

# BRIEFINGS

## FDA PROPOSED RULE

The Food and Drug Administration has issued two proposed rules to implement the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The proposed rules would require, among other things, many changes to current processes, registration of both domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption with the FDA, and notification of the FDA by noon on the day before food imports arrive at U.S. ports. Comments are due April 4, 2003. 68 Fed. Reg. [5378](#) (Feb. 3, 2002); 68 Fed. Reg. [5428](#) (Feb. 3, 2002).

## EXPORTING

Traditionally U.S. exports have not been as scrutinized as imports. Significant changes appear imminent. Census is said to be finalizing a proposal to require exporters to undergo a certification process involving classroom education and periodic exams before being allowed to export.

## HTS

The International Trade Commission has posted an updated version of the [2003 HTSUS](#) to its website. It has also requested comments on how it may improve its record of HTSUS changes. 68 Fed. Reg. [6510](#) (Feb. 7, 2003).

## HOMELAND SECURITY

The U.S. Customs Service is scheduled to become part of the Department of Homeland Security on March 1, 2003. The Administration's new FY 2004 budget proposal reveals that border/commercial operations will be administratively separate from enforcement operations within the DHS. Most Customs commercial operations will be within the Bureau of Customs and Border Protection.

## C-TPAT

• Clients who are not Customs-Trade Partnership Against Terrorism (C-TPAT) participants have begun receiving CF28 Requests for Information on supply chain security for specific shipments. They are intended to induce companies to join C-TPAT. The firm has developed a comprehensive program with all necessary documentation for C-TPAT implementation. Contact Marshall Miller, Sean Murray, or Michael Utchell for details.

• Customs has announced that it will be holding a members only C-TPAT Seminar in Miami, Florida from April 21 through 24, 2003. On-line registration will begin during the latter part of this month. Access "[What's New](#)" on our website.

• The European Commission has indicated that it wants to work with the U.S. on a bilateral cargo security agreement.

## ADVANCE MANIFESTS

• On February 2, Customs began enforcing its rule requiring the filing of vessel manifests with Customs 24 hours prior to lading cargo on vessels destined for the United States. Customs issued 13 "No Load Directives" during its first week of enforcement due to "egregiously" inadequate cargo descriptions on bills of lading. Access "[What's New](#)" on our website.

• Customs website has Frequently Asked Questions (FAQ) concerning the 24-hour rule. Access "[What's New](#)" on our website.

• At a series of public meetings in January, Customs proposed requiring 8 hour advance manifest filing for air express shipments, 12 hours for all other air shipments, 4 hours for truck shipments, and 24 hours for rail cargo. Customs has also proposed advance manifest requirements for air, road, rail, and ocean exports. The export proposals also call for mandatory AES filing of data, including cargo shipped to Canada, and eliminating AES "Option 4" that allows filing of export documents after a shipment departs the U.S. The comment period ends February 18, 2003. Access "[What's New](#)" on our website. Customs has indicated that proposed rules may be issued in April/May 2003, with implementation of final rules in October 2003.

## CUSTOMS BUSINESS

Customs received only 28 comments on its proposed rule to amend 19 C.F.R. § 111 to exclude corporate compliance activity engaged in for the purpose of exercising reasonable care from its definition of "customs business." The current definition has led to confusion and concern over permissible activity by corporate customs departments.

## BYRD AMENDMENT

The Bush Administration has proposed the repeal of the Byrd Amendment, which directs AD/CVD payments to the petitioning companies. On January 16, the World Trade Organization upheld an earlier WTO ruling that the Byrd Amendment violates WTO requirements. Significant Congressional opposition to the repeal of the Byrd Amendment emerged immediately after the proposal was made public. Access "[What's New](#)" on our website.

## USER FEES

The Administration has urged government agencies to secure a larger portion of their funding from user fees on the industries they regulate. In FY 2004, the FDA is expected to generate 18% of its budget from user fees.

## SCHEDULE B

Clients are reminded that although the classification numbers provided for in the Harmonized Tariff Schedule (HTSUS) may be used in lieu of almost all Schedule B numbers for exports, there are a few exceptions, including aircraft parts. See [General Statistical Note 5 \(GSN 5\)](#) to the HTSUS. Census has posted a separate list, but it is of less use because it contains only limited information. Access "[What's New](#)" on our website.

## CUSTOMS/EPA

Customs and the Environmental Protection Agency (EPA) have signed a Memorandum of Understanding (MOU) in which they agree to share information on imported products. This MOU will also begin the process of automating through ACS. EPA now has a fully manual import process. Access "[What's New](#)" on our website.

## STEEL 201 REVIEW

In March, the International Trade Commission (ITC) will begin a required mid-year review of the Section 201 steel tariffs and quotas. In September it will recommend the extension, reduction, or elimination of the tariffs and quotas to the President. Expect strong efforts by both the domestic steel industry and importers and users of imported steel.

## MASTER AWB

Customs has announced a test for the Air Automated Manifest System. Master Air Waybill data would be transmitted prior to aircraft arrival in the United States. Only qualified AAMS carriers and C-TPAT participants can apply. 68 Fed. Reg. [5072](#) (Jan. 31, 2003).

## EXPORT DATA

- The Office of Foreign Assets Control (OFAC) has issued a final rule allowing the agency to publish certain information, including names, on penalties assessed for violations of OFAC requirements. 68 Fed. Reg. [6820](#) (Feb. 11, 2003).
- In [Wisconsin Project on Nuclear Arms Control v. U.S. Department of Commerce](#), the U.S. Court of Appeals for the D.C. Circuit ruled that Commerce export license information is exempt from release under FOIA. CA DC No. [01-5356](#) (Jan. 31, 2003).

## NAFTA RULES OF ORIGIN

On January 17<sup>th</sup> the President signed a series of NAFTA Rule of Origin changes. The liberalizing changes impact alcoholic beverages, refined petroleum products (noncrude feedstocks), photocopier parts, chassis fitted with engines, and other products. The changes go into effect retroactively from January 1, 2003 for products from Canada only; the effective date for products of Mexico has not yet been announced. 68 Fed. Reg. [3163](#) (Jan. 23, 2003).

## DRAWBACK

Customs is closing Drawback Centers in Boston, Miami, and New Orleans due to continued decreases in drawback claims and amounts. 68 Fed. Reg. [3381](#) (Jan. 24, 2003).

## FTA

- President Bush notified Congress on January 30 of his intent to sign the FTAs with Chile and Singapore. This notification implements a 90-day period for Congressional review. It is expected both FTAs will be implemented on January 1, 2004.
- The United States and Morocco have launched FTA negotiations. 68 Fed. Reg. [6529](#) (Feb. 7, 2003).

## FTZ BOARD ANNUAL REPORT

The FTZ Board has released its Fiscal Year 2001 63<sup>rd</sup> Annual Report to Congress. Access "[What's New](#)" on our website.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/03		
	CURRENTLY	
	APPROVED	AUTHORIZED
ZONES	255	242
SUBZONES	525	445
	PENDING	
ZONES	2	
SUBZONES	22	
MISCELLANEOUS	26	
	AVERAGE PROCESSING TIME (MONTHS)	
ZONES	10	
SUBZONES	11	