS, for all automated participants.

Disposition code: 6H - Do Not Load.

Disposition code: 6I - Release of the Do Not Load Message.

These new disposition codes will be generated as the result of CBP input and refer to the status of cargo intended for a vessel arriving in or transiting CBP territory.

Upon receipt of the 6H disposition code in the R02 record of the "RC" status notification or in the X4 segment of the 350 transaction set in X12/TDCC format, the Sea AMS participant must prevent the loading of the container or containers referenced in the R05 record(s) of the "RC" set or in the N7 segment of the 350 set.

Loading of the subject container may resume after receipt of the 6I (6-eye) disposition code that will be sent in either the CAMIR (RC) or X12/TDCC (350) formats as appropriate to the trade participant.

For additional information, please contact your ACS Client Representative.

B) When the targeting identifies a container that warrants inspection in a non-CSI port, what procedures will be used to inspect and subsequently clear the container for loading aboard the vessel?

Answer: CBP will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been given a "do not load" message. Foreign governments will perform inspections at CSI and non-CSI ports. Immediately after the foreign government notifies CBP that the shipment is cleared, CBP will remove the "do not load" message in AMS. For non-automated carriers, the party that submitted the cargo declaration to CBP will be notified telephonically/fax or by email.

CBP will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been given a "do not load" message.

C) How will CBP clear cargo that has been given a "do not load" message in CSI and non-CSI ports?

Answer: CBP will coordinate with foreign customs authorities in each CSI and non-CSI port regarding how it will clear cargo that has been given a "do not load" message. Foreign governments will perform inspections at CSI and non-CSI ports. Immediately after the foreign government notifies CBP that the shipment is cleared, CBP will remove the "do not load" message in AMS as well as notify the carrier/NVOCC by telephone/fax or by email until March 4, 2003. For non-automated carriers, the party that submitted the cargo declaration to CBP will be notified telephonically/fax or by email.

18. Diversion to a Foreign Port:

A) If cargo has been cleared to sail to the U.S. from a foreign port and the vessel carrier decides to divert by dropping cargo in Freeport, Bahamas to load aboard another vessel for subsequent entry to the U.S., would the vessel carrier be required to file another 24 hours advance manifest for that cargo?

Answer: Carriers will have to amend the previous bill indicating to CBP the change in vessel information. This cargo would have to once again comply with the 24-hour rule.

B) What would happen if a carrier drops a Canadian first port of call, and comes directly to the U.S. with Canadian destination cargo aboard that has not been subjected to the 24-hour advance manifest filing obligation (ex. operational decision to bypass Halifax due to North Atlantic storm)?

Answer: Carriers must notify CBP at the designated first port of arrival as soon as they realize they are not going to make the foreign port of call. The carrier should then transmit the manifest with corrections indicating the missed foreign port of call. Upon arrival in the U.S. port the cargo declaration will be placed on hold until CBP has had the opportunity to review the documentation, any examinations will be conducted and appropriate penalties may be issued. If CBP determines that this has become a common occurrence for vessels this could eventually lead to denying the permit to unlade. Additionally, CBP will notify the Coast Guard of the vessel with unmanifested cargo that is scheduled to arrive.

C) A shipper may change cargo destination after vessel loading; an amendment to the manifest will be required. How will this be handled?

Answer: Amendments will be done under the current procedures. The Notice of Proposed Rule Making for manifest discrepancies has not been published. However, be aware that any change to the original information may affect our risk assessment of the cargo and could result in an examination.

19. FROB:

A) If a shipper changes the cargo destination from FROB to an U.S. port after the vessel has sailed, can that be handled through a manifest correction?

Answer: Yes, manifest corrections will be handled as a manifest discrepancy. Since the cargo was FROB and falls under the 24 hour requirement, information would have already been received 24 hours before lading. However, the shipment is subject to screening and examination due to the change in the information.

B) What data elements are required for FROB?

Answer: FROB cargo is cargo that is loaded in a foreign port and is to be unloaded in another foreign port with an intervening vessel stop in one or more ports in the United States. All of the data elements required under the regulation must be provided for FROB cargo. CBP recognizes that for FROB cargo, the actual shipper, consignee and notify party may not be associated with an address in the United States. Therefore, CBP would not require an U.S. address on these data elements.

20. Paper Manifest Onboard:

Please clarify which carriers participating in CBP' AMS advance cargo manifest filing will have to have a paper copy of the manifest on board the vessel (in contrast to be able to provide one upon request).

Answer: This issue touches on a number of CBP regulations and policies, such as the paperless manifest test, that are currently under review. But recognizing the business interests at stake, in the near term, CBP has decided not to enforce the paper cargo declaration (CF 1302) rule for formal entrance if a carrier or NVOCC has successfully automated. However, one must be provided upon request by CBP. In addition, the remaining documents comprising the vessel manifest must be available for presentation upon entry of the vessel. CBP will periodically assess this policy to ensure that it is not having an adverse effect on operations.

21. Coast Guard Rulemaking:

The final rule makes clear that "by requiring the submission of cargo declaration information 24 hours prior to lading, CBP is eliminating the requirement for vessel carriers to submit an additional cargo declaration upon arrival in the United States." The Coast Guard has before it a proposed rulemaking that would require cargo manifests to be filed with CBP 96 hours before vessel arrival. Now that CBP has finalized its rule, the Coast Guard rule has been overtaken by events. Will CBP please inform the Coast Guard that its proposed 96 hour rule should not apply to any carrier that is filing in AMS and complying with the new CBP advance manifest filing requirements?

Answer: CBP will require only one electronic manifest to be submitted by the carrier and will work with the Coast Guard to coordinate this transmission. The presentation of the paper manifest will have to be available to both agencies.

22. AMS/Batch Filing:

A) Currently each manifest has one CF 1302 filing. Please explain how AMS will handle multiple CF 1302 filings for the same vessel.

Answer: The current AMS system does handle multiple cargo declaration filing as amendments from each port, if the vessel and voyage number are the same. If the vessel or voyage number changes the cargo declarations must be deleted and re-added with the new vessel and voyage number.

B) The Comments state that: “The vessel AMS program was not designed to allow for the transmission of individual bills of lading, and such transmissions must be sent by batch.” For the advance filing obligation under these rules, does batch filing require a single batch containing all containers to be loaded at a loading port, or can a carrier file more than one batch for a single loading port? (Example: file one batch 48 hours before loading and one additional batch 24 hours before loading.)

Answer: The example provided is correct. The carrier can file more than one batch for the same port on the same vessel and voyage.

23. Perishables:

A) What is considered “perishable merchandise” for purposes of the 24-hour rule?

Answer: For purposes of this regulation, the term "perishable merchandise" is defined as merchandise that is organic and produced for human consumption that is not frozen, subject to spoilage and requires controlled temperature during transportation, such as fruits, vegetables, and meat and fish products.

B) Many perishable commodities (e.g., bananas, pineapples) are harvested and loaded within the 24-hour time window before vessel loading. Information (such as final seal number, precise quantity, and container number) will be preliminary 24 hours before vessel loading. How should this be handled?

Answer: The majority of the data elements should be known, the only unknown data elements would be the exact weight and quantity. To address weight and quantity concerns, CBP has concluded that in the case of perishable merchandise, the carrier/NVOCC must provide CBP with a good faith estimate of the quantity and weight 24 hours before loading. CBP will allow a discrepancy tolerance of plus or minus 5%; if the good faith estimate is within this range, CBP will not require the manifest to be amended. With respect to other matters, CBP fully expects that the industry can adapt their business practice to designate a specific container and seal that will be used on a specific bill of lading and provide that information 24 hours prior to lading.

C) Would CBP consider amending the regulation to classify all perishables as break bulk, permit overbooking, or shorten the advance filing time?

