



Risk Management Update - Transportation

PRC Advance Manifest Rule Scheduled to be Effective January 1, 2009

According to the Chinese PRC Customs website, effective January 1, 2009, PRC is scheduled to begin implementation of "Measures for Manifest Administration For Inbound and Outbound Means of Transportation of The People's Republic of China" (The Measures). The Measures will require all modes of transportation (vessels, aircrafts, trains and road vehicles) to and from China to electronically file advance manifest information with Chinese Customs. The Measures are very similar to the "24 Hour" manifest rule required by US Customs and Border Protection (US-CBP) but does not require the level of detail proposed by the US under its pending "10+2" security filing initiative.

Operators of inbound and outbound transportation vehicles, NVOCCs, freight forwarders, shipping agency companies, postal enterprises and express delivery operators (manifest transmission parties) have an obligation to transmit electronic manifest data to Chinese Customs within the set time limits outlined in The Measures. Similar to the US-CBP rules, these firms can pass on the information to the carriers who have their own data links with the PRC Customs authorities.

Unlike the US-CBP "24" Hour rule, there is currently no requirements for bonding or other means of financial responsibility for the companies who file this information. Customs may refuse to process the entry if the manifest and related electronic data are not transmitted in accordance with The Measures. Acts in violation of the Measures that constitutes smuggling or other Customs regulations will be punished by Customs in accordance with the **Customs Law and Regulation of the People's Republic of China on the Implementation of Customs Administrative Punishment**. Those constituting crimes will be dealt with in accordance with Criminal Law.

Manifest transmission parties should register with the Customs Office and obtain their approval prior to submitting any information to Customs.

For export shipments to the US, this should not cause any additional workload since most of this info is already being transmitted to US-CBP. However, for import shipments to China and for exports to other parts of the world, intermediaries and shippers will need to plan for possible earlier cut off times because of these new requirements.

Although the law has been published, there seems to be a lack of practical implementation info. We recommend our NVO clients with shipments to and from China to prepare their company for compliance.



For more info, please click on China Customs website at: <http://www.customs.gov.cn/publish/portal0/tab399/info106314.htm>

If you have any questions, please contact Danny H Yao at dyao@riskmgtgroup.com, Caesar Tsui at ctsui@riskmgtgroup.com or our Bonds Department at bonds@riskmgtgroup.com

US Customs & Border Protection (CBP) - More Data Please (10+2 Rule) - Danny H Yao

US CBP have recently finalized a new rule requiring ISF (Importer Security Filing) Importers or their designated agents to provide 10 additional data elements 24 hours prior to loading of cargo destined to remain in the US onto a US bound vessel. Ocean carriers will be required to provide 2 additional data elements. (Please see attached summary sheet)

The Interim Final rule was published on November 25, 2008 and will take effect Jan 26, 2009. CBP will allow a one year phase-in period for CBP and all concerned parties to work closely together to ensure that the security filing is being filed correctly and to try and resolve any identified issues that may come up during this phase-in period. After the phase-in period, CBP will begin to issue "no-load" instructions and issue penalties for non-compliance.

Bond Obligations

New changes to the bond regulations take effect Jan 26. If anyone has an Activity Code 1, 2, 3, or 4 continuous bond, that bond will be expanded by CBP to cover the ISF obligations.

The ISF bond is a new form and is continuous only, and only covers the ISF obligations. If you have other CBP obligations that need bonding, like AMS filing, that particular bond when in place will also cover the ISF.

Nothing (i.e., riders) needs to be done to existing Activity Code 1-4 bonds for this new obligation. The regulations will automatically change to expand the coverage.

Impact on NVOCCs

1. You **cannot** obligate your ICB or IT bonds for the importer without the approval of the underwriter. They will require additional underwriting which will probably include additional premium loading and collaterals in the form of letters of credit or cash deposits.
2. If you agree to be the agent of the importer and agree to post your own bond, you must ensure you have a properly executed and signed **Powers of Attorney** in English. After revocation, you still must maintain this document for 5 years after the date of revocation
3. Each ISF filing that is not complete, timely, and accurate is subject to liquidated damages (penalties) of US \$5,000.
4. You must be careful of shipments consisting entirely of foreign cargo remaining on board (FROB) and shipments consisting entirely of goods intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E). Under the definition, the carrier is considered the ISF importer for these shipments. So if you have goods from China to Mexico via LA, you may need to file additional information including booking party, foreign port of unloading, place of delivery, ship to party and Commodity HTSUS number. At the least, make sure that the actual carrier will file this information.



As an NVOCC, you face the risk that your container will not be loaded if all the data has not been properly filed, along with fines and penalties. If you are a co-loader or master co-loader, one incomplete filing may cause your container not to be loaded, forcing you to unload cargo that may already be loaded and causing possible delay to other shipments that have filed the required information.

It is increasingly important to coordinate your business process with all the parties involved in the logistics and supply chain in order to ensure all the required info are filed completely, accurately and in a timely manner by all responsible parties.

We will keep you posted once we receive further information.

Risk Management specializes in providing tailor made insurance solutions to multi-national companies, governmental departments, non-profit organizations and local enterprises. In addition we specialize in providing NVOCC / Freight Association Bonds, freight forwarder legal liability and marine cargo insurance in Hong Kong and Asia.

(Disclaimer—The material in this newsletter is for reference only and is not intended to be legal advice. The information is subject to change, depending on changes in law and regulations. We are not responsible for any damages or loss suffered by any party in reliance on the information.)

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US CBP - 10 +2 Rule
Brief Summary

	Existing Requirement	New Requirement
Carrier :	24 Hour Rule	<p>Same as existing plus: 2 additional element of information:</p> <ol style="list-style-type: none"> 1. Vessel Stow Plan (48 hours after last foreign port of call) 2. Container Status Message (CSM) - (24 hours after receiving the message) <p>For shipments consisting entirely of foreign cargo remaining on board (FROB) and shipments consisting entirely of goods intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E), 5 elements must be provided:</p> <ul style="list-style-type: none"> • Booking party • Foreign port of unloading • Place of delivery • Ship to party and • Commodity HTSUS number
<p>Importer of Record:</p> <p>Under the new requirement the Importer is known as the ISF Importer = Importer Security Filing Importer</p>	No current requirement to submit advance cargo information to CBP	<p>ISF or their agents must provide 10 additional data elements, generally no later than 24 hours before cargo is laden aboard a vessel destined to the US or an FTZ. These elements include:</p> <ul style="list-style-type: none"> • Seller info • Buyer info • Importer of record number / FTZ applicant ID • Consignee number(s) • Manufacturer (or supplier) • Ship to party • Country of origin and • Commodity Harmonized Tariff Schedule of the US (HTSUS) number • Container Stuffing location • Consolidator
Fines and Penalties:	NA	US\$5,000 for each ISF filing that is not complete, timely, and accurate.