

THE IMPLICATIONS OF NEW TRANSPORTATION SECURITY MEASURES IN
AGRICULTURAL LOGISTICS

Diane Eicher, COF
Export Manager, Coppersmith, Inc.

In order to appreciate the changes that has occurred in our industry over the past
Two years I wanted to quickly sum up what the life of a freight forwarder was before
9/11. All I can say is "Life was good." We were expediting Export - helping to combat the
evil Trade Imbalance. "Exporters" were seen as inherently good. Paperwork could be turned in
after the vessel sailed with rarely a problem or a penalty. In fact it WAS PAPER –work.
Forwarders were allowed to file paper or paperless instructions. The Federal Maritime
Commission (FMC) was our biggest policeman watching over what we did. As I'll explain
later – much has changed.

I'd like to clarify before starting what exactly it is meant when we talk
about "Logistics". Logistics is the science of reliably getting people and things where they are
needed, when they are needed, at the lowest possible cost, with resulting customer satisfaction.
Logistics is a all encompassing term involving numerous disciplines and specialized functions;
it derives from the application of logic to the complete cycle of planning, implementation,
execution and control needed to achieve pre-determined objectives. Originally a military term,
in recent decades logistics has come into worldwide commercial usage to describe the
management, and management disciplines of physical distribution systems, with a focus on
continuous improvement of process (better, faster, cheaper) and higher customer satisfaction
thru integration of functions, communications, facilities and the services of third parties as in
Freight Forwarders or as they are called now OTI's (Ocean Transportation Intermediaries)

As an OTI for export shipments, we function as an employee of the exporter or an extension of
their office in providing sailing schedules, freight rates for ocean, air and trucking, filing
Automated Export System (AES), Bill of lading masters to the carriers, Dock receipts. We
book the cargo, track and trace. We can negotiate Letter of Credits, bank documents, issue
Certificate of Origins, Invoices and Packing lists. Finally, we're problem solvers – there are
many people involved in the whole logistics chain and the more fingers in the pie the more
chances that something can be missed.

The biggest problem or "challenge" in the new security era is the 24-hour prior notice
requirement. As part of the new homeland security initiative, information must be transmitted
to Dept of Census 24 hours before the vessel loads or the cargo will not be loaded. CBP wants
to be able to check the manifest for any suspicious activity. This causes problems for ag
shipments because it is normal to be booking and loading cargo less than 24 hours before the
vessel sails. An exporter can confirm a last minute sale and have the container back at the port
the same day for shipment on a vessel sailing that very evening. Our concern is (as an
example) : the shipment is a container of very expensive stone fruit bound for the Far East for a
grocery store promotion. The fruit must load and arrive on schedule as the customer on the
other side has made commitments. The law requires that the manifest info must be received

by CBP 24 hours before the vessel loads or the cargo Can Not Load. If Customs and Border Protection rejects this load because it is under the 24 hour prior notice – what can the exporter do? Well – perhaps he'll be lucky enough to have a different vessel leaving the next day and arriving at the same time. However, the cold chain must be broken and the fruit loaded into a different container to ship on a different vessel. There are extra trucking charges involved, transloading charges and possibly even a different ocean freight rate on the other steamship line that had not been factored into the sale price.. What began as a profitable shipment has now turned into a nightmare. Fortunately, this new ruling has to go thru the Notice of Proposed Rulemaking – and people involved in the process believe it will be the end of 2004 before there is 100 percent implementation. Today, I want to give you some info to help you prepare for this new environment.

What Options are there to help prevent situations that I just spoke of? How can we work with the system that we've been given? Customs has offered a program called AES Option 4 or AES Pass 4. They recently closed the program for new applicants but plan on opening it when the new rules go into effect. AES Pass 4 allows approved Exporters to report final information to Customs up to 10 days AFTER the vessel departs. This gives exporters and OTI's a safety net for reporting the correct information and minimizes the chance of cargo not loading the vessel or incurring a customs penalty for late reporting of information.

We signed up a number of our exporters for the program and can confirm it has saved them and us lots of dollars in penalties for late filing. CBP levies a monetary penalty for not submitting manifest info before the vessel sails. As you know it is very difficult to compile complete information that quickly; so you want to be a Pass 4 participant. To insure acceptance into the program when Customs makes it available again, there are some things that exporters and their OTI need to be doing now.