Answer: Much of the perishable industry operates utilizing containers. Therefore, it is not possible to authorize a break-bulk exemption for the perishable community as a whole, although perishables that are not containerized and otherwise meet the definition of break bulk may seek an exemption. As for overbooking, this is a practice that CBP has worked very hard over the years to eliminate and it would be extremely difficult for both the industry and CBP to maintain proper documentation of overbooked cargo. Accordingly, CBP will not permit this practice for perishables. CBP does not agree with reducing the 24-hour reporting requirement, as there are other mechanisms for addressing the concerns raised by perishables, as discussed above.

24. Equipment Change:

If a refrigerated container's cooling system fails after the CF 1302 has been filed, but prior to loading, can the carrier reload the perishables into a new reefer container, affix a new seal, load the container aboard the vessel, and correct the manifest information?

Answer: CBP will allow for changing of equipment due to failure. Carrier must file a Manifest Discrepancy Report to correct the container/seal #. Once CBP has been notified by the carrier, the exact procedures will be determined on a case by case basis.

25. AMS Acknowledgement of Manifest Receipt:

A) After the carrier submits the manifest, CBP currently returns an acceptance message that confirms receipt of the manifest data, quantity of BLs accepted, and quantity of BLs rejected. Can vessel carriers expect to receive this same message for manifest information submitted under the 24-hour regulation?

Answer: Yes, procedures will be the same. The carriers will receive these same messages.

B) How will manifest receipt message relate to NVOCC cargo, and what information will the vessel carrier receive regarding the NVOCC's filing?

Answer: The information that the vessel carrier receives today for automated slot charters will be the same information that the vessel operating carrier will receive. Please refer to previous answer.

26. Manifest Discrepancy:

A) Does CBP have any forecasted time when the new rules will be proposed for manifest discrepancy reports?

Answer: CBP is continuing the review of the proposal within CBP.

B) Between now and then, is there any informal guidance CBP would offer to vessel carriers regarding how to deal with these issues?

Answer: Current procedures apply and can be found within 19 CFR 4.12.

27. CBP Operations:

A) Will CBP be manned 24/7 to process all manifests and provide the necessary hold responses?

Answer: CBP will provide the carriers with a designated location at CSI and local CBP ports to submit paper cargo declaration. The designated location will be a secured manner to be determined by the ports. Carriers and NVOCCs that do not receive a hold message within the 24-hour time frame after presentation of the cargo declaration will be allowed to load the cargo.

B) How will the 24-hour rule operate during AMS downtime?

Answer: CBP is required to initiate scheduled downtime for system maintenance and updates. Those times are generally in two or three hour increments and are regularly occurring events or are announced well in advance. For regularly scheduled downtime, which meets the definition above, carriers/NVOCCs should file enough in advance to ensure that CBP has the entire 24-hour period prior to loading. The regularly scheduled downtimes are as follows:

- Saturday 0500-0700 EST
- Saturday 2300 into Sunday 0300 EST
- Sunday 2200 into Monday 0200 EST
- Wednesday 0500-0700 EST

Unscheduled or unanticipated downtime in AMS is rare and is generally for a short duration. However, in the event that CBP system is unexpectedly down, CBP will grant "credit" to the carrier in the amount of time the system is down. In other words, the start of the 24-hour clock will not be delayed by AMS downtime. Carriers/NVOCCs will need to verify with CBP that the system is down in the event no message is sent to the carrier/NVOCC after the 2-hour window has expired. In the meantime the carrier should troubleshoot their own operations to ensure that their system is working properly. If a service provider is being utilized the carrier/NVOCC should ensure that the information is submitted timely. After the 2 hours has expired, the carriers should contact the CBP help desk.

The appropriate means of verification is to contact the CBP help desk at (703) 921-6000, which is a 24 hours a day, 7 days a week operation. The CBP help desk will verify for the carriers/NVOCCs that the system was down at the time of transmission, record the time of carrier/NVOCC call, and, if available, give an expected time of when AMS will be up. The time credited will be based on the

time of the transmission. For example, "if a carrier were to transmit to CBP at 0800 on March 1, 2003, and the carrier did not receive an acceptance message from CBP, the carrier would need to verify that the system was down at the time of transmission, and the CBP help desk would make note of the call. If the system then came back up at 1100 on the same day, the carrier would be credited time from 0800 and be allowed to load the container at 0800 the following day, March 2, 2003".

Only in rare circumstances will Carriers/NVOCCs need to re-transmit in AMS, the original transmission will be kept and processed in the order that it was received once AMS is working. In the rare event that the system is down for an extended period of time and the entire 24 hours prior to loading period has expired, the carrier may load the container(s) in question. CBP will perform its targeting once the AMS system is working and any actions resulting from "holds" will be performed in the U.S. If the targeting results in a very high-risk container having been loaded on the vessel during the downtime procedures, CBP may prevent the unloading of the container at the first port, or if the risk is extremely high, may require the container to be offloaded prior to arrival in the U.S. The latter situation is expected to be extremely rare. But it is a possibility of which the trade should be aware. In the highly unlikely event that the system is still down when the vessel arrives at the first port of unloading in the U.S., a paper manifest will be required at the time of arrival.

28. Vessel Sharing Carriers:

It seems reasonably clear that cargo given a "do not load" will be communicated by CBP to the filing vessel carrier, which may or may not be the vessel operator. Vessel carriers will need to develop good communication systems amongst themselves to ensure that such hold notices are communicated in a timely manner prior to loading, and that their respective responsibilities and liabilities are clear.

While such agreements may work amongst vessel carriers sharing ships, this model would not be satisfactory for communications between vessel carriers and NVOCCs regarding "do not load" messages.

Answer: CBP will issue dual "do not load" messages, one being in AMS and the other will be done telephonically/fax or email. Understanding the importance of the critical nature of this programming, Headquarters is going to authorize a 30 day implementation period. All participants of the Sea AMS application must have this programming in place on **March 4, 2003**, at this time CBP will only issue "do not load" messages in AMS. The NVOCC/carrier will be responsible for ensuring that the cargo is not loaded on board the vessel.

29. Data Element #6 – Port:

Item (vi) requires the filing carrier to state: "The first foreign port where the carrier takes possession of the cargo destined to the United States". Does

“foreign port” mean “port” or place where the filing carrier takes possession. For example, Carrier contracts to move container from Berlin to Chicago under a through transportation contract. Carrier picks up container in Berlin, trucks it to Hamburg. The carrier loads it aboard the vessel in Hamburg, sails to Southhampton, and then New York. In this case, is item (vi) Berlin (the place where the carrier takes possession) or Hamburg (the first foreign port)?

It is assumed that item (i) - “the last foreign port before the vessel departs for the US” - is Southhampton, and item (xi) - “the foreign port where the cargo is laden on board” - is Hamburg.

Answer: The example and assumptions made are correct. For data elements (i) - “the last foreign port before the vessel departs for the US” (NEW DATA ELEMENT)- is Southhampton, (vi) - “the first foreign port where the carrier takes possession of the cargo destined to the United States”- is Berlin and (xi) - “the foreign port where the cargo is laden on board”- is Hamburg.

30. Data Element #7 – Cargo Description:

Item (vii) requires a “precise description and weight of the cargo or, for a sealed container, the shipper’s declared description and weight of the cargo.”

A) Carriers commented on and fully supported the regulation providing that a carrier can rely on “for a sealed container, the shipper’s declared description and weight of the cargo”. Please confirm that CBP does not intend to penalize carriers for shippers’ containerized cargo misdescriptions.

Answer: The party that provides the cargo declaration information to CBP is responsible for ensuring that the information is accurate. CBP will continue to use the same guidelines for sealed containers and shipper’s load and count. CBP will initially use informed compliance with the carriers, but if repeated violations occur CBP may assess penalties as outlined in 19 CFR 4.3a.

B) What constitutes a precise description of the cargo? In the case of chemical compounds and mixtures, are formulas necessary?

