

APPLIES TO THE PORT(S) OF: Portland, Astoria, Boise, Coos Bay, Longview, Newport

ORIGINATING OFFICE: PORTLAND, OREGON



**U.S. CUSTOMS & BORDER PROTECTION
TRADE BULLETIN**

NUMBER: 2005-15
ISSUE DATE: 6/16/05

SUBJECT: TRADE ACT of 2002

DISTRIBUTION: Canadian Fishing Vessels / Fish Processing Plants

Effective: Immediately

Background: The purpose of this trade information notice is to provide guidance and clarify how the rules and the implementation of the Trade Act of 2002 affects the Canadian fishing industry and land-based fish processing plants.

The following procedures apply to Canadian fishing vessels covered by the CBP regulations in 19 CFR 4.96. This means fishing vessels that at the time of arrival in the United States, are engaged only in:

1. the North Pacific halibut fishery and are therefore entitled to the privileges provided for by the Halibut Fishing Vessels Convention between the United States and Canada signed in Ottawa, Canada on March 24, 1950 (T.D. 52862). **OR**
2. the Albacore tuna fishery and are therefore entitled to the privileges provided for by the treaty with Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges, entered into force in Ottawa, Canada on July 29, 1981 (T.D. 81-227).

Land-based fish processing plants that draft a time charter agreement with each fishing vessel covering the entire fishing season will become a "carrier" for CBP purposes. All carriers (fishing vessels or fish processing plants with a time charter agreement) arriving into the U.S. with cargo on board must transmit an electronic cargo declaration prior to arrival and will be required to:

BONDS -- Acquire a Type/Code 3 International Carrier Bond in the amount of \$50,000 or higher as determined by the port director. Treasury Department Circular 570, which is published annually, is a list of Treasury approved, certified surety companies. The most current list of Treasury authorized companies is available through their Web site at <http://www.fms.treas.gov/c570/index.html>. In addition, applicable laws and regulations are also available at the same site. In addition to this, Customhouse brokers can assist in obtaining this bond. They can also provide you with information on cost.

CBP FORM-3171 – Submit a CBP FORM-3171, Advance Notice of Arrival. A land-based fish processing plant that has become a "carrier" can complete one CBP FORM-3171 identifying all vessels the land-based fish processing plant has time-charter arrangements with and covering the entire fishing season (term permit 19 CFR 4.30). This term permit must include: name of vessel, flag, name and nationality of the owner/operator and dock/terminal where the boat will discharge cargo.

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Land-based processing plants will be responsible for updating the term permit as necessary. Amendments to the list will be allowed. The port director must approve this term permit before the first arrival. Prior to arrival at each U.S. port, "carriers" must provide CBP notice of their intended arrival. Submission of a CBP FORM-3171, and acceptance of this form by CBP, provides an advance notice of arrival, obligates a carriers international carrier bond, and authorizes unloading of cargo. This form should be submitted prior to arrival to the CBP office at your intended port of arrival as soon as possible. If term permit procedures are used, upon starting its inward voyage, the carrier will be required to notify CBP of the vessel name and the estimated time of arrival (ETA).

MANIFEST REQUIREMENTS – File a complete manifest of all cargo on board. A complete manifest must be electronically transmitted via the Sea Automated Manifest System (Sea AMS). Because fishing vessels at sea do not have the ability to communicate with land-based facilities, the carrier (land-based processing plant) can transmit an estimated date and time of arrival to CBP. Once the fishing vessel is within communication range of the land-based facility, the master of the vessel will communicate the date and time of arrival to the land-based facility who in turn will notify CBP with the updated information.

For land-based fish processing plants or carriers that are not currently on AMS, there are three basic ways for a vessel carrier to transmit the required manifest:

1. Through a service center or port authority:
 - A service center or port authority can transmit the vessel carrier data to CBP (this is the fastest way to start AMS participation).
2. Purchase a software and communications package from a software vendor:
 - The software vendor will set up required interface software.
 - The vessel carrier will have to be certified in AMS prior to submitting actual manifest data.
3. Program its own software interface:
 - This process requires that a full AMS certification test be completed prior to submitting actual manifest data. To become a Sea AMS participant, a written letter of intent on company letterhead, with a point of contact, name, title, phone number, e-mail address and office location must be mailed or faxed to the following location:

Customs and Border Protection
Client Representative Branch
7501 Boston Blvd, Room 211
ATTN: Sea AMS LOI
Springfield, VA 22153
PHONE (703) 921-7500 – FAX (703) 921-7563

Carriers must also ensure that any amendments (weights, piece counts) are transmitted electronically to CBP via Sea AMS.