For instance, if you or your OTI are not filing thru AES – get with the program . Customs has made it mandatory that information must have been filed electronically thru AES for six months in order to be eligible for Pass 4. Exporters need to have a minimum of 10 shipments in one given month to qualify. Interestingly – a shipment is defined as a Bill of lading so 100 containers shipped on a single B/l will not count. The shipment needs to be broken into 10 Bills of Lading at 10 containers each in order to qualify. Seems rather arbitrary – but keep that in mind. Break bulk shipments would obviously be adversely affected by this ruling and CBP acknowledged that there needs to be some exceptions to this requirement. They are still working on that issue.

Also – in the future – if applying for Option 4 – exporters will need to justify their need for post-departure filing status. We feel Pass 4 is a necessity for Agricultural Exporters due to the need for freshness and product perishability. Be sure to explain that on the letter of intent.

Besides reporting, another issue that went from “optional” to Mandatory is the Export Power of Attorney. In the past – Customs would audit an import customs broker and each shipment that was handled without the proper Power of Attorney on file – a \$1,000.00 fine per entry would be assessed. That can add up in a hurry. However, it was rarely mentioned or no one ever looked at POA's for Export Accounts. A signed, Shippers Letter of Instruction, usde to qualify as a release of liability for the forwarder – an implied POA. That

too has changed – Customs has stated that they will enforce the same requirements and penalties for non –compliance on the outbound cargo as well. The POA has been developed to include all necessary language to allow the OTI to give the exporter the most comprehensive service and meet all legal requirements. If you do not have a signed POA filed with your OTI – ask them about it.

So we've talked about Automated Export System filing, the upcoming 24 hour rule, the AES Pass 4 or Option 4 program. All these require quite a bit of extra work - whether You are acting as your own forwarder or have hired an OTI specializing in perishables. Unfortunately the bottom line is there are more expenses involved in complying with the 24 hour prior notice rule. Forwarders need to charge for the extra work required in this security conscious environment and exporters will need to pass along those costs accordingly. How that will affect our marketability in overseas markets remains to be seen.

I would like to switch gears and talk about issues relating to the Importation of Perishable goods. I personally don't handle imports but I have spoken with others who specialize in perishables for their opinions on the situation in Los Angeles

If your company is an importer, shipper, manufacturer or you manufacture, produce, hold or Pack food, you must be registered with the FDA . Failure to register will result in cargo held upon arrival at the first port of entry into the U.S.

In Los Angeles, there are only two Customs inspection sites. My company alone has over 100 containers a week going thru the USDA inspection sites and most of this occurs on overtime. Are these additional (USDA) sites going to remain operational? Will overtime be covered and allowed thru CBP? Also – the CBP does not consider refrigerated containers “perishable” because they can be plugged in. However for some products, every day sitting on hold adversely affects the quality and condition. As of yet, these important issues and procedures have not been ironed out and so there is definitely concern.

The FDA and CBP have worked together to program the CPB ACX computer system to accept transmission of Prior Notice in lieu of using the FDA website, thereby helping to eliminate duplication of data used by both agencies. However, there are still many glitches which remain to be worked out in order to file a fully compliant Prior Notice. Much time has been spent to work around these system failures to obtain Prior Notice Confirmation and CBP releases on shipments. Time equals money. These costs will be passed along to you the importer. The FDA's own study stated these extra procedures cost at least \$75.00 per shipment and that is a low estimate.