Answer: The regulation requires a precise narrative description of the cargo, if the cargo description is left blank AMS will reject the transmission. In addition the 6 digit tariff number may also be provided for those with the skill to provide it correctly. If there is doubt about the accuracy of a 6 digit tariff number, which can sometimes be difficult to ascertain, the AMS transmission should only include the precise narrative description.

A precise narrative description is a description that is precise enough for CBP to be able to identify the shapes, physical characteristics, and likely packaging of the manifested cargo so that CBP can identify any anomalies in the cargo when a container is run through imaging equipment. The description must also be

precise enough to identify any goods, which may emit radiation. How specific that information must be depends on the nature of the commodity. For example, "electronics" is not a precise description, but "CD players" or "computer monitors" would be.

CBP will continue to work with the trade to refine what descriptions are acceptable. CBP will not begin its enforcement actions with descriptions where the required level of precision is not clear. CBP will continue to notify the carriers when these more difficult commodities are not adequately described. However, cargo descriptions are one of the most important elements to assist CBP in precise targeting, and it is in the trade's interest to become precise and compliant as quickly as possible. Not only will this avoid eventual enforcement action, but it may also avoid container "do not load" message and "holds" due to CBP not being comfortable that it knows what is in the container.

To be clear, IN NO CASE is a blank description, freight all kinds (FAK), said to contain (STC) with or without other description, general merchandise, "26 pallets", various retail merchandise, consolidated cargo or other similarly vague descriptions acceptable. On February 2, 2003, CBP began initiating strong enforcement actions in cases where these kinds of general descriptions, which have continued during the transition period.

The following terms are meant to be used as a guide. They are illustrative, not exhaustive, examples of acceptable and unacceptable descriptions. Phrases or words in parenthesis are meant as examples.

Not Acceptable	Acceptable
Apparel Wearing Apparel Ladies' Apparel Men's Apparel	Clothing Shoes Footwear Jewelry (may include watches)
Appliances	Kitchen Appliances Industrial Appliances Heat Pump
Autoparts Parts	New Autoparts Used Autoparts
Caps	Baseball Caps Blasting Caps Bottle Caps Hub Caps
Chemicals, hazardous Chemicals, non-hazardous	Actual Chemical Name (not brand name) Or U.N. HAZMAT Code Identifier #
Electronic Goods Electronics	Computers Consumer Electronics, Telephones Electronic Toys (can include Gameboys, Game Cubes, Dancing Elmo Doll etc.) Personal/Household Electronics (i.e. PDA's, VCR's, TV's)
Equipment	Industrial Equipment, Oil Well Equipment Automotive Equipment, Poultry Equipment etc.

Flooring	Wood Flooring, Plastic Flooring, Carpet, Ceramic Tile, Marble Flooring
Foodstuffs	Oranges Fish Packaged Rice, Packaged Grain, Bulk Grain
Iron	Iron Pipes, Steel Pipes
Steel	Iron Building Material, Steel Building Material
Leather Articles	Saddles Leather Handbags Leather Jackets, Shoes
Machinery	Metal Working Machinery Cigarette Making Machinery
Machines	Sewing Machines Printing Machines
Pipes	Plastic Pipes PVC Pipes Steel Pipes Copper Pipes
Plastic Goods	Plastic Kitchenware, Plastic Houseware, Industrial Plastics Toys, New/Used Auto Parts
Polyurethane	Polyurethane Threads Polyurethane Medical Gloves
	Personal Effects Household Goods

Not Acceptable	Acceptable
Rubber Articles	Rubber Hoses Tires Toys Rubber Conveyor Belts
Rods	Welding Rods Rebar Aluminum Rods Reactor Rods
Scrap	Plastic Scrap Aluminum Scrap Iron Scrap
STC (Said to Contain) General Cargo FAK (Freight of All Kinds) "No Description"	
Tiles	Ceramic Tiles Marble Tiles
Tools	Hand Tools Power Tools Industrial Tools
Wires	Electric Wires Auto Harness Coiled Wire (Industrial)

C) What might be the repercussions for importers if the entered classifications and the manifest classifications using the HTS designations are not identical?

Answer: Absent fraud, it is not anticipated that the importer would incur penalties in these situations. CBP will work with the carrier to correct errors and through post audits we will be able to notify carriers that certain cargo descriptions are not precise. If it is determined that the carrier is consistently submitting conflicting information and CBP has routinely notified the carrier of this problem, penalties can be assessed. When there is conflicting information, the importer should notify the shipper of any incorrect classifications to ensure it is corrected for future submissions.

As for the HTS number, CBP is referencing the United States Harmonized Tariff Schedule. If there is a doubt as to what number to input, the shipper could provide a detailed description.

D) Will cargoes loaded onto Mafi or bolster type container equipment (that is, container platforms with open tops and no sides) be considered containerized and therefore the carrier can rely on “shippers declared description and weight of cargo”.

Answer: Since the cargo is visible and is not sealed CBP will not accept Shipper’s Load and Count.

31. Data Element #8 – Shipper’s Name and Address:

Freight forwarders may contract with carriers under FMC service contracts as “agents for” various shippers. Is it correct that the name and address of the actual shipper, and not the name and address of the freight forwarder, must be used? If the forwarder appears “as agent for” the shipper, is it correct that the shipper should be the second named party?

Answer: Under this particular set of fact, the name and address of the actual shipper must be used. The second notify party is to allow parties that are automated with CBP to receive electronic information concerning the shipment. Therefore, the shipper is not an acceptable entry for this data element.

This narrow question raises the more general issue of adequacy of the shipper description. Currently, the information CBP receives about the shipper is not helpful in making risk determinations. For example, identifying the shipper as a carrier, bank or importer does not provide CBP with useful information. Providing this type information will invite closer scrutiny and increase the likelihood that the shipment will be examined. However, the adequacy of the shipper description will not be the initial focus of CBP’ enforcement of the 24 hour rule, although CBP may issue “do not load” messages for shipments where the shipper description is left blank. CBP will be defining the term shipper at a future time frame.

32. Data Element #9 – Consignee and To Order Bills:

Item (ix) provides that for “to order” bills of lading, where there is no consignee, this information item should include the name of the cargo “owner or the owner’s representative”. The regulation does not state any limitation or definition of who an “owner’s representative” can be, so we assume it does not require a name or address in the United States, and can be whoever the shipper states on the bill of lading. Please confirm.

Answer: CBP recognizes that for business and financial reasons “to order” must be placed in the consignee field. Therefore, CBP has decided that “to order” without corresponding information will be acceptable in the consignee field. However, when “to order” is used in the consignee field the first notify field must contain the owner or owner’s representative with the U.S. name and address.

CBP recognizes that for FROB cargo the actual consignee will not be located in the United States. Therefore, in such cases where the bill of lading is “to order” and FROB cargo the owner or owner’s representative name and foreign address must be listed in the first notify field.

33. Data Element #14 --Seals:

Item (xiv) requires the “seal numbers for all seals affixed to containers.” We find no requirement in law that a shipper loading a container must seal the container. Nor can a vessel carrier confirm who affixed the seal when the container is stuffed. Only the shipper is in a position to do that. The carrier, however, can check the seal number when it receives the container.

A) What should a carrier do if it receives a container from a shipper without a seal or discovers that the original seal has been broken or damaged?

Answer: The question raises implications for C-TPAT carrier participants and non-C-TPAT carriers. With regard to the former class of carriers, as stipulated in item 13 of the Agreement to Voluntarily Participate in C-TPAT, sea carriers are expected to “ensure high security seals or locks are affixed on all loaded containers”.

