

When NVO boxes reach U.S. shores

Consolidators, Customs clean up nitty-gritty AMS details in manifest filing system.

By CHRIS GILLIS

Non-vessel-operating common carriers have worked with the U.S. Bureau of Customs and Border Protection to devise what they hope will be a more efficient way to electronically manage the movement of containerized cargoes within terminal areas and to inland destinations.

In mid-April, the National Customs Brokers and Forwarders Association of America approached Customs about NVO problems with inbound cargo flows under the agency's advance manifest rule.

Under this rule, effective Dec. 2, NVOs gained access to the Automated Manifest System, an electronic agency program previously reserved for vessel operators. The shift also required AMS-approved NVOs to take charge of their shipments after they reached the port.

"In the beginning everyone focused on the manifest requirements, but all the requirements associated with the entry processes were not properly addressed," said Peter Herling, vice president of import development for Hoboken-N.J.-based Shipco Transport. "In hindsight, we should have seen the problems coming."

To accommodate this aspect of the rule, many NVOs, such as Shipco, made substantial investments in their computer systems to use AMS and become customs-bonded carriers to legally manage inland cargo moves.

NVOs, however, continue to struggle with the in-bond process, causing their cargo to be held at seaports until arrangements are made to move it forward.

Albert W. Saphir, head of ABS Consulting, based in Marietta, Ga., agrees that NVOs on AMS suffer from unresolved operational issues when their cargo arrives in U.S. ports. "There's an incredible amount of additional work for all involved, less automation than before, and just too many individual parties involved in a process that was designed only for a few participants," he said.

Special Bill. Customs and Border Protection worked with about a dozen NVOs in a technical working group to come up with



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ABS Consulting

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a better way to manage land-side moves, called the "special bill" proposal.

The original proposed special bill called for vessel operators to manage arrivals of NVO cargoes and in-transit procedures. NVOs that had invested in their AMS systems and actively used them protested the proposal.

A second special bill proposal was then presented to the agency that would give the NVOs the option to conduct the inland portion of the clearance process or hand it off to the vessel operators. The agency and industry viewed this as workable.

A third "revised special bill," developed by Shipco and NACA Logistics Group was proposed by the NCBFAA NVOCC committee chairperson Maurine Cecil, who is also regional vice president of American Shipping Co., in consultation with other NVOs to Customs.

This revised special bill, which appears to

be acceptable to Customs, enables NVOs to manage their in-bond cargoes through the Paperless Master In-Bond program. Vessel operators will provide arrival information to Customs. Otherwise, the vessel operator can handle the cargo to destination.

The revised special bill also covers NVO inbound movements of full containers (back to back and merchant's haulage) and less-than-containerloads (groupage and co-loads).

"We are pleased that we could come together with the NVOs and the carriers to work out solutions to these issues so that we can meet the needs of security, NVOs and the carriers," said Brian Goebel, Customs' counsel and senior policy advisor, during an April 4 meeting of the Treasury Advisory Committee on Commercial Operations, which kicked off the recent AMS-related work between the agency, the NVOs and ocean carriers.

But more impressive was the ability of the NVO firms and representatives of several industry-related groups, such as the NCBFAA and NVOCC-Government Affairs Conference, to leave any philosophical differences outside the meeting room.

"I have never seen so much active communication between Customs and all the parties involved," said Saphir, who followed the progress of the special bill meetings. "The same also applies to communication between NVOCCs and VOCCs."

"We are pleased that the NVO community, along with Customs, has produced a collective solution to these issues," said Norm Schenk, vice president of brokerage services for UPS Supply Chain Solutions.

UPS was an active participant in the technical working group. "We look forward to working with Customs and the ocean industry throughout the remainder of this process and into the future," Schenk said.

Customs Support. While the technical groundwork for the special bill is finished, Customs' implementation has yet to be done.

The agency made it clear in a May 29 response to the industry that it "does not support the creation of a master NVOCC bill type." Customs will support a previous method of requiring co-loading NVOs to indicate the master NVO's SCAC (Standard Carrier Alpha Code) code in the secondary-notify party field of the electronic manifest.

"It should be noted here that since all arrival and post arrival actions will be against the master VOCC (vessel-operating common carrier) bill, the master NVOCC will not receive any of these status notifica-



Goebel

tions," the agency said.

