



# The New Importer Security Filing and Carrier Requirements or “10+2” How will It Affect You? 73 Fed. Reg. 90 of Jan 2, 2008

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# “10+2” The Basis of the Importer Security and Ocean Carrier Filing Requirements

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- Section 203 of the SAFE Port Act (6 U.S.C. 943) requires the electronic transmission of certain data elements for improved high-risk targeting of cargo destined for the U.S. by a vessel prior to loading at a Foreign Port.
- The Trade Act of 2002 provides that “the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of the information” (19 U.S.C. 2071 Note (a)(3)(B)).
- CPB determined that the ocean carrier is most likely to have knowledge of the vessel stow plan and container status messages; and that the importer (or its designated agent) is most likely to have knowledge of the ten data elements.



# Importer Security Filing Data Elements

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- Rule will require “Importer” to submit an Importer Security Filing (ISF) containing required data elements (the “10” of “10+2”); carriers are to submit the “2” independently of the importer.
- Filing of ISF data must be made as a single aggregated filing no later than 24 hours before cargo is laden aboard a vessel destined for US, or receive a no load notice.
- For purposes of the proposed regulations, importer means the party causing goods to arrive within the limits of a port in the U.S.
- 10 elements are required for shipments consisting of goods intended to be entered into US or a Foreign Trade Zone (FTZ).



# Commissioner Bonner's Three Security Pillars

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- The 24 hour rule of cargo inspection at the port of exportation for Carriers
- C-TPAT participation by Importers, Brokers, Forwarders, etc.
- 10 + 2 filing by the Importers or their authorized agents



# Purpose of ISF:

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- More complete advanced shipment data will produce more effective and more vigorous cargo risk assessments
- Screening from Manifest data is ineffective
- “The additional data elements will be used for security and enhanced targeting and are not intended for commercial or trade enforcement purposes”
- ( But what if there is a discrepancy between ISF and entry data?)



# Importer Security Filing Data Elements

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- 10 elements must be transmitted by the importer, or its agent to CBP separately, or with the filing of a 3461 entry and 7501 entry summary by the importer or his licensed customs broker in a single transaction
- Five data elements are required for:
  - Shipments consisting entirely of FROB (freight remaining on board) and
  - Shipments consisting entirely of goods intended to be “transported” as immediate exportation (IE) or transportation and exportation (T&E) in-bond shipments.



# Importer Security Filing Data Elements

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- Following elements must be provided for FROB, IE and T&E shipments:
  - Booking party name and address.
  - Foreign port of unloading
  - Place of delivery
  - Ship-to-party name and address
  - Commodity HTSUS number six digit level



# Importer Security Filing Data Elements

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- The ten required elements are:
  - (1) Manufacturer (or supplier) name and address  
Entity that last manufactures, assembles, produces, or grows the commodity, or the supplier of the finished goods in the country from which the goods are leaving.
  - (2) Seller name and address  
The entity *by whom* the goods are sold or will be sold. If the goods are not imported pursuant to a sale, then the name and address of the owner of the goods.
  - (3) Buyer name and address  
The entity *to whom* the goods are sold or will be sold. If the goods are not imported pursuant to a sale, then the name and address of the owner of the goods.



# Importer Security Filing Data Elements

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- Identification of Importer Filing Elements, cont.
  - (4) Ship-to-Party name and address  
The first deliver-to-party scheduled to physically receive the goods after release.
  - (5) Container stuffing location  
Name and address(es) of physical location(s) where goods were loaded into container.
  - (6) Consolidator (stuffer) name and address  
Name and address of the party who stuffed the container or arranged for the stuffing of the container.



# Importer Security Filing Data Elements

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- Identification of Importer Filing Elements, cont.,
  - (7) Importer of record number / FTZ applicant identification number. Internal Revenue Service (IRS) number, Employer Identification Number (EIN), of entity liable for payment of duties and meeting all requirements incurred as a result of importation.
  - (8) Consignee number(s).  
Same element as the “consignee number” on CBP Form 3461.
  - (9) Country of origin. Same element as the “country of origin” on CBP Form 3461.
  - (10) Commodity HTSUS number. HTS reporting number under which the article is classified at the 6<sup>th</sup> digit level (may use 10 digit).



# Linking ISF to the 3461 and 7501

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- ISF is to link to the following data elements at the entry line level:
  - Manufacturer or supplier name and address
  - Country of Origin
  - HTS -- 6 Digit



# “10+2” The New Importer Security Filing Requirements

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- The Importer Security Filing will be required for each shipment, at the lowest bill of lading level (i.e., at the house bill of lading level, if applicable).
- If importer does not know an element that is required, the importer must take steps necessary to obtain the information.
- The ISF must be done by the importer or a designated agent.
- The designated agent, for the purpose of filing the ISF can be a Customs broker, or another appointed agent, such as the foreign consolidator.
- The ISF is not an “entry” for Custom’s purposes.