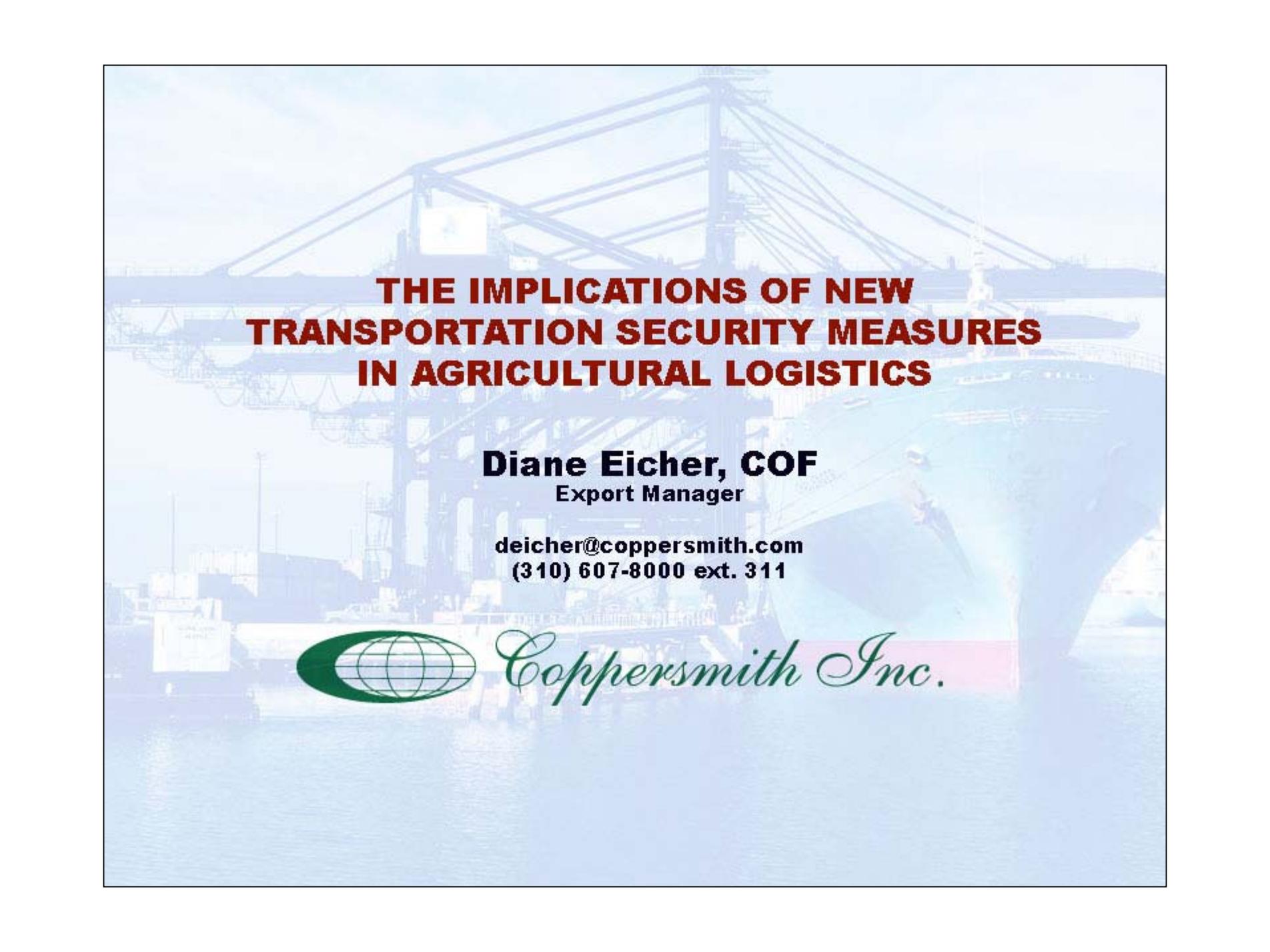
Another concern is the issue of compliance itself with the FDA regulations. We all strive for 100 percent accuracy but we are human and errors will occur. The way the law is written, the FDA is requiring 100 percent accuracy. In other words, whether the entry is flagged due to A legitimate concern or a simple clerical error, the cargo will be refused entry and goes to General Order Warehouse to be sold. That scenario is bad enough but it is doubtful whether there is even enough cold storage to handle all the possible rejections.

C-TPAT is a new program and it stands for Customs Trade Partnership Against Terrorism. This is a voluntary program that all importers should join. Thru C-TPAT, CBP asks businesses to ensure the integrity of their security practices and communicate this to their business partners within the supply chain. Upon gaining approval, the benefits to importers are a reduced number of inspections (reduced border times), access to the C-TPAT membership list and an assigned account manager. The information on how to apply for C-TPAT is on the Customs Web Site – www.CBP.gov

Finally, I want to tell you about other programs and organizations that are working on your behalf to make our food supply safer from terrorists but at the same time facilitate trade.

www.AgOtc.org – The Agriculture Ocean Transportation Coalition was founded in 1987 and monitors government and commercial activity on transportation issues. For instance, each year 13 million shipping containers come into U.S. ports. Only 2-3 percent of these containers are inspected. Some government officials are demanding 100 percent inspection. That is impossible at this time and would stop our economy dead in its tracks. The AgOtc is working to educate lawmakers about our industry and to facilitate workable solutions for tighter security.

