



HOW THE 24 HOUR MANIFEST RULE IMPACTS THE NVOCC

Beginning December 2, 2002, the United States Customs Service ("Customs") will require ocean carriers to transmit specific and detailed cargo declarations for ocean freight on vessels that call on U.S. ports. This requirement will pertain to all containerized freight and most break bulk freight. Certain break bulk freight, when a waiver is specifically granted by Customs in advance, and all bulk freight such as grain, coal, timber, etc., will be exempt from this reporting requirement. When a detailed declaration is required, it must be submitted at least 24 hours before lading on the vessel at the foreign port. Declarations may be submitted to Customs by the actual ocean carrier or the NVOCC handling the shipment.

Because NVOCCs and carriers compete for many of the same clients, NVOCCs may be hesitant to disclose the required information to the ocean carrier for fear that the carrier may use that information to "back sell" the clients of the NVOCC. Therefore, some NVOCCs may elect to bypass the carrier and send the information directly to Customs, or utilize a neutral party such as a port authority or service bureau. This transmission will be conducted through Customs' Sea Automated Manifest System (Sea AMS).

In order to be authorized to send declarations directly, Customs needs to ensure that they will be able to collect liquidated damages in the event the information is untimely or contains errors. *Therefore, Customs requires all NVOCCs participating in Sea AMS to post an International Carrier bond.* The bond ensures compliance with the necessary laws and regulations.

Many questions have arisen because of this. The purpose of this document is not to debate the subject of why these changes were made but to discuss its impact and implementation. In addition, our web site's **24-Hour Rule** topic section contains links to Customs FAQ, a listing of Sea AMS Data Processing Service Firms, and as a copy of Customs' published implementing regulations. The information in this document and on our web site is compiled from a variety of publicly available documents and questions presented by industry representatives to U.S. Customs staff. While we believe this to be accurate, we do not warrant its accuracy. Also, as U.S. Customs implements the rule, operational procedures may change.

Are all NVOCCs required to submit these detailed declarations?

Maybe. From a broader perspective, NVOCCs exist in nearly every country in the world. For those that utilize U.S. trade lanes (shipping directly to the U.S. or to another country utilizing vessels that call on a U.S. port while their cargo is onboard), NVOCCs are required to submit the necessary information in a timely manner for freight shipped to or through a U.S. port. The information must either be presented to the ocean carrier, or directly to Customs by the NVOCC. Please also note that inbound ocean freight is the first focus of Customs. Over the next year these requirements will be expanded to include all modes of transportation (air, sea, rail, and truck) for both inbound and outbound freight. The U.S. plans to reciprocate with foreign ports by allowing the pre-screening of U.S. exports.

When will the 24-Hour Rule become effective?

December 2, 2002. On and after that date Customs will require that these detailed declarations be submitted by either the carrier or the NVOCC. Until February, 2003, Customs will not impose penalties and liquidated damages for *non-fraudulent* violations. NVOCCs and carriers must begin providing the information December 2, 2002, and Customs will use the next 60 days to resolve implementation issues. NVOCCs that are working toward automation but are not ready to use it by December 2, 2002, will be authorized to give the information in paper form to U.S. Customs 24 or more hours before lading at the foreign port until they become operational under Sea AMS.

What options can NVOCCs consider if they are *not* directly transmitting the data to Customs?

NVOCCs have options to fulfill the legal requirements. One is to provide the information to the ocean carrier who will transmit it to Customs. Another option is to transmit the data through a service provider such as a port authority or a vessel agent (“Third Party”) who is already automated and online with Customs. NVOCCs using this option will be required to file a bond with U.S. Customs. The last option is to use an automated NVOCC who is also presenting the container to the carrier. This automated NVOCC will be obligating his own bond filed with Customs because Customs will consider the submissions to be made by the automated NVOCC.

Those that choose to submit the data through a carrier, automated NVOCC, or Third Party may incur charges and may be subject to submission deadline earlier than Customs’ minimum requirement of 24 hour’s notice. NVOCCs will need to make a business decision and weigh all the costs and benefits as to whether or not they will choose to transmit directly to Customs or through a vessel carrier, automated NVOCC or a Third Party.

How is this transmission accomplished?

Customs requires all information coming from NVOCCs to be in an electronic format only, except that Customs will temporarily accept paper filings from NVOCCs that are showing progress towards automation. NVOCCs are invited to join Sea AMS. Information can be found on the Customs website at http://www.customs.gov/ImageCache/cgov/content/import/carriers/nvoccs_5fams_2epdf/v1/nvoccs_5fams.pdf or http://www.customs.gov/ImageCache/cgov/content/publications/ams_2edoc/v1/ams.doc. We have obtained from Customs a list of [AMS Third Parties](#), however we do not provide any specific recommendations and since this list is continually updated, it may not include all parties. Customs estimates the time to become operational under Sea AMS will range from several weeks to several months.

What information is required to be transmitted or provided?

The required information is set forth in the Customs regulations pertaining to cargo declarations (see 19 CFR §4.7a(c)(4)) and is provided below as a courtesy. The full text of the implementing regulations can be found in .pdf format on our website’s 24-Hour Rule topic section.