# “10+2” The New Importer Security Filing Requirements

- Multiple Bills of Lading  
One Importer Security Filing can satisfy multiple bills of lading. However, the manufacturer (or supplier) name and address, country of origin, and commodity HTSUS number elements must be linked to one another at the line item level on the 7501.
- Electronic Filing Systems  
Filing must be made via a CBP-approved electronic data interchange system such as the Automated Broker Interface (ABI) and the Vessel Automated Manifest System (AMS).
- Updating IS Filings  
The party filing the ISF is required to update it if, after the filing and before the goods arrive within the limits of a port in the United States, there are changes to the information filed or more accurate information becomes available.



# 10 + 2: FROB, IE shipments, and T&E Five Elements

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- Booking party name and address
- Port code of the Foreign Port of unloading at the intended destination
- City code of the place of delivery
- First deliver party scheduled to receive the shipment
- HTSUS number at 6 digit up to 10 digit level.



# “10+2” The New Importer Security Filing Requirements (ISF)

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- **CBP will allow an importer to submit the entry and/or entry summary data via the same electronic transmission as the Importer Security Filing**
- **Authorization to file is made via a communication protocol through AMS or ABI; and the agent must have a valid power of attorney.**
- **Commodity HTS numbers must be at the 6 digit level (10 digit optional).**
- **Importer Security Filing and carrier elements (vessel stow plan information, and container status message information) will be exempt from disclosure under 19 CFR 103.12(d).**



# “10+2” The New Importer Security Filing Requirements

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- Data will not be used for “determining merchandise entry or for any other commercial enforcement purposes.”
- CBP will adopt a phase-in enforcement process for the new requirements, similar to that which was utilized when the 24-Hour Rule and Trade Act regulations were implemented.
- CBP proposes to amend 19 CFR 113.62 to include a condition whereby the principal and the carrier agree to comply with the proposed Importer Security Filing requirements, or have liquidated damages assessed.



# “10+2” ISF and Carrier Bond Requirements

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- If the principal fails to comply with the proposed Importer Security Filing requirements, the principal and surety (jointly and severally) would pay liquidated damages equal to the value of the merchandise involved in the default.
- The carrier will have a bond with similar provisions for their filing, but with a limit of \$50,000 for non filing of the Load Plan and \$5,000 per violation or \$100,000 per vessel for inaccurate data elements in the Container Status Messages.



# Ocean Carrier Requirements Under the 24 Hour Rule

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- Carriers are required to produce in advance an accurate Inward Foreign Manifest, their contents and advanced filing cargo declarations 24 hours prior to lading of containerized and non-exempt break-bulk cargo.
- Authority under 19 U.S.C. 1431 and 19 C.F.R 4.7.



# Ocean Carriers: The 24 Hour Rule Cargo Declaration

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- The Foreign Cargo Declaration (form 1302) submitted via. AMS (Vessel Automated Manifest System) must list all of the inward foreign cargo regardless of the U.S. Port of discharge.
- NVOCC may submit the Declaration separately.
- The Declaration must separately list foreign cargo remaining on board (FROB).



# 24 Hour Rule: Information For Each Bill of Lading:

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- Shipper's name, address or ID
- Consignee name and address or ID
- Notify Party
- Bill of Lading Unique Identifier
- First Port Carrier that takes possession
- Foreign Port of Laden



# Ocean Carrier: Vessel Stow Plan for Break Bulk Cargo (1)

- The vessel stow plan will separately transmit standard information about the physical location of each container and break bulk cargo loaded aboard a vessel.
- Vessel Plan: vessel name, operator, and voyage number.
- Container/break bulk cargo: container operator, equipment number and size, stow position, HAZMET-Un code, ports of lading and discharge
- Bulk carriers are exempt.



# Ocean Carriers: Container Status Messages (2)

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- Daily container status messages (CSMs) for certain events, relating to all cargo which the carrier maintains; no new data is required.
- Submit no later than 24 hours after data entered into the carrier's tracking system.
- Includes booking, terminal gate inspection, arrival or departure at a facility, stuffed or stripped, and shipped for heavy repair.



# Ocean Carriers: Container Status Messages (2) Cont:

- Event Code defined in ANSI X.12 or UN EDIFACT standards
- Container number
- Date and time of the event
- Container status: empty or full
- Location of the event
- Vessel identification associated with the event



# Commercial Operations Advisory Committee Comment

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- Phase in approach using a cross-section of importers and agents.
- Identify corrections, additions, and impact before the next step; add to ACE
- Liquidated damage provision is unnecessary.
- No linking of data elements; send and allow CBP to utilize the data.



# COAC Recommendations Cont.

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- Effective confirmation message that filing completed and accepted.
- Harmonize ISF with the SAFE Framework Standards of the WCO.
- Make carrier messaging requirements more clearly defined so that carriers may prepare to implement filing procedures.



