

# Commercial Customs Operations Advisory Committee (COAC) Secure Trade Lanes Subcommittee Pipeline Recommendations

February 2019

The logo for the Commercial Customs Operations Advisory Committee (COAC). The letters 'C', 'O', 'A', and 'C' are rendered in a bold, serif font. The first 'C' and 'A' are blue, while the 'O' and the second 'C' are red. Below the letters are two horizontal lines, the top one red and the bottom one blue.

COMMERCIAL CUSTOMS OPERATIONS  
ADVISORY COMMITTEE

**Commercial Customs Operations Advisory Committee**  
Secure Trade Lanes Subcommittee  
Pipeline Working Group Recommendations  
November 29, 2018

**Pipeline Working Group**

In July 2015, CBP established a Pipeline Working Group to create uniformity at ports of entry, automate procedures, and codify/modernize regulations to give guidance governing the pipeline industry. The Working Group included members of the American Petroleum Institute (API), which consisted of industry and other experts representing various aspects of importations. The Working Group was formed to provide education and information to CBP on pipeline movements addressing the challenges posed by current regulations, with the end goal of developing and codifying effective and uniform processes specific to guidance for the industry to meet the requirements of CBP.

**In-Transit Pipeline Pilot**

Between July 2015 and May 2016, the Pipeline Working Group held 23 sessions via teleconference. Through the development and increase of industry knowledge on both crude oil and natural gas shipments via pipeline, CBP worked with the industry members to develop and establish a Pilot Program to address a unique situation relating to the in-transit movement of products through international pipelines where shipments both originated in and delivered to the U.S. after moving through Canada. CBP Regulations provide CBP the authority to waive entry after determining the domestic (US to US) nature of the shipment (See 19 CFR 123.21).

For other land border modes of transportation (truck and rail in Subpart E and 19 CFR 123.23), regulations provide specific procedures that should be followed to move goods in-transit. While current regulations do not provide specific procedures for pipelines, 19 CFR 123.21(c) allows for the application of these rules beyond those currently specified.

CBP used these regulations to establish an operational pilot pending regulations and automated solutions. The pilot operated for over six (6) months and was considered a success, saving industry millions of dollars in duties otherwise assessed on US product. The pilot enabled CBP to understand the type of information available from and the tracking practices of this industry, facilitating the forward progress on other issues such as uniformity as well as considerations of how to manage the industry reporting in a more efficient, automated fashion within the Automated Commercial Environment (ACE) on an account managed basis.

**Phase II – March 2017**

Once the Pipeline Pilot began, the Pipeline Working Group continued to meet and discuss uniformity until the development of Phase II. The Pipeline Working Group in Phase II consisted of some of the original members as well as new members and was created on March 7, 2017. The primary focus of the new phase was to build on the knowledge gained from Phase I to develop a model to automate in-bond pipeline movements within ACE. Ultimately, the goal was to develop/codify uniformity while creating efficient reporting procedures for pipeline carriers and entry procedures for importers, all of which were identified in a summary document presented to CBP in October 2016.

With this new Statement of Work, the Pipeline Working Group held several more conference calls and an in-person meeting in Washington, DC on June 15 and 16, 2017. During the in-person meeting, the Pipeline Working Group reviewed two account-based approaches to managing pipeline reporting in a uniform and automated fashion.

Given the limitations within CBP's automated systems, and understanding Pipeline Operators are carriers, the group decided to pursue a Monthly 7512QP Reporting option. The theory was that Pipeline Operators would develop a unique bill of lading that would act as the 7512 for in-bond movements to reconcile on a monthly basis to the unique batch identifier.

Over the course of the past year, this process has been and continues to be tested in ACE. Further effort is needed on this initiative; however, in the interest of moving forward with other issues that are not necessarily impacted by the 7512 trials, the Working Group has developed these COAC recommendations that will be presented at the public meeting on December 5, 2018.