Here are other web sites with valuable information on mandatory and voluntary security programs. www.NCBFAA.org, www.USDA.gov, www.CBP.gov, www.FDA.gov
There are many new, complicated laws on the books and understanding them and fully complying in the future will be the difference between success and failure.



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IN AGRICULTURAL LOGISTICS**

Diane Eicher, COF
Export Manager

deicher@coppersmith.com
(310) 607-8000 ext. 311



Coppersmith Inc.



Logistics:

- Planning
- Implementation
- Execution
- Control
- Better, Faster, Cheaper

The background of the slide is a faded, light blue image of a port. A large green and white container ship is docked at a pier. A tall crane with a complex network of cables and pulleys is positioned behind the ship. The sky is a pale, hazy blue.

Freight Forwarders or OTI's
(Ocean Transportation Intermediaries)
OTI's provide;

Sailing schedules, freight rates for ocean, air and trucking, automated Export Filing System (AES), file Bill of lading masters with the carriers, Dock receipts.

Cargo booking, tracking and tracing, Letter of Credit negotiation, Certificate of Origins, Invoices, Packing Lists, Miscellaneous Certificates

PROBLEM SOLVERS

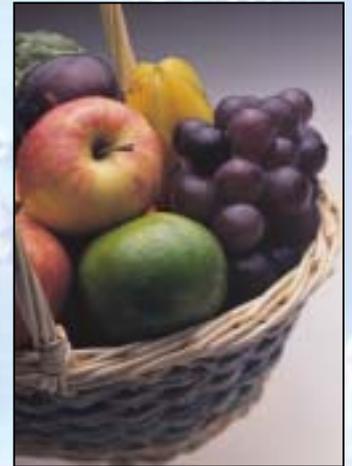
Challenges for Exporters of Perishables

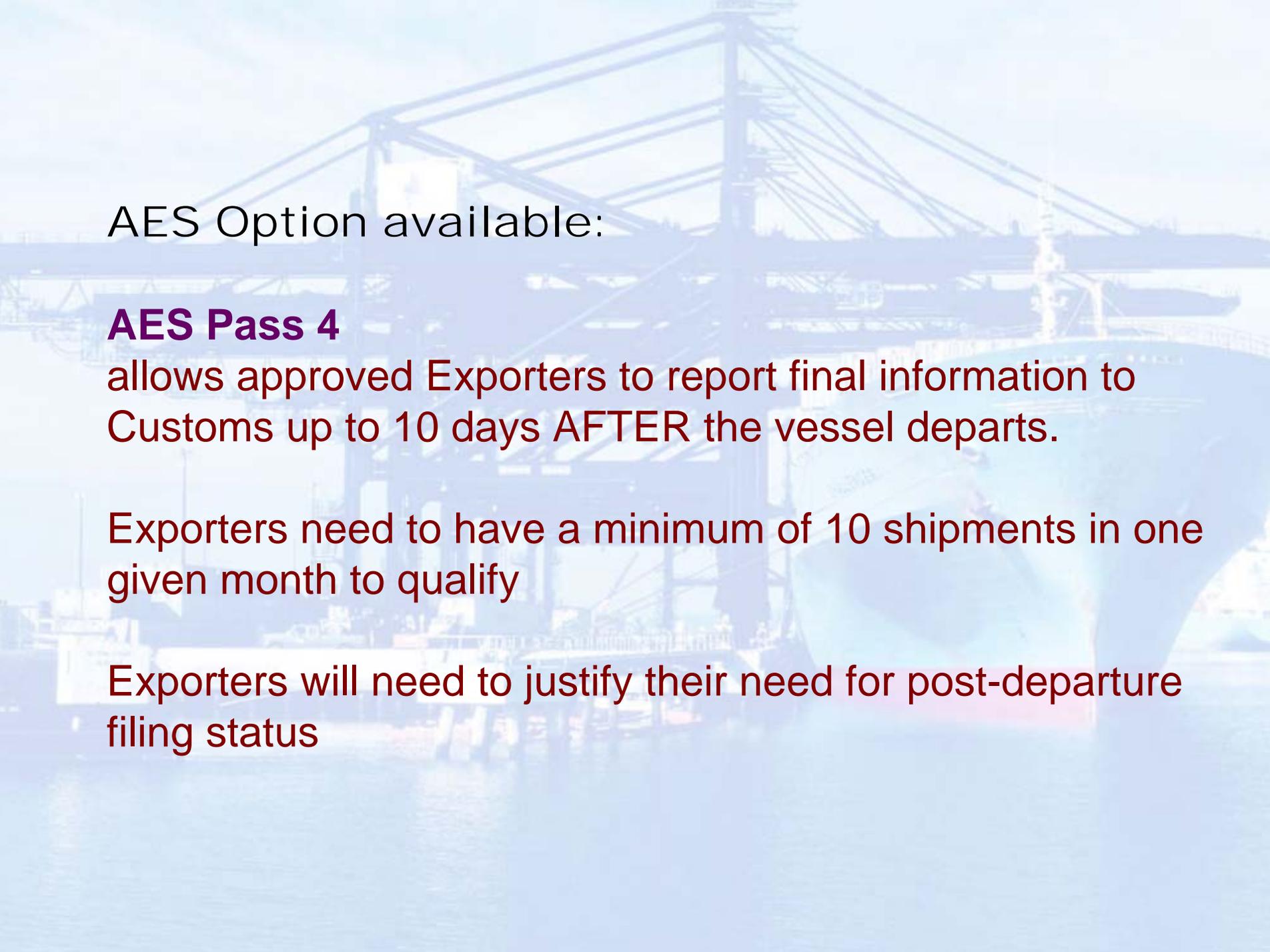
Mandatory AES filing by mid-2004

Automated Export System

24-hour prior notice requirement

*AES must be filed with CBP 24 hours before vessel loading or cargo **will not** be loaded*



The background of the slide is a faded, blue-tinted photograph of a port. A large blue and white cargo ship is docked at a pier. Several large gantry cranes are visible, with their complex metal structures and cables extending over the ship. The water in the foreground is calm, reflecting the light. The overall scene is industrial and maritime.

AES Option available:

AES Pass 4

allows approved Exporters to report final information to Customs up to 10 days **AFTER** the vessel departs.

Exporters need to have a minimum of 10 shipments in one given month to qualify

Exporters will need to justify their need for post-departure filing status

Power of Attorney

