

proposal, as already explained, the line-item HTS number for the cargo would essentially not be required prior to the departure of the aircraft for the United States.

As to the carrier not always having cargo information from the house air waybill, should another party, such as an ABI filer, elect to participate in advance automated cargo information filing, the carrier would only be responsible for transmitting information from the master air waybill. However, if another electronic filer did not participate in transmitting needed cargo information to CBP, the incoming carrier would need to obtain the house air waybill information from the relevant party for presentation to CBP.

In-transit consolidations of inbound cargo typically present the same issues of cargo safety and security as other inbound shipments. Thus, the complete house air waybill information would be required from the carrier or the other party electing to participate in advance cargo information filing. Also, should an air carrier choose to ship freight by truck, advance cargo information would be required to be presented to CBP through the truck processing system (*see* proposed § 123.92); electronic air documents would not be accepted in lieu of advance electronic truck cargo information.

Comment

If cargo were bumped from one flight to a later flight, there should be no need to re-transmit related cargo information that was previously transmitted to CBP.

CBP Response

Given the time frames proposed, since cargo information would essentially not be required prior to the departure of the aircraft for the United States, this issue should not present a significant concern.

Comment

The CBP should allow changes and additions to electronically transmitted manifest information in accordance with current manifest discrepancy reporting policies.

CBP Response

Complete and accurate information would need to be presented to CBP for cargo aboard the aircraft no later than the time period specified for the particular foreign area from which the aircraft departs for the United States. As for any changes in the cargo information already transmitted for a flight, the procedures for discrepancy reporting will be the subject of a separate rulemaking.

Pre-Departure Screening of Cargo; Cargo Inspections in the United States

Comment

Air cargo security is already highly regulated by the Transportation Security Administration (TSA), the Federal Aviation Administration (FAA), and other agencies and foreign governments. As such, there should be no pre-departure screening process required for incoming air cargo. In the alternative, it was advocated that CBP should consider a CSI (Container Security Initiative)-type program for air cargo. In the event that pre-departure/lading information is necessary for pre-screening purposes, CBP should provide a positive load/no-load message to the electronic filer. Also, for cargo that may be identified as high risk, CBP should not compel inspections of such cargo at locations in the United States that are merely technical stops.

CBP Response

There will be no pre-departure-screening-and-hold process applied to air cargo under this proposal. While CBP may consider the possibility of developing a CSI-type initiative for air cargo based on a number of factors, including the terrorist threat, the success of industry security programs, and the success of this rulemaking and related CBP security efforts, such a proposal falls outside the scope of this rulemaking.

In addition, inspections of cargo in the United States conducted for the purpose of ensuring cargo safety and security and for the prevention of smuggling would only be conducted if the cargo had been identified as potentially posing a safety, security or smuggling risk; and CBP would work with the carrier and other affected Government agencies to determine an appropriate location to examine such potentially high-risk cargo. In appropriate cases, however, landing rights could be denied to an incoming carrier if advance cargo information was not timely, accurately, and completely presented to CBP (*see* proposed § 122.14).

Comment

The possible need for a carrier to retain cargo in a staging/storage area at a foreign location in order to comply with a pre-departure advance information requirement for inbound cargo would create a security risk for the cargo that would not otherwise exist.

CBP Response

As indicated, the time frames proposed for the advance reporting of

air cargo information have been designed so as to preclude any need to retain cargo in a foreign area in order to comply with the pre-arrival reporting mandate.

Requested Exemptions/Exclusions From Electronic Filing Requirements

Comment

Advance electronic information should not be required for inbound air cargo in diplomatic pouches. Merchandise brought in by the air carrier for its own use should be exempt as well from the advance electronic information provisions. Also, letters and documents should be exempted from the detailed advance electronic cargo information submission. It was further asked whether the advance filing requirements would apply to hand-carried merchandise or merchandise checked in passenger baggage.

CBP Response

For purposes of this rulemaking, all air cargo shipped under an air waybill, regardless of its nature, would be subject to the advance electronic reporting provisions. This would include diplomatic pouches and letters and documents. Also, merchandise brought in by an air carrier for its own use would be subject to the same advance cargo information filing requirements that would apply to other incoming cargo. However, hand-carried merchandise and merchandise contained in passenger baggage would not be subject to the advance cargo information requirements in this rulemaking; such merchandise would be included in the passenger baggage declaration.

Required Information Technology; Trade Support; Transition Periods

Comment

It was asked whether CBP would provide staffing for data/targeting analysis and related trade support on an around-the-clock basis; and two commenters were insistent that CBP conduct extensive training in Air AMS filing procedures at all ports. Various concerns were also expressed as to the ability of CBP to effectively analyze advance cargo information.

CBP Response

An automated targeting system for performing a risk assessment for incoming air cargo will be fully in place upon the effective date of the final regulations. Automated data/targeting analysis for risk assessment will be available at all times. Related trade support will be available during regular