- (4) In addition to the cargo manifest information required in paragraphs (c)(1)-(c)(3) of this section, for all inward foreign cargo, the Cargo Declaration, either on Customs Form 1302, or on a separate sheet or Customs-approved electronic equivalent, must state the following:
 - (i) The last foreign port before the vessel departs for the United States;
 - (ii) The carrier SCAC code (the unique Standard Carrier Alpha Code assigned for each carrier; see paragraph (c)(2)(iii) of this section);
 - (iii) The carrier-assigned voyage number;
 - (iv) The date the vessel is scheduled to arrive at the first U.S. port in Customs territory;
 - (v) The numbers and quantities from the carrier's ocean bills of lading, either master or house, as applicable (this means that the carrier must transmit the quantity of the lowest external packaging unit; containers and pallets are not acceptable manifested quantities; for example, a container containing 10 pallets with 200 cartons should be manifested as 200 cartons);
 - (vi) The first foreign port where the carrier takes possession of the cargo destined to the United States;
 - (vii) A precise description (or the Harmonized Tariff Schedule (HTS) numbers to the 6-digit level under which the cargo is classified if that information is received from the shipper) and weight of the cargo or, for a sealed container, the shipper's declared description and weight of the cargo. Generic descriptions, specifically those such as "FAK" ("freight of all kinds"), "general cargo", and "STC" ("said to contain") are not acceptable;
 - (viii) The shipper's complete name and address, or identification number, from all bills of lading. (The identification number will be a unique number assigned by U.S. Customs upon the implementation of the Automated Commercial Environment);
 - (ix) The complete name and address of the consignee or the owner or owner's representative, or identification number, from all bills of lading. (The identification number will be a unique number assigned by U.S. Customs upon implementation of the Automated Commercial Environment);
 - (x) The vessel name, country of documentation, and official vessel number. (The vessel number is the International Maritime Organization number assigned to the vessel);
 - (xi) The foreign port where the cargo is laden on board;
 - (xii) Internationally recognized hazardous material code when such materials are being shipped;
 - (xiii) Container numbers (for containerized shipments); and
 - (xiv) The seal numbers for all seals affixed to containers.

When will penalties and liquidated damages be assessed?

Until February, 2003, Customs will not impose penalties and liquidated damages for *non-fraudulent* violations. After that date, if Customs determines that the information was transmitted untimely (fewer than 24 hours before the cargo was loaded) or that the information provided was not accurate, Customs can impose liquidated damages of \$5,000 for each violation. Customs will be very particular regarding cargo descriptions—generic terms such as “freight of all kinds” and “said to contain,” for example, will not be allowed. “Shipper’s load and count” designations will be permitted, however we are not certain if it can only be used when handling full and sealed containers. We have asked Customs for clarification on this matter. When handling sealed containers, unless the NVOCC has actual knowledge of the contents, the NVOCC should protect itself and qualify the description of the cargo with “SLAC” or “Shipper’s Load and Count.”

Also, during the course of transit, should any of the information change, the party that filed the declaration is required to update the information with Customs. It is the party that filed the declaration who will be held accountable for inaccurate information. Thus, NVOCCs are urged to protect their interests and establish proper communication channels and business relationships with shippers, carriers, and co-loaders to ensure accurate information is on file throughout the course of the shipment.

How precise must the cargo declaration be?

Customs will accept cargo declarations in the form of the 6-digit Harmonized Tariff Schedule (“HTS”). For consolidated shipments or containers with multiple products, Customs expects each unique description to be presented. Customs recognizes that many NVOCCs and overseas shippers are not classification experts, and product classifications may vary from country to country. When such a classification is not reasonably known, or is vague (such as the HTS Chapter 98), filers should use a detailed text description. The consequences of an inadequate description will range from Customs placing a hold on the container to the assessment of penalties or liquidated damages. Customs will work with the filer to clarify descriptions when it determines the description is too vague for its selectivity and targeting processes. For more information about specific questions please visit our web site’s 24-Hour Rule topic section.

Why are NVOCCs or carriers responsible for improper cargo descriptions?

Customs does not regulate foreign shippers and foreign exporters, but they do regulate carriers. Customs believes that a carrier or NVOCC should know the merchandise they move under their bill of lading. The reality is that most freight is packaged in such a manner that its contents are not easily identifiable by marks on the packaging, for obvious security concerns, however Customs believes that an NVOCC packing a container should be aware of what is contained in its customers’ and co-loaders’ shipping crates and boxes.

It is very important that NVOCCs implement measures and train their staff to identify shippers that might be a potential terrorism threat. While the list is not exhaustive, NVOCCs should pay particular attention to customers that:

- are new or unknown
- operate from an undisclosed or transient location or only use cellular phones
- have unusual shipping routing or transshipment requests
- have unusual payment methods
- have discrepancies in the description of the merchandise
- appear over eager or have unusual service demands
- deal with unidentified parties, or
- disregard the normal procedures of your firm or the regulatory procedures governing exports and imports.

How do co-loading NVOCCs present their information?