# NCBFAA Comments

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- Only U.S. Citizens and U.S. Corporations should be authorized filing agents.
  - Agent alone may not have qualifications
- ISF must include query functions and ISF confirmation number
  - CBP will not allow the importer, or its authorized agent, to query if the security filing was made, if complete, or the data elements actually filed.



# NCBFAA Comments Cont.

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- CBP must conclude all essential programming prior to implementation
  - Avoid excessive costs to the trade.
  - Significant computer programming and training will be required.
- Use an existing data of 24 hour rule and the elements for selectivity (manufacturer, seller buyer, IOR, HTS code consignee, C/O)



# Comment: ISF Overly Burdensome to the Trade

- CBP anticipates that the changes to obtain and submit the consolidated information will not be unduly burdensome.
  - Requires obtaining the previously non-required information from the supply chain at a much earlier time, which may not be reliable 24 hours before loading.
  - Tests were not done on a significant number of shipments; costs will be much higher than estimated.



# Comment: Commercial Practices Not Considered

- Many different commercial practices and INCO terms of sale that trigger shipments
- To work in the daily world a detailed analysis of the various practices and procedures is needed to determine who has the data and will be responsible for its accuracy.
- The proposal was too rushed.



# Comment: Bond Conditions

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- ISF Importer liquidated damage violations up to the value of shipment, are consistent with civil penalties of 19 U.S.C. 1592, without any finding of culpability.
- Basic importer's bond does not require the importer to comply with all entry filing requirements.
- Imposes liability prior to arrival of merchandise.



# Comment: Data Specifications

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- Lack of the release of the technical specifications of the construction of the ten elements to the trade. CBP to provide:
  - Data type for each element
  - Length of each element: AMS and ABI have fixed file protocols
  - Address information, must take into account non-US addresses



# Comment: Exempt Low Risk Importers

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- CBP: no exemption for C-TPAT partners
  - Exempt C-TPAT Tier III, where the exported articles subject to pre-export screening.
  - C-TPAT Tier II and III allowed to pre-file information for each data element on an account basis-not on a shipment basis.
  - ACE document ENT-002 provides for pre-registration of data into account profiles.



# Comment: Exempt Low Risk Repetitive Shipments

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- Handle Low risk repetitive shipments on an account basis.
- Exempt such shipments from ISF.



# Comment: Data Elements Specifications

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- Must publish technical specifications to identify the method of construction.
- Data type, length (ABI and AMI have different file width protocols).
- Address format information needed.
- Describe how to handle multiple container stuffing locations and consolidator name and address.



# Comment: Data elements missing:

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- Bill of lading not identified as a data element, but required in the ISF.
- Identifier for the Filer must be tagged to the filing record.
- Use a filing number unique to each ISF.
- How report master, house and sub-house bills?
- How handle shipments sent to General Order?



# Comment: Implementation and Testing

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- CPP: Will not delay implementation through ACE
  - Programming in ACS and ACE is duplicative, time consuming, and expensive.
  - May delay the implementation of ACE.
  - Prudent testing will result in coordination with ACE.
  - Run adequate prototype testing in ABI and AMS with data formats, hierarchy and specifications, and flowcharts of different scenarios.
  - Determine feasibility and impact on trade.



# Comment: Data Elements

## General Comments

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- CBP: Most data elements of information is well known before importation by importers:
  - Many off line transactions exist for large importers.
  - Information may not be captured in logistics systems and databases.
  - Move two data elements to the 24 hour rule: Container stuffing location, name and address of the stuffer.



# Comment: Data Elements

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- Name of the buyer: may not be known if sold in transit; may have multiple buyers
- Ship to Name and address: rerouting may occur; delivery may be determined after importation
- Container stuffing location: known to the shipper, consolidator or NVO overseas, but not to the importer; may have multi locations or changes near the time of shipment.



# Comment: Data Elements

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- Container stuffer: name and address: same comments as above
- Importer of Record No/ FTZ applicant number: IOR may not be the ISF filer; how will the suffix on the IOR tie to the ISF.
- Consignee Numbers: may not be known prior to shipment.



# Comment: Data Elements: HTSUS number

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- One alternative is to provide merchandise descriptions
- Certain products may not be in the classification database of the company, or be classified by the broker after importation.
- Use 4, 6, 8 or 10 digit HTSUS numbers.



# Comment: Data Element: Linking and Updating

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- Eliminate the linking requirement to the 3461 and 7501.
- Provide for final review by the importer of the data elements and for corrections.
- The Safe Port Act authorizes collection of data prior to loading.



# “10+2” Questions For Importers

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- Which of the 10 data elements does the importer have access to, and which does the importer not have immediate access to?
- How will this data, including house manifest, container stuffer and stuffing location and date, and the manufacturer supplier information get to the ISF filer?
- Will the company have the resources to verify the correctness of the data as filed?
- Does the company currently audit the correctness of the 7501s filed with CBP?
- Who should file the ISF: the importer, its customs broker, its forwarder or carrier, or overseas agent?
- Is confidentiality of the information and the assessment of liquidated damages a concern?