

Reorganization means new customs rules for importers

With the sweeping reorganization of U.S. Customs, new trade compliance rules and regulations have been imposed on American importers, leaving them awash in a world of internal controls, new record keeping systems and audit initiation letters.

Then too, there's the spectre of the newly introduced compliance assessment, which is different than Customs's old audit but nevertheless just as scary to a company that has to undergo one.

Much of what these importers are hearing about for the first time comes as old news for operators and users of Foreign Trade Zones. Yet even this group, used to a more intensive level of compliance procedures and stringent record keeping, is encountering potential pitfalls as they strive to get in sync with not only the new systems but a drastically re-engineered U.S. Customs infrastructure.

"If you're a company in a sub zone or an operator of a general purpose zone, you already have spent a great deal of time learning the procedures," says Kansas City-based attorney Marshall Miller. "But so much of this is a lot less clear to the importer who hasn't been operating out of a zone." Mr. Miller, who is a founder of the National Association of Foreign Trade Zones, its long time general counsel and one of the leading authorities on FTZs in the world, will fill in the information gap at the trade organization's annual conference. He will chair three separate sessions, all dealing with informed compliance as determined by the new look U.S. Customs.

The idea of informed compliance,

which clearly puts the onus on the importer, has been born out of the reality that Customs has less resources than ever before to manage a U.S. trade volume that is skyrocketing, like never before. Meanwhile, the process and procedures for reporting import and export activity as well as accounting for duties has grown more complicated.

"What we have now are extremely detailed record keeping requirements that too many people in the import business don't understand," Mr. Miller says. "Just getting all this information organized properly is a huge undertaking for both the importer and Customs."

Of course to truly appreciate the complexities of the compliance issue, it's necessary to understand the inadequacies of the old system, which Customs is replacing under authority of the Customs Modernization Act. For years, Customs had no concrete idea of the level of compliance it was operating at; it varied by industry and there were discrepancies between regions. Ironically, in most cases, companies' records were fine but Customs records were lagging badly. That unfortunately, has created a great deal of confusion and fear now as all the new rules and regulations are being introduced. "A lot of companies are scared to death," Mr. Miller says. "They thought all along that what they were doing was right but now they're finding out it's not."

So Customs' approach, so far, has been to focus on the industries that account for the highest volume of trade: automobiles, oil and gas, and those 50 to 100 American companies that account for the

highest percentage of international trade. The theory is that if Customs can bring these industries, who certainly are used to detailed record keeping, under control, it will then be able to look at the smaller and mid sized import-export operations, perhaps the fastest growing market segment.

Among the keys to abiding by the new compliance regulations are ongoing monitoring, extremely careful and detailed record keeping and strict, internal company procedures for import operations. "Since the onus is on the importing companies, there is a lot to worry about," Mr. Miller says. He says that if there are errors in compliance, companies could face stiff penalties, a situation that doesn't sit too well with the rank and file exporter. That's particularly upsetting to many, since Customs itself sometimes seems every bit as confused as the importers. "Too many people don't yet understand the rules and that goes for Customs as well," he says.

Of course, some would argue that in view of the potential pitfalls associated with compliance, there is even more compelling reasons to locate import and export operations in a FTZ. Says NAFTA Vice President, Karen Sager, "What we are finding is that many of the procedures that customs is putting in place are exactly what FTZs have been dealing with since 1988. We've always been the ones who knew all the rules and had to follow them precisely."

And Mr. Miller, who admits that zone companies "are much better equipped to deal with the new procedures."