The chart below summarizes the responsibilities for co-loading NVOCCs. Please also note that every NVOCC transmitting information to Customs must identify a second notify party in Sea AMS. In all situations, the second notify party is the carrier issuing its bill of lading to the NVOCC whether or not that carrier actually operates the vessel or charters slots on another vessel.

For use in the chart below, an “Automated NVOCC” is one that has posted the International Carrier bond with Customs and is actively operating under Sea AMS (or is progressing towards operating under Sea AMS). A “Non-Automated NVOCC” can be in two categories. One category utilizes the services of a Third Party to transmit information to U.S. Customs. This category requires the International Carrier Bond. The other category elects to give their information to a carrier or an Automated NVOCC. This category is not required by U.S. Customs to be bonded.

Master or Co-loader	Sea AMS Automation Status	Duties of NVOCC Under 24-Hour Rule
Master NVOCC	Automated	You are considered an Automated NVOCC. You must transmit to US Customs required information for your own cargo and that of all Non-Automated NVOCCs not using a third party/port authority.
Master NVOCC	Not Automated	You are a Non Automated NVOCC. You must provide the information to the vessel carrier, an Automated NVOCC who is presenting the container to the carrier, or transmit to US Customs by using a third party/port authority. The information to be provided must be that of your own cargo and that of all Non-Automated NVOCC co-loaders.
Co-Loading NVOCC	Automated	You are an Automated NVOCC. You must transmit to US Customs the required information for your own cargo.
Co-Load NVOCC	Not Automated	You are a Non Automated NVOCC. You must provide the information regarding your own cargo to the master loader, an Automated NVOCC who is presenting the container to the carrier, or transmit to US Customs by using a third party/port authority.

What is the required bond amount?

We don’t know for certain. The comments by Customs found in the implementing regulations stated that Customs Headquarters would provide guidance on this topic. Customs did not provide complete guidance for determining the bond amount except to state that the bond must be for a minimum of US\$50,000. The actual amount is up to the discretion of the Port Director where the bond is filed. It is our belief that the minimum \$50,000 bond is adequate for all NVOCCs. Higher bonds may be required from firms that continually fail to comply with the requirement to transmit the information both timely and accurately. One continuous bond will be good for all ports of entry.

How may I obtain a bond?

You may contact a Roanoke Trade [office](#) for assistance. Or, if you are already working with a Roanoke Trade service representative, contact them directly. Roanoke Trade works with the top two leading sureties providing Customs and Federal Maritime Commission OTI bonds. Generally, current financial statements and a signed indemnity agreement will be required in order to underwrite the bond. Surety bonds are a credit relationship because the surety is expected to perform under the bond when the NVOCC does not. Accordingly, the surety will want to verify the financial stability of its customers prior to bonding. Please allow sufficient time for the underwriting and filing of your bond. Once a bond is approved by the surety and submitted to Customs, it can take Customs up to 10 days to process the bond. We recommend that NVOCCs begin the bond approval process concurrently with the Sea AMS software acquisition and testing process. Customs will allow testing without a bond on file, but will not allow the NVOCC to be active until the bond is filed.

Why is a bond required?

In order for Customs to ensure declarations are timely and accurate, liquidated damages will be assessed when the regulations are breached. The bond is the contract with Customs that binds the NVOCC to the obligation to pay liquidated damages.

Does the OTI-NVOCC bond posted with the US Federal Maritime Commission meet the bond requirement?

Unfortunately, it does not. The OTI bonds filed with the Federal Maritime Commission only provide protection to the shipping public, carriers, and the FMC for the OTI's violations under the Shipping Reform Act of 1984. The requirements of the 24-Hour Rule imposed by Customs are based in different legislation.

Is a bond required from NVOCCs that file through a Port Authority or Sea AMS Service Provider?

Yes. Some NVOCCs may choose to use neutral Third Parties (such as Port Authorities or Sea AMS Service Providers) to access the necessary communication technology to transmit to Customs. In these instances, Customs still considers the NVOCC the filer and will require the proper bond to be posted.

How is a SCAC code assigned?

SCAC codes are required data elements for identification of carriers and NVOCCs. Standard Carrier Alpha Codes are issued by the National motor Freight Traffic Association, located in Alexandria, VA, USA. More information can be obtained from <http://www.nmfta.org/scac2.htm> or by contacting them directly by phone at +1 (703) 838-1810.

Is there any coordinated effort between Customs and the international trade industry to address implementation concerns?

Yes. Customs will be working with a subcommittee of COAC, a US Department of Treasury committee of industry representatives that oversee and act as an advisory committee on U.S. Customs commercial operations. Customs expects to work closely with this subcommittee that is formed by members of all facets of the international trade community.

Is there someone at Customs to contact with additional questions?

Yes, Customs has identified several personnel to address questions:

- For Legal matters: Larry L. Burton, Office of Regulations and Rulings, (202-572-8724).
- For National Targeting Center issues: David Tipton, (202-927-0108).
- For Container Security Initiatives: Adam Wysocki, (202-927-0724).
- For Trade Compliance issues: Brett Marshall, (202-927-0224).
- For participation in Sea AMS you are required to submit a written letter of request. Your written request should be 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.). Letters should be sent to:

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