- 1) COAC recommends that CBP develop a Standard Operating Procedure (SOP) for Pipeline movements that will standardize entry filing procedures and provide uniformity at all ports of entry. To help collaborate on this effort, the Pipeline Working Group has created an SOP Appendix to these recommendations to capture key points and issues that should be included in this SOP.
- 2) COAC recommends that CBP standardize data reporting requirements that allows for monthly reporting of Pipeline movements as outlined in the SOP Appendix.
- 3) COAC recommends that CBP develop standard reporting requirements for Pipeline Operators, which will resolve variability among port practices as outlined in the SOP Appendix.
- 4) COAC recommends that CBP automate the filing of the 7512 for in-bond pipeline movements across land borders to meet Census and data collection requirements as outlined in the SOP Appendix.
- 5) COAC recommends that CBP confirm the appropriate Merchandise Processing Fee (MPF) procedures for natural gas and other products moved in continuous pipeline stream.
- 6) COAC recommends that CBP review the bond requirements for Pipeline Operators with the Bond Working Group to provide uniformity in the Customs Bonds required and liability created for Pipeline Operators.
- 7) COAC recommends that CBP place the Pipeline Working Group on hiatus to allow CBP to develop the SOP to respond to these recommendations and continue ongoing dialogue with the Petroleum Center of Excellence and Expertise. If there are technology and/or regulatory issues to be addressed, COAC recommends these be addressed with the Trade Support Network or COAC Regulatory Reform Working Group as necessary.

## Pipeline Standard Operating Procedures Appendix

- 1) In support of Recommendation 1, COAC asks that CBP consider the following issues when developing its SOP:
  - a. Define parties to pipeline transactions and assign appropriate customs responsibilities each party; importer of record vs. pipeline operator, etc.
  - b. Confirm that the custody transfer metering location is the appropriate trigger point for filing entry
  - c. Standardize the timelines and cargo release/entry summary procedures required.
  - d. Address the nature of natural gas movements with respect to
    - i. Confirm monthly consolidated entry is appropriate
    - ii. Account for contractual movement (displacement) rather than physical with consideration of complexities such as backhauls, in-transit and other unique attributes of the industry
    - iii. Standardize the unit of quantity reporting (natural gas conversion factors into CBP reportable unit of measure)
  
- 2) In support of Recommendation #2, COAC asks that CBP standardize data reporting requirements in its SOP that contemplates the following:
  - a. Allow reporting of entry summary data by the last day after the previous month of activity recognizing that
    - i. volumes and values are not finalized until then, transportation costs are not known until invoicing is completed by the pipeline operator.
  - b. Recognize differences due to timing for in-bond or FTZ movements, initial postings vs. adjustments, and imports by a party other than the shipper.
  
- 3) In support of Recommendation #3, COAC asks that CBP consider reporting requirements based upon industry reporting and operational standards with consideration of simplifying reporting to only the essential information. The SOP should also consider the following:
  - a. Consolidation of reporting to one consolidated monthly report of volumes moved in-bond and delivered in the US to one centralized reporting location, which we recommend should be the Petroleum Centre of Excellence, and no reporting required to individual ports of entry.
  - b. Reporting should be due by the last day of the month following the month of delivery.
  - c. Providing delivery tickets to stakeholders within a more reasonable timeframe.
  - d. Consider Pipeline Operators to be sufficient as the only source of documentation required and eliminate outdated and unnecessary requirement on pipeline carriers, including but not limited to
    - i. Filing all ancillary forms such as 7533/3461, at time of delivery.
    - ii. Assigning entry numbers to delivery tickets
    - iii. Providing copies of delivery tickets to CBP

- 4) In support of recommendation #4, COAC asks CBP to consider, given the nature of pipeline movements, whether advance reporting of in-bond pipeline movements is a requirement for this industry or whether the current practice of reporting by Pipeline Operators the month after delivery provides CBP with the best version of information for audit verification purposes.
  - a. If advance information is required, CBP should collaborate with the Pipeline Working Group to consider the alternative that is not administratively burdensome on the industry, including whether or not the use of the currently proposed 7512QP is appropriate.
  - b. Revisit ruling HQ H256573 issued May 1, 2015 to consider the implications, as the ruling was based on incorrect assumptions made by CBP that could have wide-spread and inappropriate requirements placed upon Pipeline Operators/Carriers