Concern has been expressed that carriers, as the recipients of most loaded containers, are often not in a position to ensure the secure sealing of those containers. While that may be true, the sealing of containers is an essential element of a secure supply chain and remains a critical part of a carrier’s commitment to C-TPAT. With respect to that commitment, the C-TPAT agreement for sea carriers reads, “The Carrier agrees to develop and implement, within a framework consistent with the listed recommendations, a verifiable, documented program to enhance security procedures throughout its supply chain process. Where the Carrier does not exercise control of a production facility, distribution entity, or process in the supply chain, the Carrier agrees to communicate the attached recommendations/guidelines to those entities.”

As noted above, even though a carrier may not “exercise control” over the sealing of containers, carriers that join C-TPAT are expected to promote effective security measures throughout the entire supply chain. That must include doing whatever a carrier can to ensure the sealing of all loaded containers and may require that the carrier work or negotiate with shippers, forwarders, and/or others to arrange for that sealing. Specifically, a C-TPAT carrier should consider the level of risk associated with an unsealed, mislabeled or tampered container and take appropriate security steps prior to the lading of that container. As discussed below, these steps could include applying a high security seal, requiring a shipper to verify the contents and add a seal, or refusing to lade the container. In addition, for those containers that are not sealed or the seal has been broken, a C-TPAT carrier should consider the container a vulnerability and work with the responsible parties (shippers/forwarders) to address that vulnerability for future shipments.

As CBP develops a C-TPAT agreement for foreign shippers (and enhances other agreements), CBP will, as appropriate, articulate the responsibility of other industry sectors for ensuring sealed containers.

Therefore, if the carrier receives a container where the seal has been tampered or the seal number does not match the shipping documents the carrier should notify CBP. This notification should happen as soon as the discrepancy is noted. If the discovery of the discrepancy is noted after receipt of the transmission of the bill of lading (within the 24-hour period) the carrier should notify CBP, but the 24-hour review start time will continue to be based on the transmission of the original bill of lading data.

The seal data field will not be CBP’ initial focus in enforcing the 24-hour rule; however, the lack of a seal or a damaged seal on a container will pose a level of risk. Several options for addressing this risk are available to both C-TPAT and non-C-TPAT carriers and their trading partners. The first option, listed below, represents the highest level of diligence and therefore poses the lowest risk from a targeting standpoint. In the event that a container is delivered to a carrier facility without a seal, the carrier can undertake any of the following options:

- The carrier could examine and verify the contents of the container and place a new seal on the container.
- The carrier could request that the shipper verify the contents of the container and place a seal on the container.
- The carrier could seal the container without verifying the contents
- The carrier could refuse to load the container.
- The carrier could accept the container, but transmit information in AMS, which would indicate the status of the seal (no seal, tampered, or broken).

CBP will provide the capability in AMS to allow carriers/NVOCCs to transmit information in seal data field that indicates no seal, tampered seal or broken seal.

B) It is not unusual for offshore customs authorities to inspect an export container just prior to vessel loading, and then affix a new seal. This will occur after the CF 1302 with the original seal number has been filed with CBP. Under the Carrier and Super-Carrier Initiatives, carriers have procedures to track seal changes, and CBP follows-up on a case-by-case basis. Please confirm that this procedure is the way to address seal changes post - CF 1302 filing.

Answer: The carrier should notify CBP at the same location where they are submitting their cargo declaration. Additionally, carriers should try to obtain documentation that an export examination was conducted by a foreign agency. CBP has continually stated that if cargo declarations are amended or changed the 24-hour clock would begin from the date and time that CBP received the last transmission. If the carrier or NVOCC can provide documentation from foreign customs to the CBP port where the cargo declaration was submitted, the port may waive the requirement for a new 24-hour clock.

34. NVOCCs:

What appears clear is that CBP will require NVOCCs' cargo descriptions and house bill of lading information to be filed electronically in AMS:

- by the NVOCC itself obtaining a bond and becoming automated,
- by the NVOCC using a vessel carrier to file in AMS its cargo declaration and house bill of lading information for it,
- by the NVOCC using an automated NVOCC to file the information for it, or
- by the NVOCC using an automated third party filing service.

Answer:

Bullet 1 - In this example, the automated NVOCC will file their cargo declarations directly to CBP. This process is the same as the carriers who file directly to CBP. The additional requirement is that the NVOCC must place the contracting vessel carrier, not the vessel operating carrier in the second notify party location. Each second notify party that is identified will receive messages from CBP every time a bill of lading has been changed, held and released. The identifiers included in the transmission are:

- | | |
|-----------------------|------------------------|
| - SCAC | - Bill of Lading # |
| - Vessel Name | - Disposition Code |
| - Voyage # | - Quantity |
| - Manifest Sequence # | - Entry Type |
| - IMO # | - Entry # |
| - Port of Unlading | - Action Date and Time |
| - Date | - Container # |

Bullet 2 - In this example, the non-automated NVOCC must supply the carrier with the detailed cargo declaration information and the carrier will input the bill of lading in AMS as if it was their own.

Bullet 3 - In this example, the non-automated NVOCC must submit their cargo declaration information to the AMS NVOCC who is presenting the container to the carrier. The AMS NVOCC will input the cargo declaration as if it was their own. A freight forwarder or NVOCC can not be listed, only the designated shipper and consignee. Contracting vessel carrier must be listed as the second notify party.

Bullet 4 - In this example, specific to co-loaded containers, if the non-automated NVOCC elects to submit their cargo declaration information to a Service Provider or Port Authority to transmit to CBP, then the non-automated NVOCC must obtain an International Carriers Bond and a type-2 Custodial Bond if filing in-bonds. The vessel carrier must be listed as the second notify party.

35. Data Element Requirements for Vessel Carrier:

A) The vessel carrier does issue bills of lading to its NVOCC customer. Is there any information that a vessel carrier must include on its CF 1302 regarding containers it is transporting for an NVOCC that is filing in AMS?

Answer: NVOCCs that become automated will be required to submit a completed cargo declaration to CBP. The automated NVOCC must include the vessel carrier that has contracted with the NVOCC as the second notify party. If the vessel carrier is transmitting the cargo declaration to CBP for a non-automated NVOCCs the NVOCC must provide complete cargo declaration for all bills of lading to the vessel carrier. The carriers will input the information under their own bills of lading.

B) To whom and when would information pursuant to cargo examinations be made available?

Answer: Holds and subsequent removal messages will be sent to the party that transmitted the manifest data to CBP through AMS and also to any parties designated for secondary notification. For carriers that submit paper cargo declarations, the party presenting the cargo declaration to CBP will receive the notifications.

C) The Comments to the regulation state that “the vessel operator is only responsible for ensuring that the automated NVOCC’s Standard Alpha Code (SCAC) ... is included on the CBP Form (CF) 3171 that is presented to CBP.” The CF 3171, however, is not filed prior to vessel loading, but as the Comments state, “48 hours prior to arrival in the United States”.

Answer: For vessels that arrive in the United States, CBP only receives one CF 3171 per port that includes reporting all SCAC codes for that vessel. The arriving vessel is responsible for supplying this information to CBP, since the vessel carrier is the second notify party they must inform the vessel operator of all SCAC codes transported on the vessel. The vessel carrier must notify the automated NVOCC of any changes they made to the cargo that was manifested by the NVOCC (overages/shortages).

D) How should bills of lading be handled if a vessel drops its last foreign port of call before departing to the United States, do the bills of lading have to be amended?

Answer: No, if a vessel drops their last foreign port of call before departing for the U.S. then the CF 3171 must reflect this. The bills of lading do not have to be amended in vessel AMS.

36. Second Notify Party:

A) It is essential that a vessel carrier know of any hold messages regarding an NVOCC's box before vessel loading commences. It seems clear that a vessel carrier which is chartering slots would list the vessel operator in this situation. It is assumed an automated NVOCC would be required to list the vessel carrier with whom it has contracted. Is this correct? Would it have to also list the vessel operator if the vessel carrier is a slot charterer, or is the communication to the vessel operator in that case the responsibility of the slot charterer?

