

GUIDELINES FOR FERRY OPERATIONS IN THE UNITED STATES

Recent developments in the transportation industry have brought about proposals where companies are considering increasing current ferry operations, creating new ferry operations and initiating the movement of cargo on ferries. In order to consolidate the information from numerous rulings from the U.S. Customs Service (USCS) for these individual entrepreneurs, USCS has developed this document for clarification, uniformity and standardization throughout the ferry industry. This document should be used only as guidance to assist companies in projecting a cost benefit analysis for determining if expansion of existing operations or the development of new operations is beneficial to the company. Upon the company's decision, notification to the U.S. Customs Service should be made, to advise of the intention to develop or expand operations.

The development of any new ferry operation or expanding existing ferry operations involves several other federal agencies. A few that are directly involved in these operations are: Immigration and Naturalization Service (INS), Animal and Plant Health Inspection Service (APHIS), U.S. Fish and Wildlife Service (FWS), Public Health Services (PCH) and the Office of Foreign Assets Control (OFAC). However, this document will focus only on the aspects of the U.S. Customs Service. Other agencies should be contacted to determine their requirements.

The marine industry is expanding existing ferry operations and is lobbying to build bigger facilities and a more expansive ferry system, both in the U.S. and for international transportation. Passenger processing in connection with ferry operations has grown substantially in the past few years. A possible increase in international ferry operations will result in a dramatic increase in workload to the Customs Service.

Ferry operations must be individually identified in order to determine the specific guidelines, rules and regulations that must be followed. The ferry itself is considered a vessel and therefore the vessel regulations must be followed. The ferry carries passengers and therefore the passenger regulations must be followed. The ferry also carries vehicles and therefore the vehicle requirements must be followed. For cargo operations on a ferry there are also specific guidelines that must be followed. Therefore, each operator must carefully determine all of the regulations each particular ferry operation must follow.

The U.S. Customs Service has developed this document outlining and clarifying issues, regulations and guidelines concerning passenger, cargo and outbound operations, manifest and facility requirements and user fees associated with ferry operations.

STATUTORY REFERENCE

The term ferry is defined in 19 USC 58 c (c)(1) as any vessel which is being used to provide transportation only between places that are no more than 300 miles apart, and to transport only – passengers, or vehicles, or railroad cars, which are being used, or have been used, in transporting passengers or goods.

The U.S. Customs Service implementation of this definition is explained for both passenger operations and cargo operations. It must be clear that the movement of cargo that does not meet the exemption listed in the cargo section of this document is viewed by the U.S. Customs Service as a commercial vessel and must conduct formal entrance and clearance procedures and all processes associated with those procedures (19 USC 1434 and 46 USC App 91).

PASSENGER OPERATIONS

The fundamental objective of ferry terminal design is to enable passengers and vehicles to proceed from the ferry to access a mode of continued travel. The internal layout of international facilities should reflect this concern for the convenience of passengers and their vehicles by providing simple and direct passenger/vehicle flow routes through well designed facilities. There is an equal responsibility to enable federal inspection station (FIS) agencies to perform their mandated law enforcement roles in the most efficient and effective manner.

Baggage shall be delivered from the vessel to the claim area in a manner that precludes access by unauthorized personnel. All terminals must have a secure temporary storage facility within the FIS area. This is required for baggage awaiting FIS inspection.

Baggage staging areas on-board the ferry and on the pier shall have adequate security provided by the ferry operator to deter possible manipulation of baggage by employees working to circumvent Customs regulations.

The arrival of baggage in the baggage claim area should coincide as nearly as possible with the arrival of passengers in the FIS area. Baggage transfer by way of carts moved by forklift or tram should move into the baggage claim area by the most direct routes staying within the secured dock area.

VESSEL (FERRY OPERATIONS)

The guidelines for the operation of the ferry (vessel) itself are found in 19 CFR 4.2(d) Reports of Arrival of Vessels, which states that “the report of baggage and merchandise required to be made by certain passenger vessels making three or more trips a week between U.S. and foreign ports and vessels used exclusively as ferryboats carrying passengers, baggage, or merchandise (see section 441(2), Tariff Act of 1930, as amended), is in addition to the required report of arrival, and shall be made within 24 hours of arrival”.

A ferry as defined by statute is exempt from vessel entrance and clearance requirements as stated in 19 USC 1441, and ferries are exempt from Customs user and/or APHIS fee requirements as stated in 19 CFR 24.22 (b)(4)(i). However, there is one exception if the ferry arrives/operates from south of 27 degrees latitude and east of 89 degrees longitude as stated in 19 USC 58c(b)(1)(A)(iii).

Based on 19 USC 1451, performance bonds are not required for ferries.

CARGO OPERATIONS

There is only one instance when the U.S. Customs Service recognizes the movement of cargo onboard a ferry as not altering the original mode of transport of the cargo. When a ferry transports railroad cars being used or which have been used to transport goods, the Customs Service considers those goods and railcars to have arrived in the Customs territory by rail, even though the rail cars were on a ferry. User fees are assessed for loaded or empty railroad cars at the rate of \$7.50 each or \$100 per calendar year for each such car.