Customs intends to develop ways to recognize those master NVOs that are Customs-Trade Partnership Against Terrorism (C-TPAT) certified through the secondary notify party for risk management purposes.

The agency assured the NVOs that it was in full support of paperless in-bond process for inbound NVO shipments. "We are continuing our review of the operational and technical impact of this procedure and our response will be the subject of an addendum to this memo," the agency said.

Customs and Border Protection will also require NVOs to ensure AMS amendments accurately reflect the vessel information.

"Some carriers and NVOs have already established a communication link to provide and receive this type of information," the agency said. "Trade partners that have not created this link should do so for it is in the best interest of all commercial parties involved."

The cost of changes now and in the future for AMS has yet to be determined.

Overseas NVOs have already made large investments to acquire the proper customs bonds in order to file their manifests through third-party AMS systems. The average investment for overseas NVOs ranges from about \$12,000 to \$15,000, whereas most domestic NVOs using similar third-party AMS systems have spent \$4,000 to \$6,000.

Third-party AMS systems providers will make changes to their networks to accommodate the special bill.

"When we rolled out our Import2000 product, we did not have the in-bond module, but we quickly incorporated it," said Robert Foley, president of Flagship Customs Services, the largest third party AMS systems provider.

"We support the special bill in that it makes the in-bond process easier for some NVOs, but it should be optional," Foley said.

NVOs that don't use AMS must hand over their manifest details, which include valuable customer information, to the vessel operators to process and file. It's a big risk for many NVOs that fear cargo hungry carriers may back-solicit to their customers.

AMS implementation in the long run, experts say, is far more beneficial than not participating. "AMS will provide a more level playing field, and some such as UPS and NACA are actually doing everything possible to jump even further ahead," Saphir



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One issue that the AMS system will not solve is the current lack of insufficient agency-approved container freight stations in the major inbound seaports. In the port of Los Angeles, for instance, Customs has one container freight station to conduct physical cargo exams. NVO executives say there should be three or four in the port.

"Because of these setbacks what we're seeing is the shift in logistics from a just in time to just in case," Herling said. "Unpredictable delays force companies to increase inventory."

Meanwhile Customs has shifted to the next phase of enforcement of its advance manifest-filing rule, worrying many NVOs that are just getting used to AMS.

When the rule was implemented, Customs held off on issuing fines for manifest filing errors until Feb. 2. The agency then focused on significant violations of the cargo description requirement and the use of vague cargo terms, such as "freight all kinds," "said to contain," "consolidated cargo," and "general department store merchandise." Containerized cargo with these descriptions was issued a "do not load" message while it was in an overseas port. If the cargo has already been loaded, the agency would deny it a permit to unload in the United States.

Between Feb. 2 and April 29, Customs reviewed more than 2.4 million bills of lading, of which about 260 containers had inadequate cargo descriptions. The agency said most violations were resolved in time to make their original booked voyages.

"We are taking the next step in our compliance strategy to see that all of the rule's requirements are complied with," said Customs Commissioner Robert C. Bonner. "Our goal is to achieve full compliance quickly and efficiently while still maintaining a high rate of trade compliance."

On May 4, the agency started to issue "do not load" messages for containerized cargo that has an invalid or incomplete cargo description. Customs also began issuing monetary penalties for late submissions of cargo declarations.

On May 15, the agency commenced with "do not load" messages for "clear violations" of the consignee name and address requirements. The former practice of using "to order" or "to order of shipper" without corresponding information in the consignee field and notify party field, or a consignee with no address, are not acceptable.

At the same time, the agency started issuing monetary penalties for freight remaining on board (FROB) that has an invalid cargo description, and has been loaded onboard a vessel without providing Customs a 24-hour timeframe for targeting.

The fines are stiff. NVOs may be assessed liquidated damages of \$5,000, and \$5,000 for every subsequent violation.

"We as an industry are deeply concerned that Customs and Border Protection is entering a fining state of mind when there's still too many uncertainties in this environment," Herling said.

Some NVOs are afraid to activate AMS if there's a chance that they will be penalized for infractions or have their cargo held up in ports for inspection.

"There's a legitimate concern that some NVOs could be fined out of business," Herling said. "We're sticking it out. To be a responsible player in the market, we have to do this." ■



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