Answer: The automated NVOCC would be required to list the vessel carrier as the second notify party. If a container is denied lading at the foreign port, CBP will notify the automated NVOCC, and it will be the NVOCC's responsibility to make the necessary notifications. The electronic "do not load" messages will be required on March 4, 2003.

B) Is it correct that the Second Notify Party field must "be completed" by the NVOCC to include the vessel carrier transporting the box, and that without this field completed, the NVOCC's filing will be incomplete and not accepted?

Answer: The second notify party is a required field for NVOCCs, and they must list the vessel carrier as the second notify party.

C) What information is the Second Notify Party given other than access to CBP "hold" messages? Will container number and NVOCC SCAC code (or other identifier) be included in Second Notify Party information?

Answer: The second notify party will receive messages from CBP every time a bill of lading has been changed, held, and released. CBP is currently evaluating

the programming it would take to limit the information that is sent to second notify parties. The identifiers included in the transmission are:

- SCAC
- Vessel Name
- Voyage #
- Manifest Sequence #
- IMO #
- Port of Unlading
- Date
- Bill of Lading #
- Disposition Code
- Quantity
- Entry Type
- Entry #
- Action Date and Time
- Container #

D) What is required from an IT/systems perspective to ensure that all NVOCC Second Notify Party listings will result in any “hold” notices for the NVOCC’s cargo being effectively transmitted via AMS to the vessel carrier before vessel loading?

Answer: All AMS participants are required to test their system with the Office of Information and Technology before they are allowed to transmit data in AMS.

E) Does CBP have a program to inform NVOCCs on how to become AMS and bond compliant?

Answer: Presently, the Office of Information and Technology has a defined implementation program for automating carriers in AMS. These same requirements will be used to automate NVOCCs. CBP utilizes the Federal Register and Shipping Organizations, the carriers should be distributing information to their foreign shippers advising them of the new requirements.

37. Co-loading:

A) Is the master NVOCC the responsible filing party for all bills of lading in a co-loaded container?

Answer: CBP is defining the term "master NVOCC" as the party responsible for presenting the container to the vessel carrier. An automated master NVOCC will be the responsible filing party for all parties that are not automated. A non-automated master NVOCC will be responsible for providing paper cargo declaration to the carrier for all parties that are not automated.

B) If all the NVOCCs in a co-loaded box are “automated”, can each NVOCC file the information needed from its own bills of lading in AMS?

Answer: Automated Master NVOCC will be responsible for all paper cargo declarations. Any automated NVOCC that is co-loading must file directly to CBP in AMS. Non-automated NVOCC must provide the cargo declaration information to the master NVOCC to transmit the information to CBP. Non-automated

NVOCC will not be authorized to present their cargo declaration to the vessel operator, when co-loading with an automated master NVOCC.

Non-automated master NVOCC must submit the cargo declaration for all non-automated parties co-loading within the container to the vessel carrier for input into AMS. Automated NVOCCs that are co-loading, will be required to transmit their cargo declaration to CBP in AMS. All automated parties within the container must include the contracting carrier as the second notify party.

C) If each NVOCC can file, does the vessel carrier need to know how many NVOCCs are obliged to file in AMS for a container it is loading and transporting, and how would it know this? Will each co-loading NVOCC have to list the vessel carrier as the Second Notify Party for its filing to be acceptable?

Answer: The automated NVOCCs will be required to give complete cargo declaration information for all bills of lading and have the vessel carrier as the second notify party. AMS will not notify the vessel carrier of how many NVOCCs have filed in AMS for a container. If this information is requested or needed by the vessel carrier it would not be captured in AMS. Many carriers have developed a form for automated NVOCCs to complete which will indicate the total bills of lading and bill of lading numbers in the container.

D) The commentary states that if a non-automated NVOCC is co-loading with an automated “master” NVOCC, the non-automated NVOCC “must fully disclose and present the required manifest for their cargo to the automated NVOCC who would be required to present this information to CBP via vessel AMS.” If the non-automated co-loading NVOCC does not want to give its bill of lading information to the master NVOCC (a potential competitor), but comes to the vessel carrier to file its cargo declaration information via AMS, do the regulations permit this or is the AMS filing only to be done by the automated NVOCC?

Answer: No, please refer back to previous answers provided in question **B**.

38. Consolidations:

A) A “US Customer”, places an order with “Foreign Vender” located in England. “Foreign Vender” takes the order and advises that they will produce and ship the goods from their “Factory” located in Italy. The “Factory” produces the goods, and advises “Foreign Vender” that they are ready for shipment. “Foreign Vender” prepares shipping instructions and selects a local England NVOCC to move the goods directly from “Factory” in Italy, to Customer in the US. The terms of shipment are under a Line of Credit, between the “Foreign Vender” and “US Customer”.

Who should be shown as the Shipper on the Master Bill of lading if no House bill is involved? If a House Bill is involved, the Master will reflect the “Foreign

NVOCC” as shipper to their “US NVOCC” office as the consignee. The House Bill will reflect the actual “US Customer” as consignee. Should “Foreign Vender” or “Factory” be shown as the shipper on the House Bill?

Answer: The shipper should be, either "Foreign Vender" or the "Factory". Although, CBP would like to have the most detailed information on the shipper available, for targeting purposes, CBP will accept either party as the shipper until we can clearly identify the term shipper to the trade. The consignee will not be the "US NVOCC" office, it should be the actual "US Customer".

B) A “US Customer” advises their NVOCC that they are purchasing several orders from several vendors, and want them to collect the goods and ship them under one House Bill. The “US NVOCC” relays the various vendors’ information to their “Foreign NVOCC” office for cargo collection. The “Foreign NVOCC” picks up all the goods from 3 different vendors and prepares a House Bill of Lading. Since there will be three different vendors, who should be shown as the shipper(s)?

Answer: For each shipment that does not contain the same shipper and same consignee information it must be identified on its own bill of lading. For example:

1st bill of lading - 1st vendor or factory is the shipper - U.S. customer is the consignee

2nd bill of lading - 2nd vendor or factory is the shipper - U.S. customer is the consignee

3rd bill of lading - 3rd vendor or factory is the shipper - U.S. customer is the consignee

Each shipment will be identified in AMS under their own NVOCC bill of lading but, in most cases, listed in the same container.

C) Will CBP allow multiple shippers on one bill of lading? If so, what is the proper format for the bill of lading? Will CBP accept multiple manufacturers I.D's on one bill of lading in lieu of separate addresses?

Answer: CBP will not allow for multiple shippers or multiple consignees on one bill of lading. For every shipper/consignee relationship a separate bill of lading must be created.

D) Will CBP allow for an in care of party to be referred to in the shipper and/or consignee field?

Answer: CBP will accept the name of the in care of party to be referred to in the shipper and/or consignee field, along with the actual shipper and/or consignee name and complete address. An example of this would be "Consolidator X on behalf of shipper A, with the complete address of the shipper A".

39. Clarification of time of transmission of cargo declarations:

A) The regulations seem to indicate an inconsistency regarding the required time of transmission of cargo declaration information when vessel carriers transmit the information and when automated NVOCCs transmit the information. For vessel carriers, CBP must receive from the carrier the vessel's cargo declaration information or a CBP-approved electronic equivalent 24 hours prior to the lading of cargo on the vessels, and for automated NVOCCs, the cargo declaration information merely needs to be transmitted 24-hours prior to lading of cargo. Is this correct?

Answer: The regulations issued on October 31, 2002, do set forth an unintended inconsistency, which is being corrected by an amendment to the regulations published in the Federal Register on January 14, 2003. This correction clarifies that the 24-hour period prior to loading begins from CBP receipt of the information. The information is transmitted to CBP and must pass system edits and validations with a receipt message back to the transmitter to be considered received. To make this clear, CBP has published a technical clarification to the rule in the Federal Register on Tuesday, January 14, 2003.