Legal status of issuing party Check appropriate box / Individual / Partnership / Corporation / Sole Proprietorship / Other
IRS Account Number or Social Security Number: [1] _____

KNOW ALL MEN BY THESE PRESENTS, that [2] _____
doing business as a/an [3] _____
residing or having a principal place of business at [5] _____ Under the laws of the State of [4] _____ organized on _____
hereby constitutes and appoints L.E. Coppensmith, Inc., a California corporation, its officers, employees, and/or specifically authorized agents as hereinafter
and assigns, to act for and on its behalf as a true and lawful agent and attorney of the grantor for and in the matter, place and stead of said grantor
from this date and in (the United States (the "Territory")) either in writing, electronically, or by other authorized means to:

Make endorse sign, declare, or swear to any Customs entry, withdrawal, declaration, certificate, bill of lading, carnet or any other documents required
by law or regulation in connection with the importation, exportation, transportation, of any merchandise in or through the Customs territory; shipped or
consigned by or to said grantor;
Perform any act or condition, which may be required by law or regulation in connection with such merchandise deliverable to said grantor; to receive
any merchandise; Make endorsements on bills of lading conferring authority to transfer title; make entry to collect drawback and to make, sign, and
declare, or swear to any statement or certificate required by law or regulation for drawback purposes, regardless of whether such document is
intended for filing with Customs;

Sign, seal and deliver for and as the act of said grantor any bond required by law or regulation in connection with the entry or withdrawal of imported
merchandise or merchandise exported with or without benefit of drawback, or in connection with the entry clearance, lading, unloading, or navigation of
any vessel or other means of conveyance owned or operated by said grantor, and any and all bonds which may be voluntarily given and accepted
under applicable laws and regulations, consignee's and owner's declarations provided for in section 685, Tariff Act of 1930, as amended, or articles
in connection with the entry of merchandise.