19 CFR 24.22(7)(i)(iv)

To further clarify this issue, a tractor-trailer carried on a ferry with a container either loaded with cargo or empty will classify the vessel as a ferry and the goods within the trailer or container are looked upon as having arrived in the Customs territory by ferry. However, the container alone, or the container on the trailer without a tractor attached would classify the vessel as a commercial vessel, not ferry, and the goods within would be considered to have arrived by commercial vessel. If this situation were to occur, the U.S. Customs Service would consider the vessel a cargo ship and would require formal entrance and clearance of the vessel and all appropriate documentation for these processes will be required.

FACILITY REQUIREMENTS FOR INBOUND/OUTBOUND OPERATIONS

These are minimum guidelines for the development of a ferry operation to begin services or to expand existing operations. These guidelines must be utilized for both inbound and outbound operations. However, some requirements are unique to the outbound process and must be incorporated into the facility. The following requirements must be completed.

When planning new ferry terminal facilities, use annual port forecasts of projected peak traffic from a five or ten year perspective, taking into consideration the current industry standard for passenger capacities of ferries under construction.

All proposed design and approval for ferry processing facilities shall be the joint responsibility of the U.S. Customs Service (USCS), Immigration and Naturalization Service (INS), Animal and Plant Health Inspection Services (APHIS), Public Health Service (PHS), and U.S. Fish and Wildlife Service (FWS).

Federal Agencies operate on a budget year system which runs from October through the end of the following September. As a general rule, budget plans are made at least eighteen months prior to the beginning of the fiscal year. Company planning must take this minimum timeframe into account.

Representatives of the national headquarters of the Federal Inspection Service (FIS) agencies must be consulted when planning a new facility, or modifications of existing ones. An FIS is a designated facility for the examination and processing of various federal services. Preliminary plans should be submitted to the local offices, the respective national headquarters, and the architectural staff of each FIS agency before definitive drawings are committed to by the company. Initial design plans must be submitted to the local Customs Port Director. Three sets are required to be submitted for proper forwarding and approval.

Approvals granted by USCS are in writing and executed for each ferry facility by the appropriate Port Director of Customs on behalf of the Office of Field Operations, Headquarters.

All approvals from other federal agencies must be obtained from their respective national headquarters.

At the time of construction, it may be economically unjustified to build a terminal that will meet long-term passenger volume projections. In these circumstances, the initial plans should take into account the need for future expansion. The security of the FIS and cargo areas is essential to ensure the integrity of the inspection areas as well as the safety of all FIS officers and passengers. The FIS and cargo area is a restricted area and may be used only for processing of passengers and cargo. The following are facility requirements for both inbound and outbound processing of ferry traffic.

- ◆ A Customs facility with “TECS capable” booths for interviews of passengers and vehicle drivers. There are three types of traffic lanes utilized by the U.S. Customs Service: Standard Primary Inspection Traffic Lanes, Attached Booth with Lane, and Primary Inspection Traffic Lanes with License Plate Reader Systems. These lanes must be utilized for both inbound and outbound traffic so the design is imperative in order to facilitate traffic flow for both operations.
- ◆ Minimum of two holding rooms, a search/processing room, a currency counting room, cashier’s booth with sufficient queuing space, properly situated after the inspection area but not obstructing the flow of traffic.
- ◆ Overhead canopy with adequate lighting, lane stripping, K-rail or bollards (depending on state D.O.T. requirements), vehicle and cargo detention areas.
- ◆ Signage (in English and other locally used languages) to warn of U.S. Customs inspection area, currency regulations, requirements to declare commercial merchandise (i.e. licensable merchandise, when a Shippers Export Declaration is required), firearms and ammunition exports, and vehicle export requirements.

- ◆ Adequate glare free lighting shall be provided and the FIS facilities should be confined to a single level to provide convenient access to ground transportation and vehicle loading platforms. Sterile corridors should direct the flow of disembarking passengers from the ferry gangway to the FIS by the shortest, most direct path.
- ◆ A visual signaling system will be installed to enable FIS primary and secondary inspectors to signal for assistance.
- ◆ All main passenger exits leading out of the FIS as well as cargo inspection facilities areas shall be situated in such a manner to prevent visitors from observing the inspection process
- ◆ The approach from the ferry to the FIS inspection area must be designed so that passengers and crewmembers cannot bypass the inspection area or interact with persons not officially associated with the inspection process. The baggage claim and inspection areas must be secure.
- ◆ A primary screening counter must be provided, where deemed necessary, for FIS officers to screen passengers and provide exit control. The configuration and number of secondary inspection counters is dependent on passenger volume, risk assessment, and the layout of the proposed facility.
- ◆ Secondary examination areas, which may include commercial vehicle dock areas for unloading large commercial vehicles.
- ◆ Hazardous Material processing area.
- ◆ Typical secondary areas suitable for examining vehicles, a truck bay for examining trucks and their contents. Additionally these secondary areas need to be able to support and store examination equipment such as: Busters, x-ray van, fiber optic scopes, drills and drill bits, probes, laser range finders, mirrors, flashlights, car-lifts, adequate tools for dismantling vehicle compartments, narcotic and currency K-9 availability, digital cameras, currency counters, shotguns, body armor for Inspectors and K-9 officers and “stop-sticks”.