B) I realize I must provide my manifest information to CBP at least 24 hours prior to my container being loaded on the vessel to take it to the United States, but must I wait until after my shipment (or shipments) has been loaded into the container and the container closed and sealed, or may I transmit the manifest data prior to loading and sealing the container?

Answer: CBP requires the cargo declaration data to be sent 24 hours before the goods are loaded on the conveyance which will carry them to the United States. The regulation does not require that the goods already be loaded and placed in a sealed container before the cargo information is reported. If there is a data quality issue for goods on one shipment within a consolidated container which cannot be resolved timely, that shipment may be removed before loading the container on the vessel. CBP will request assistance from foreign customs services as appropriate whenever a security concern is raised about a shipment.

40. Geographic Reach:

Does the 24-hour prior to loading rule apply to all geographic locations, like Puerto Rico, the Caribbean and other short haul locations?

Answer: Puerto Rico is within the CBP territory of the United States and is included in the definition of "United States" in the Tariff Act; so the rule does not apply to containers leaving Puerto Rico destined directly to another U.S. port. However, it does apply to cargo destined to Puerto Rico.

The 24-hour rule does apply to all containers leaving all other U.S. possessions and territories, such as Guam and the Northern Marianas, destined directly to an U.S. port.

No exceptions have been made to the timeframe for the rule for any geographic location.

41. Bulk and Break Bulk Cargo:

A) My exemption was for a period of 180 days and my expiration date is soon approaching. Do I have to reapply for another temporary exemption?

Answer: Carriers who have received temporary exemptions from the 24-hour rule will not be required to reapply at the end of the 180-day period. Temporarily exempt carriers will receive written notification of their application status 20-30 days prior to the expiration date. This correspondence will explain the details of the exemption process as it affects them individually. CEA numbers will remain the same for ease of transition.

In general, all exempt carriers will receive a notice for one of the following decisions:

- a full exemption (initial research complete, no expiration date)
- an extension of their current exemption (further research required or more information necessary and temporary exemption extended)
- a denial (decision and appeals process will be explained to carrier)

B) What is considered bulk cargo?

Answer: For the purposes of the 24-hour advanced manifest rule only, the following definition will be used for bulk cargo:

“Homogenous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either: (A) free flowing articles such as oil, grain, coal, ore, and the like which can be pumped or run through a chute or handled by dumping; or (B) uniform cargo that stows as solidly as bulk cargo and requires mechanical handling for lading and discharging.”

Customs and Border Protection (CBP), Border Targeting and Analysis (BTA) has determined that the following list of commodities and commodity types can be classified as bulk cargo. To be classified as bulk, this cargo may not be containerized and must be easily identifiable as laden on the vessel. Any bundling of the following commodities must only be for the purposes of securing the cargo. This list may be changed and updated as deemed appropriate by CBP.

- Coils of steel and other metals
- Rails of steel and other metals
- Wire rods of steel and other metals (may be coiled or flat)
- Ingots of metal (precious or otherwise)
- Round bars of steel or other metal
- Deformed Bars/Rebars (of metal)
- Plates (of metal)
- Billets (of metal)
- Slabs (of metal)
- Pipes (of metal)
- Beams (of metal)
- Tubes/Tubing (of metal)
- Angles, shapes and sections (of metal)
- Sheets (of metal)
- Expanded metal
- Flat bars (of metal)
- Strand wire (of metal)
- Sawn Timber/Lumber as a commodity (not as packaging material)
- Paperboard/Fiberboard/Plywood as a commodity (not as packaging material)
- Paper products as commodity (wood pulp, newsprint and paper rolls and not as packaging material)
- Certain perishable goods, not in boxes, bags or containerized, and not frozen, but laden and stowed in a way similar to other types of bulk cargo (includes seafood and produce).
- Blooms (similar to “billets and of metal)
- Anodes/Cathodes, in sheets only (may be corrugated)

C) What is considered break bulk cargo?

Answer: Break bulk cargo will be defined as cargo that is not containerized and that cannot be classified as “bulk” cargo under the above definition. For example, new and used vehicles will be classified as break bulk cargo. Although uniform in nature, vehicles have identifying marks (such as a Vehicle Identification Number, or VIN). One necessary aspect of bulk cargo is fungibility. The presence of a VIN removes that component from the shipment of new or used vehicles.

It is important to note that the difference between bulk and break bulk is based not only on the type of cargo, but also on the way in which the cargo is stowed or loaded. For example, bananas stowed loosely in a hold (not in boxes or containers) will be considered bulk. Palletized boxes of bananas loaded directly into a hold (but not loose or containerized) will be considered break bulk.

D) How do I apply for an exemption from the 24-hour rule filing requirements for break bulk cargo?

Answer: A carrier of break bulk cargo may apply for an exemption from the 24-hour rule filing requirements. Exemption requests should be mailed to:

Customs and Border Protection
Border Targeting and Analysis, Room 5.4-D
1300 Pennsylvania Avenue, NW
Washington, D.C. 20229.

Generally, exemption processing takes approximately two to three weeks for a complete review.

The following information should be supplied in order to be considered for an exemption (per 19 CFR 4.7(b)(4)(ii)(A)): The carrier's IRS number; the source, identity and means of the packaging or bundling of the commodities being shipped; the ports of call both foreign and domestic; the number of vessels the carrier uses to transport break bulk cargo, along with the names of the vessels and their International Maritime Organization numbers; and the list of the carrier's importers and shippers, identifying any who are members of C-TPAT (Customs-Trade Partnership Against Terrorism). Customs and Border Protection reserves the right to request any additional information it deems necessary and appropriate to ensure adequate compliance with 19 CFR 4.7 (b)(4) and to perform necessary national security risk analysis.

NOTE: Any cargo stowed in containers, including containers referred to as "ship's convenience," will be considered general cargo. No such containerized cargo will be exempt from the manifesting reporting requirements. For example, palletized boxes of bananas (not loose or loaded directly into a hold) stowed in shipping containers will be treated the same as all containerized cargo requiring information to be submitted 24 hours prior to loading.

E) Updated Contact Information (Break Bulk Exemption Only)

Answer: Beginning June 15, 2003, all correspondence regarding exemption amendments, questions or concerns must be sent to:

E-mail (preferred): 24hour.exemptions@dhs.gov
Phone: (202) 927-6060
Fax: (202) 927-1435

Please ensure that all e-mails and phone calls clearly reference "24 Hour Exemptions" and the Customs Exemption Application number, if assigned.

Written correspondence may be mailed to the same address as listed earlier in FAQ #41.

42. Missed Voyages:

If information on a container has been transmitted 24 hours prior to lading on the vessel and the 24 hours have expired without the carrier receiving a “do not load” message from CBP, but for some reason the container misses the sailing of the vessel, will CBP require an additional transmission 24 hours before loading that container?

Answer: If the container information was initially transmitted in compliance with the 24 hour rule and was not issued a do not load message, the container would be allowed to sail on the next scheduled voyage without requiring a new 24 hour period, provided that:

- The original bill of lading is deleted from the original vessel.
- The bill of lading is input on the second vessel without any changes to the bill information with the exception of the changes required to the transportation/voyage data.
- The next scheduled voyage must be within 24 hours of the previous departure time. If this is not the case, a new 24-hour time frame will be required prior to loading on the second vessel.

In all cases the cargo declaration must be amended to reflect the deletions and additions of the bills of lading that were deleted or added to a voyage.

43. RecordKeeping:

What are the recordkeeping requirements for carriers and NVOCCs?

Answer: The 5 year statutory mark (19 U.S.C. 1508), as implemented under section 163.1(a)(2)(i) of the regulations (19 CFR 163.1(a)(2)(i)). This regulation imposes a 5 year retention requirement on parties involved in "Any importation, declaration or entry".

44. Entry/Entry Summary:

Proper reporting of NVOCC bills of lading on entry/entry summary.