Sign and swear to any document and any other paper, receipt, invoice, bill of lading, certificate, or other document required by law or regulation in connection with the entry,
exportation, or transportation of merchandise in or through the Customs territory, and any and all bonds which may be voluntarily given and accepted
under applicable laws and regulations, consignee's and owner's declarations provided for in section 685, Tariff Act of 1930, as amended, or articles
in connection with the entry of merchandise.

And generally to transact Customs business, including filing of claims or protests under section 514 of the Tariff Act of 1930, or pursuant to other laws
of the territory, in which said grantor is or may be concerned or interested and which may properly be transacted or performed by an agent and
attorney. Giving to said agent and attorney full power and authority to do anything whatever requisite and necessary to be done in the territory,
in connection with the entry, exportation, or transportation of merchandise in or through the Customs territory, and to accept service of
process on behalf of the grantor.

The undersigned represents that all information contained herein is true and correct as of date of execution and acknowledges receipt of
a copy of the Customs Form 3486, "Power of Attorney for Importation or Exportation of Merchandise," which is attached to this form. The undersigned
hereby certifies that he/she is the duly authorized agent of the grantor for the purposes stated herein. If the undersigned is a nonresident of the United States,
he/she certifies that he/she is a United States citizen or a United States resident for tax purposes.

Appointment as Forwarding Agent: The undersigned hereby appoints _____ as the forwarding agent for the purpose of making and endorsing export
documents on behalf of the grantor. The undersigned hereby certifies that he/she is the duly authorized agent of the grantor for the purposes stated herein.
on grantor's behalf.

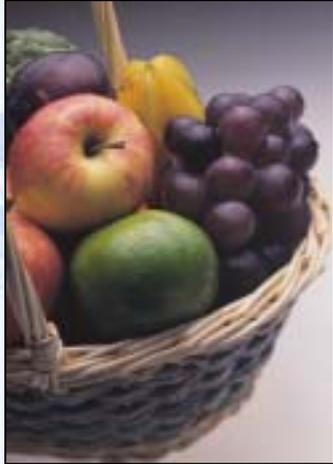
The undersigned represents that all information contained herein is true and correct as of date of execution and acknowledges receipt of
Coppensmith, Inc. Terms and Conditions of Service governing all transactions between Parties.
IN WITNESS WHEREOF, the said, [6] _____
[Signature] [7] _____ Capacity [8] _____ Date [8] _____

NOTE: Per CODE OF FEDERAL REGULATIONS (CFR) Title 19, 111.29(b), "If you and the importer of record (payment to the broker will not relieve you of liability for Customs
Charges (duties, taxes, or other debts owed to Customs) in the event that the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid
with a separate check payable to the U.S. Customs Service, which shall be delivered to Customs by the broker." If you wish to make your check payable directly to U.S.
Customs Service, an endorsement may be made with Coppensmith, Inc. as the payee of the check to authorize receipt of your documents.
Instructions for Completing Form:

- [1] Federal Tax ID number
- [2] Full name of individual, partnership, corporation, sole proprietorship or other entity (partnerships list full name of all partners followed by
dba name, sole proprietors list full name of proprietor followed by dba name.)
- [3] Repeat legal status checked above
- [4] State where legal business entity established for tax purposes
- [5] Complete address (residence for individuals or principal business address)* please include Suite #'s and zip code
- [6] Name in item [2] above
- [7] Authorized Signature (Corporations require corporate officer)
- [8] Title of signor
- [9] Date executed

Export Power of Attorney

\$1000 fine per EACH shipment handled without a POA



Challenges for Importation of Perishables

- Food and Drug Administration Bioterrorism Act (or BTA)
- Prior Notice Confirmation (PNC)
- Mandatory FDA registration
- Possible Changes to USDA Inspections



Customs - Trade Partnership Against Terrorism (C-TPAT)

Joint Government-business initiative to build cooperative relationships that strengthen overall supply chain and Border security.

Benefits to C-TPAT Participants

- A reduced number of inspections (reduced border time)
- Access to C-TPAT membership list
- Assigned Account Manager
- An emphasis on self-policing, not Customs verification



Organizations working for YOU

- Agriculture Ocean Transportation Coalition
www.agotc.org
- National Customs Brokers & Forwarders Association of America, Inc.
www.ncbfaa.org

For Further Information



www.usda.gov



www.cbp.gov



U.S. Food and Drug Administration

www.fda.gov