



APRIL 2007

TRADE NEWS UPDATE



ACE Enforcement begins

On February 23, 2007, U.S. Customs and Border Protection (CBP) published a Federal Register Notice establishing the mandatory use of ACE electronic Manifest (eManifest) at all land border ports in Michigan and New York. This notice established May 24, 2007 as the effective date for establishment of ACE eManifest as the approved data interchange for transmission of advance electronic cargo information to CBP.

These enforcement actions are based on the implementing regulations of the Trade Act of 2002 for truck carriers found in the Code of Federal Regulations, Title 19, Part 123.92 (19 CFR 123.92). This regulation requires that advanced electronic cargo information, in the form of an eManifest, be provided to CBP one hour (thirty minutes for FAST) prior to the arrival of the conveyance in the first U.S. port of arrival. This rule includes goods moving under bond between U.S. ports of entry as well as goods moving in transit through the U.S. The following shipments are currently exempt from the advance electronic filing requirement for incoming cargo:

- Cargo in transit from point to point in the United States after transiting Canada or Mexico
- Certain informal entries:
 - Merchandise which may be informally entered on CBP Form 368 or 368A (cash collection or receipt)
 - Merchandise unconditionally or conditionally free, not exceeding \$2,000 in value, eligible for entry on CBP Form 7523
 - Products of the United States being returned, for which entry is prescribed on CBP Form 3311.
- The following shipment types are not specifically exempted by the regulation but use of eManifest is not currently required for:
 - Merchandise that is subject to the provisions of 19 USC 1321 (Sec. 321 releases)
 - Empty trucks and truck cabs
 - Shipments consisting solely of Instruments of International Traffic eligible for release under 19 CFR 10.41(a).

All other shipments are required to provide advance electronic cargo information via an eManifest including personal effects using CBP Form 3299.

Enforcement discretion will take place in the following phases:

Phase 1

Beginning May 24, 2007, CBP will begin to exercise enforcement discretion in the form of an informed compliance period of at least 60 days. This period may be extended based on system performance issues and operational readiness. During this period CBP Officers working in primary lanes will provide an informed compliance notice to the driver of any conveyance that fails to meet the requirement.

Phase 2

Beginning no earlier than July 23, 2007, CBP will deny a permit to proceed into the U.S. to any carrier, required to submit an eManifest, which arrives without submitting or attempting an e-Manifest. CBP Officers may accept the ACE e-Manifest cover sheet as initial proof of this attempt. Prior to the beginning of this phase, CBP Officers will also be provided with a process they can use to check for transmission attempts by carriers. Validation of e-Manifest participation should ideally take place in a secondary inspection environment.

Phase 3

Beginning no earlier than August 23, 2007 and continuing as ongoing Trade Act enforcement, CBP will deny a permit to proceed into the U.S. for any truck, required to submit an eManifest, which arrives at one of the ports covered under this memorandum without first successfully transmitting an e-Manifest for that trip. For egregious violations, a monetary penalty (\$5000 for the first offence and \$10,000 for subsequent offences) may be issued to the driver in care of the carrier under 19 USC 1436. Egregious violators are defined as those carriers that make no attempt to comply with the requirements.

FIRST being phased out, EDI promoted as CBSA moves to ACI



The Canada Border Services Agency (CBSA) is currently developing an initiative entitled Advance Commercial Information (ACI), also referred to as E-manifest. Phase I and II of ACI has already been implemented in both the air and marine modes. ACI is based on the provision of electronic pre-arrival cargo information to the CBSA for risk assessment purposes, and will eventually include electronic pre-arrival importer admissibility data.

With the full implementation of ACI in all modes, clients will be required to use either ACI or the Customs Self-Assessment (CSA) for commercial importations. Importers approved to participate in the CSA program are entitled to a streamlined clearance process for eligible goods when an approved carrier and driver registered with the Commercial Driver Registration Program are involved.

The CBSA will no longer accept applications for the Frequent Importer Release System (FIRST). In addition, the FIRST service option will be eliminated as of January 31, 2008.

Unless exempted, Paper Release on Minimum Documentation (RMD) and paper Pre-Arrival Review System (PARS) service options will not be accepted by the CBSA as of October 15, 2007. Exemptions and full text of this notice can be found at:

<http://www.cbsa-asfc.gc.ca/E/pub/cm/cn07-008/cn07-008-e.pdf>

Canada - India Agree to Finalize Investment Agreement in 2007



The Honourable David Emerson, Minister of International Trade, announced that Canada and India have made significant progress toward finalizing a Foreign Investment Protection and Promotion Agreement (FIPA) between the two countries. Negotiations are nearing completion, and the Canadian and Indian governments have agreed to increase efforts to finalize the agreement in the coming months.

"The Indian market offers tremendous opportunities for Canadian investors," said Minister Emerson. "Increasing two-way investment with India is a priority for this government, and we are stepping up efforts to encourage more investment and further stimulate trade flows between our two countries."

Once finalized this bi-lateral trade agreement would provide added security and predictability to the legal framework for foreign investment.

In 2005, Canadian direct investment in India was valued at \$204 million, while India's foreign direct investment in Canada reached \$145 million (up 58 percent from the previous year). Two-way merchandise trade between the two countries reached a record \$3.6 billion in 2006. The Government of Canada is committed to encouraging increased two-way investment flows between India and Canada.

<http://news.gc.ca/cfmx/view/en/index.jsp?articleid=283169>



CBP User Fees increasing

CBP is increasing the fees by the amounts authorized so that they more accurately reflect the actual costs of providing the services for which they are charged. On April 24, 2006, CBP published a Notice of Proposed Rulemaking in the Federal Register (71 FR 20922) proposing to amend the regulations in accordance with the current statutory provisions by increasing the fees for: (1) customs services provided in connection with the arrival of certain commercial vessels, commercial trucks, railroad cars, private aircraft and private vessels, passengers aboard commercial aircraft and commercial vessels, and barges or other bulk carrier arrivals, (2) each item of dutiable mail for which a customs officer prepares documentation, and (3) annual customs brokers permits. The comment period ended on May 24, 2006.

CBP published Final Rule 72 FR 3730 on January 26, 2007 advising of the fee increases. The new fee rates will be effective on April 1, 2007.

Summary of new fees:

CUSTOMS DUTIES	Old Fee Rates Prior to April 1, 2007 (Unit Fee/Annual Cap)	New Fee Rates On/After April 1, 2007 (Unit Fee/Annual Cap)
Commercial Vessels	\$397.00/\$5,955	\$437.00/\$5,955
Commercial Trucks	\$5.00/\$100.00	\$5.50/\$100.00
Railroad Cars	\$7.50/\$100.00	\$8.25/\$100.00
Private Aircraft (Decal)	\$25.00	\$27.50
Private Vessel (Decal)	\$25.00	\$27.50
Commercial Aircraft Passenger (User Fee)	\$5.00	\$5.50
Commercial Vessel Passenger (User Fee-Non Exempt)	\$5.00	\$5.50
Commercial Vessel Passenger	\$1.75	\$1.93
Dutiable Mail	\$5.00	\$5.50
Broker Permit	\$125.00	\$138.00
Barges and other bulk carriers	\$100.00/\$1,500	\$110.00/\$1,500

FYKE receives Partners in Protection certification



Fyke Trading & Logistics recently received certification as a CBSA "Partners in Protection" participant. Fyke's drivers are also FAST approved and are a CSA (Customs Self Assessment) approved carrier.



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