Answer: It has come to our attention that there is some misunderstanding by the import brokers and importers on how to report NVOCC ocean bills of lading on Entry/Entry Summary.

Under the new 24-hour manifesting rules, NVOCCs have been allowed to participate in the ocean automated manifest program. Automated NVOCCs are required to transmit their traditional house bills of lading as master bills using their own SCAC codes. These bills are being handled in AMS exactly the same as slot charter bills, or vessel sharing agreement bills. If an NVOCC is an

operational AMS participant, it is imperative that brokers and importers report those bill of lading numbers as master bills of lading on their Entry/Entry Summary transmissions and documentation. Do not report them as house bill numbers and do not report any bill numbers issued by the actual carrier.

In addition, use the NVOCC SCAC as both the issuer and carrier codes do not report the actual carrier's SCAC in either location.

Failure to properly report automated NVOCC bills of lading will result in the creation of AMS shell records, and may cause delays in obtaining release of freight.

45. AMS Programming Change:

The following programming changes have been made by Customs and Border Protection (CBP) to further facilitate the movement of cargo on multiple levels of the supply chain.

Input to CBP - TS309/MI

Changes were applied to the Automated Manifest System on Saturday, March 22 to allow for the usage of the qualifiers "OB" (Ocean Bill of Lading) and "BN" (Booking Number). In addition the appropriate reference identifier should be supplied.

Output from CBP - TS350/MR

In conjunction with the changes that were made on Saturday, March 22, the Automated Manifest System will echo back one "OB" or "BN" Qualifier as well as, the reference identifier the CAMIR R02 and X-12 TS350 X4 segment.

Additionally, to effectively utilize the programming changes that were made, it is suggested that the qualifier of "OB" and the reference identifier should reflect the contract carrier's ocean bill of lading. This would allow the ocean carrier's bill to be referenced in a B04 record for each one of the NVOCC's bills sent in AMS. This would assist trade members in linking the NVOCC bills of lading to the bill of lading issued by the ocean carrier (not in AMS) once they receive the SNP information. NVOCCs that do not reference and/or do not provide an accurate ocean bill number in their AMS transmission may experience delays in the release of their cargo.

46. AMS Releases:

What does CBP consider as appropriate documentation for proof of release of cargo?

Answer: As a vessel AMS participant, CBP has stated that the receipt of the 1C message in AMS indicates the official authorization for the release of cargo. For

those rare instances when the carrier and/or terminal operator questions the NVOCC's release of cargo a copy of the AMS release message should be the only document required. This will also be accepted by CBP as proof the carrier released the cargo with official CBP authorization. It should be noted that this is the exception, not the rule. NVOCCs are required to place the contracting carrier's SCAC in the SNP field for every bill they submit in AMS and in every amendment made to the bill. Carriers must ensure that their systems are able to receive the SNP designation.

47. Permits to Transfer (PTT):

Prior to the 24 hour rule, PTT were issued at the master bill level by a carrier, CFS, CES or other facility in order to move containers off of the pier and to break down consolidated shipments for entry. Under the 24-hour rule what is the proper procedure for filing a PTT on container with multiple bills?

A) Automated Master NVOCC

Answer: CBP is defining the term "co-loading" as two or more NVOCCs loading cargo in the same container. An automated master NVOCC co-loading with non-automated NVOCCs is responsible for the AMS transmission of the entire container. In this instance the master NVOCC has two options to file the PTT for all the bills of lading.

- 1) The automated master NVOCC must file a PTT in AMS for each bill of lading. In addition, the master NVO bill should include the contracting carrier in the SNP field and reference the ocean carriers bill in the B04/N9 record so that the carrier will receive and recognize the electronic authorization in AMS. The contracting carrier can then authorize the movement with the terminal operators. The NVOCC must also provide the contracting carrier with a list of all the bill numbers in the container.
- 2) The automated master NVOCC must apply in advance with CBP for a Blanket PTT at each port of discharge. A Blanket PTT must be created for each specific CFS that they intend to use. The blanket PTT must contain a signature from the CFS before CBP will approve it. Once the Blanket PTT is approved, the NVOCC will be responsible for providing a copy of the approved Blanket PTT to the contracting carrier(s). For all cargo that is moved on the approved blanket PTT, thereafter, the NVOCC will be responsible for the filling of a paper PTT indicating all NVOCCs bills of lading numbers that are co-loaded in the container and referencing the ocean carrier's bill of lading. A copy of the PTT must be presented to the carrier and to CBP. CBP will consider the blanket PTT as authorization to move the cargo unless a hold has been placed on a bill in the container.

B) Automated Master NVOCC co-loading with only other automated NVOCC(s).

Answer: Each automated NVOCC must file a PTT in AMS for each bill of lading. In addition, the master NVO bill should include the contracting carrier in the SNP field and reference the ocean carrier's bill in the B04/N9 record so that the carrier will receive and recognize the electronic authorization in AMS. The contracting carrier can then authorize the movement with the terminal operators. The Master NVOCC must then also provide the contracting carrier with a list of all the bill numbers for each NVOCC in the container.

The master NVOCC will also have the option as outlined in FAQ above 47, A, 2.

C) Non-Automated Master NVOCC

Answer: If the master NVOCC is not automated the carrier will be the party transmitting the non-automated NVOCC(s) cargo declarations to CBP in AMS. The carrier will be responsible for the PTT authorization. If the non-automated master NVOCC is co-loading with automated NVOCCs the automated NVOCCs are required to submit their PTT(s) in AMS to the same location as the PTT(s) filed by the carrier. The automated NVOCC will also place the contracting carrier in the SNP field and reference the ocean carrier's bill in the B04/N9 record so that the carrier will receive and recognize the electronic authorization in AMS. The master NVOCC will also be required to notify and provide the contracting carrier with a listing of all the bills in the container for automated NVOCCs.

48. General Order:

A) What is General Order (G.O.) merchandise?

Answer: Merchandise is considered G.O. merchandise when it is taken into custody of the port director and deposited in a G.O. warehouse at the risk and expense of the consignee for any of the following reasons:

- Whenever entry is not made within the time period provided by law
- Whenever entry is incomplete because of failure to pay estimated duties
- Whenever the port director feels entry cannot be made for want of proper documents
- Whenever the port director believes that merchandise is not correctly or legally invoiced
- Whenever, at the request of the consignee or owner of the vessel or person in charge of the vehicle in which merchandise is imported, any merchandise is taken possession of by the port director after the expiration of 1 day after entry of the vessel or report of the vehicle.

B) What are the NVOCC's responsibilities in reporting G.O. eligible merchandise?

Answer: Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at its place of unloading until the fifteenth calendar day after landing for direct landing. No later than 20 calendar days after landing, both CBP and a G.O. warehouse must be notified of the presence of unentered merchandise. Failure to do so may result in a penalty not to exceed \$1,000 for failure to notify CBP, and a liquidated damage assessment not to exceed \$1,000 for failure to notify a G.O. warehouse (19 CFR 4.37(a) for vessel, 19 CFR 122.50(a) for air, and 19 CFR 123.10(a) for land). NVOCC's will be required to perform the notifications to both CBP and a G.O. warehouse. If there are multiple G.O. warehouses within a port, the NVOCC will contact the G.O. warehouse of their choice. NVOCC's will not be required to physically transfer merchandise to the G.O. warehouse.

C) What happens if the merchandise moves inbond?

Answer: If a shipment is sent inbond, the G.O. time period begins once the inbond shipment reaches its destination port. For example, a shipment is unloaded in Long Beach on the 1st. It is sent inbond to Kansas City on the 4th. The shipment is arrived in Kansas City on the 8th. The G.O. time period begins on the 8th. If entry is not made on the merchandise, it will become G.O. eligible on the 23rd.

D) How are G.O. notifications made?

Answer: The Carrier/NVOCC is required to notify both CBP and a G.O. warehouse of their choosing in writing by any appropriate CBP authorized electronic data interchange system. The preferred method is via fax.