The secondary inspection area is for the inspection of ferry traffic. The volume and types of traffic anticipated will determine the design of the secondary inspection area throughout the ports.

Prior to the arrival of the ferry, advance passenger data should be obtained from the ferry operator, when possible, by delivery of an electronic disk or by fax. The information to be collected should include the name, date of birth, citizenship, Alien Registration Card Number, or passport number and country of issuance. This information should be supplied within a specified time period prior to the ferry arrival to allow for automated processing. The requirements for advance passenger information must take into account the time factor of the ferry trip, distance traveled, and other local factors that may exclude some ferry operations from being able to provide advance passenger information.

MANIFEST REQUIREMENTS

All ferry operations must submit the appropriate documents for the specifics of the voyage. These include such documents as a Repair Oath (CF-226) and Baggage List.

Vehicle operators carrying commercial shipments of cargo must have appropriate documents for the cargo these documents include but are not limited to: Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit (CF-7512), Entry/Immediate Delivery (CF-3461), country of origin documents, invoices, Shipper's Export Declaration (7525-V), appropriate forms for Alcohol, Tobacco and Firearms requirements, appropriate forms for Vehicle Exports from the Environmental Protection Agency. These forms are only a baseline for the normal traffic observed concerning ferry operations and are not meant to be all-inclusive.

OUTBOUND REQUIREMENTS

Outbound Programs view ferry operations the same as "bridge operations" typical at many land border Ports of Entry. Ferry operations are passenger/vehicle carriers and not carriers of commercial cargo, with the exception of rail cars. Therefore, manifesting requirements for cargo would not apply to ferry operators but would apply to vehicle operators and passengers. Vessels that make more than three trips per week between a foreign port and a U.S. port are exempt from entry and clearance requirements under 19 USC 1434. Ferry operations would fall into this exemption and passenger and crew lists would not be required by U.S. Customs. Additionally, ferry operations to and/or from Cuba are prohibited based on current laws and regulations.

The declaration of monetary instruments involves two situations that must be addressed. Ferry operators must ensure that proper signage, in the appropriate languages, are posted informing the traveling public of the currency reporting requirements. The second area of concern is the availability of the Report of International Transportation of Currency or Monetary Instruments (CF 4790), the Customs Publication for Currency Reporting (CP 503) and the distribution of these forms to passengers departing from and arriving in the United States.

SUMMARY

The U.S. Customs Service presents these guidelines to outline the requirements for ferry operators considering expanding their current operations and those companies who were interested in beginning ferry operations. Once a company has conducted the appropriate research, the next step is to contact the Customs Management Center in that location for a meeting to present the vision of expanding current operations or to begin developing a new ferry operation. This will allow the Customs Service to incorporate additional resources into the budget and to provide guidance to the company. The U.S. Customs Service will not authorize or

provide service to expanding current ferry operations or the development of new operations without the requirements listed in this document being adhered to and without being given proper notification of the request to expand or create ferry operations.

National Headquarters

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Office of the Director
Fish and Wildlife Service
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
(202) 358-1700

Office of the Director
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
4700 River Road
Riverdale, MD 20737
(301) 73408010

List of Customs Management Centers

CMCs Address: Northwest Great Plains CMC
1000 2nd Avenue
Suite 2200
Seattle, Washington 98104-1049
Contact: DIRECTOR, FIELD OPERATIONS
Phone Number: 206-553-8761
Fax Number: 206-553-1401

CMCs Address: NORTH ATLANTIC CUSTOMS MANAGEMENT CENTER
10 CAUSEWAY STREET
ROOM 801
BOSTON, MA 02222
Contact: DIRECTOR, FIELD OPERATIONS
Phone Number: 617-565-6210
Fax Number: 617-565-6277

CMCs Address: WEST GREAT LAKES CUSTOMS MANAGEMENT
CENTER
613 ABBOTT STREET
SUITE 310
DETROIT, MI 48226
Contact: DIRECTOR, FIELD OPERATIONS
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CMCs Address: EAST GREAT LAKES CUSTOMS MANAGEMENT CENTER
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CMCs Address: South Texas Customs Management Center
Juarez/Lincoln Bridge Administrative Bldg. No. 2
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Contact: DIRECTOR, FIELD OPERATIONS
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CMCs Address: EAST TEXAS CUSTOMS MANAGEMENT CENTER
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