SCAC - Obtain (and maintain) a "Standard Carrier Alpha Code" (SCAC) issued by the National Motor Freight Traffic Association, located in Alexandria, VA. The cost for the application is \$32.00 U.S. funds if drawn on a U.S. bank (\$40.00 U.S. funds if drawn on a Canadian bank). The SCAC must be

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renewed annually every July 1 following the year of assignment. Information and the application may be downloaded from the website: <http://www.nmfta.org>.

CREW & PASSENGER INFORMATION – Electronically transmit crew or passenger information. Carriers arriving directly from a foreign port or from a foreign port via the fishing grounds must transmit arriving crew/passenger information no later than 24 hours (and up to 96 hours) prior to arrival. For departures directly to a foreign port or to a foreign port via the fishing grounds, crew/passenger information must be received no later than 15 minutes prior to the vessel's departure from the U.S. departure port. Notice of Arrivals/Departures (eNOA/D) can be submitted via <http://www.nvmc.uscg.gov>. Users should take note of the link titled "downloads". An eNOA/D users guide is available as well as a link to submit NOA/D information online. Please note that vessels that are 300 gross tons or less are not exempt from submitting an eNOA/D for CBP purposes.

FOOD & DRUG (FDA) REGISTRATION – Register with FDA. Fishing vessels that harvest and transport fish are exempt from registering. Fish processing plants are not. FDA strongly encourages electronic registration through http://www.CBP_Formscan.fda.gov/~furls/ovffreg.html.

FDA PRIOR NOTICE - Submit a Prior Notice to FDA at least 8 hours prior to arrival at the first U.S. port. FDA must electronically receive and confirm Prior Notice at least 8 hours before a food shipment arrives at the first port of arrival in the U.S. Any individual with knowledge of the required information can submit Prior Notice through CBP's ACS or the FDA Prior Notice System (<http://www.access.fda.gov>) Interface. For Prior Notice purposes fishing vessels should be reported as "Grower/Harvester". Catch that will not be discharged into the U.S. does not need Prior Notice. For more information a Prior Notice booklet appears online at <http://www.fda.gov/oc/bioterrorism/bioact.html>.

Fish processing plants that become "carriers" must also agree to "cover" arrivals at other CBP ports permitted under CBP regulation in 19 CFR 4.96. This means arrival at a non-treaty designated CBP port for the purpose of securing supplies, equipment, or repairs only. Vessels arriving in these non-designated ports may not land their catch.

A fish processing plant as an importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met (19 U.S.C. 1484).

CBP has posted reasonable care publications entitled "What Every Member of the Trade Community Should Know About: Entry" and "What Every Member of the Trade Community Should Know About Recordkeeping" on the CBP Web site at:

www.cbp.gov/linkhandler/cgov/toolbox/legal/informed_compliance_pubs/entry/icp073.ctt/icp073.pdf

www.cbp.gov/linkhandler/cgov/toolbox/legal/informed_compliance_pubs/entry/icp027.ctt/icp027.pdf

Additional Informed Compliance publications are available on the CBP Web site at:

www.cbp.gov/xp/cgov/toolbox/legal/informed_compliance_pubs/informed_compliance_pubs.xml

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ENTERING & CLEARING - The requirements and related fees have not changed for entering and clearing your vessel. Within 48 hours after arrival, you must enter your vessel with the CBP office at your port of arrival. The forms required for entrance are CBP FORM-1300, 1303, 1304, and Immigration Form-418. The entrance fee for vessels under 100 net tons is \$19.00. For vessels 100 net tons or more, the entrance fee is \$37.00. A CBP FORM-1300 is required to clear your vessel. Fees to clear are the same as above.

See <http://www.cbp.gov/xp/cgov/toolbox/forms/> to obtain CBP Forms.

Vessels arriving in distress or for the limited purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and that depart within 24 hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil, sea stores or ship's stores must immediately report their arrival, but are exempt from all of the above requirements.

Please be advised that failure to comply with the above changes may result in penalties.

For more information contact:

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- Troy Monohon, Port Director
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