E) Which CBP office are G.O. notifications sent to, and how can I obtain a list of G.O. warehouses?

Answer: G.O. notifications are sent to the CBP port in which the merchandise is physically located. The local CBP port can also provide the names of all G.O. warehouses operating in the port.

F) What if there are no G.O. warehouses located in a port?

Answer: Certain ports do not have active G.O. warehouses. In this instance, merchandise would be held under constructive G.O. at the carriers' premises. In this case, the NVOCC would notify CBP of the presence of unentered merchandise and notify the carrier that the shipment is under constructive G.O.

Questions regarding the G.O. process may be directed to Timothy Sushil at (202) 927-0564 or TIMOTHY.SUSHIL@customs.treas.gov

49. Duplicate Multiple Bills:

There are some cases where carriers are transmitting bills of lading in AMS for Automated NVOCCs and duplicate bills of lading are created on the same shipment.

Answer: Carriers that are transmitting bill of lading information in AMS for automated NVOCCs should stop that practice immediately, for they are in violation of the 24-hour rule. The automated NVOCC is responsible for filing in AMS, placing the contracting carrier's SCAC in the SNP field and referencing the carriers master bill (not in AMS) in the transmission. Carriers should be programmed to receive all referenced data in FAQ 36, when placed in the SNP field.

50. Posting Vessel Arrival in AMS:

Is the NVOCC responsible for posting the vessel arrival in AMS?

Answer: No, the carrier is responsible for the vessel auto arrival function in AMS and should do so in a timely manner.

51. Consolidators:

How should cargo from consolidators be manifested in AMS by carriers/NVOCCs?

Answer: Consolidators are in the business of consolidating cargo for one consignee from multiple vendors, as opposed to NVOCCs who consolidate cargo for many shippers to many consignees. CBP has authorized NVOCCs to participate in Sea AMS, but not consolidators. Since, CBP has not yet defined "Shipper" and Consolidators were not addressed in the 24-hour final rule, in the interim, CBP will accept the Consolidators complete name and address in the "shipper field". The Consolidators name and/or address should not appear in the consignee field.

52. New Bill Type:

Is CBP looking at programming changes to AMS to allow automated NVOCCs to transmit bill of lading data to CBP directly and to allow vessel carriers to provide transportation related functions (e.g., vessel arrivals and in-bond processing) as they had prior to the implementation of the 24-hour rule? In other words, can AMS be programmed in such a way that a carrier could perform the same services on behalf of automated NVOCCs that they performed before the 24-hour rule?

Answer: Yes, CBP and members of the Special Bill Working Group (comprised of representatives from the trade community) have devised the following system changes and practices to allow carriers to perform various trade related functions on behalf of NVOCC's.

CPB has created the following 5 new bill types in AMS:

Master Vessel Operating Carrier (MVOCC)
Master Vessel Operating Carrier Master In-bond
Master Vessel Operating Carrier - FROB
Non Vessel Operating Carrier (NVOCC)
Non Vessel Operating Carrier - FROB

The new NVOCC bill type:

- Is required 24 hours before lading of cargo on to vessel.
- Requires detailed information (house level) in order for CBP to effectively target.
- Will require that the SCAC of the Master VOCC be included in the Secondary Notify Party (SNP) field (B02/M11).
- Requires the inclusion of the "OB" qualifier and the Master VOCC ocean bill number (SCAC and up to 12 alpha/numeric characters) in the Reference Identifier (B04/N9).
- Is designated by a code of "N" in the CAMIR B01 record and "30" in the M1109 of the X12 format.
- FROB cargo will be identified by a code of "P" in the CAMIR B01 record and "32" in the M1109 of the X12 format.
- When the NVOCC bill matches with the contracting carrier Master VOCC bill on-file in AMS, a "1Y" message will be sent to the NVO and the bill will be closed.
- All entered release messages/ PTT's/ inbonds and entries will be done at the Master VOCC bill level.
- When the Master VOCC is transmitting data on behalf of a non automated NVOCC they will also use the new NVOCC bill type codes. NOTE: The "1Y" disposition code will not be returned to the MVOCC in this scenario.
- The Master VOCC will utilize their own SCAC when reporting the NVOCC bill of lading number.

The new Master VOCC bill type:

- Is required 24 hours before lading of cargo on to vessel.
- Is created by the contracting carrier to identify the Master VOCC bill that covers both automated NVOCCs bills of lading and NVOCC bills of lading type created by the carrier on behalf of non-automated NVOCCs.
- The new Master VOCC bill type code of "M" will be sent in the CAMIR B01 record and "28" in the M1109 of the X12 format.
- FROB cargo of the Master VOCC will be identified with the bill type of "O" in the CAMIR B01 record and "31" in the M1109 of the X12 format.
- In-bond cargo of the Master VOCC will be identified with the bill type of "29" in the M1109 of the X12 format. NOTE: CAMIR does not require a unique bill type as the in-bond code is reported in position 49 of the B01 record.
- Will contain very generic information, as it is the NVO house bill that contains the "rich" data.

- Carriers will also continue to transmit the regular bills that they send today for non-NVOCC cargo.
- Carriers will continue to receive the disposition code of “69” (bill on-file message) when the NVO bill of lading is accepted in AMS.
- Vessel arrivals, PTT's at the port of unloading as well as the in-bond move to destination will be at the Master VOCC level.
- Entries will be made against the ocean carrier bill as they did before the 24-hour rule.
- The “DO NOT LOAD” and “O.K TO LOAD – RELEASE OF DO NOT LOAD” (disposition codes “6H and 6I”) can be sent to all bill types. **[Note:** When a “6H” or “6I” has been posted to the MVOCC bill of lading, all associated NVOCC bills of lading will receive the status notification as well.]

Subsequent In-bond and Permit to Transfer (PTT):

- CBP will also support use of the subsequent in-bond and PTT concepts.
- All movements will be against the vessel carriers’ bill of lading.
- The Subsequent In-Bond capability (ii or 357-transaction set) will support conventional or paperless "V" numbers and NVOCCs with type 2 bonds may use the transaction set.
- This transaction set may be used to initiate an in-bond movement at the inland destination port or initiate the primary In-bond move at the first port of conveyance arrival if the MVOC elects not to establish the In-bond status.
- The SCAC of the entity invoking the ii/357 will automatically be placed in the SNP field of the MVOCC bill of lading and therefore they will receive the in-bond authorization “1J” and all associated status notifications.
- The permit to transfer (TO1 or 356-transaction set) could also be used at the bill of lading level for PTT movement authorization.
- The Secondary Notify Party (SNP) fields will be expanded from two to eight, per bill of lading. The first two SNP’s will continue to be reported in the B02/M11 records and **additional** SNP’s will be reported via the N00/N1 records. To designate additional SNP’s you will be required to complete 3 fields.
- Service centers and port authorities will now be able to identify which client has been nominated to receive status notifications via the return of the “SNP” and the SNP identifier (SCAC or FIRMS) in the (B04/N9) of the RC/350 transaction set.
- With the use of these new bill types, brokers will once again file entries against the Master Vessel carrier’s bill of lading.
- MVOCC’s must be able to provide the NVOCC with the ocean bill of lading number in advance so that they may include it in their transmission. NVOCC’s need to dialogue with their contracting carrier’s to ensure that this information can be provided prior to implementation.

The special bill requires programming and business practice changes by CBP and the trade. CBP anticipates having its programming changes completed by late October 2003. Until all the necessary changes have been made and tested

to implement the special bill proposal, the automated NVOCCs and vessel carriers must follow the procedures spelled out in the FAQ's until these programming changes are in place. There will **not** be a phased in approach to the use of the special bill. On the date determined, everyone must begin to use the new codes (i.e., 28, 29, M, N, etc.). It is envisioned that the programming will be moved to PRODUCTION in early January 2004.