

port hours; and CBP will conduct any training that CBP personnel might need in Air AMS procedures.

Comment

To effectuate the filing of electronic cargo information under section 343(a), as amended, CBP should consider integrating advanced information technology (IT) products into its current automated manifest filing system. Additionally, the Automated Commercial Environment (ACE) system should be compatible with the implementing regulations. Also, there should be a grace period given under the implementing regulations in order to afford trade participants the chance to make suitable changes to their computer programming; and there should likewise be a grace period allowed during which such trade participants could bring the detail and accuracy of their advance information filing up to the level that CBP would require.

CBP Response

While disposed to explore any advances in IT products, CBP will largely rely, at least initially, upon the Air AMS, with appropriate future modifications, as the principal vehicle to achieve the goal of advance air cargo information presentation under section 343(a), as amended. However, any new system developed within the framework of ACE will be compatible with the implementing regulations. For this reason, therefore, the implementing regulations will refer generally to a CBP-approved electronic data interchange system (rather than to Air AMS, specifically).

The CBP contemplates that, pursuant to section 343(a)(3)(J), as amended, the effective date that would be set for the final implementing regulations following their promulgation should afford sufficient time for Air AMS participants to make suitable changes to their programming for the advance transmission of cargo data; and the effective date would similarly incorporate a reasonable grace period within which Air AMS participants should be able to bring their advance data filing up to the level of detail and accuracy that CBP seeks. Specifically, the proposed effective date, and the provisions for delaying the effective date, for compliance with the advance presentation of electronic air cargo information to CBP under section 343(a), as amended, are contained in proposed § 122.48a(e).

Overview; Air Cargo Destined to the United States

Electronic Systems To Be Used

Air carriers, and certain other parties authorized for voluntary participation in the program, must transmit through a CBP-approved electronic data interchange system advance cargo air waybill information, in accordance with the "Transition and Implementation Timeline" discussed below. The current CBP system for transmitting air cargo information is the Air Automated Manifest System (Air AMS). Also, certain express consignment carriers have proprietary electronic data systems which CBP personnel can access. The CBP will permit the use of these electronic proprietary systems, provided that the participants are capable of providing the data in a suitable electronic format to CBP for the purposes of ensuring cargo safety and security and preventing smuggling, unless CBP determines that it is necessary to migrate those participants to Air AMS. In addition, these express consignment carriers will be required to provide CBP with an electronic record of the data in a CBP-approved storage medium. All other express consignment carriers, including those that currently submit information to CBP using paper documents, will be required to participate in Air AMS.

Data Submission Timelines

Air carriers and other parties electing to participate in the program would transmit the required information to CBP no later than the time of departure ("wheels-up") for aircraft that are departing for the United States from any foreign port or place in North America, including locations in Mexico, Central America, South America (from north of the Equator only), the Caribbean, and Bermuda. For aircraft departing for the United States from any other foreign area, such carriers and other parties would transmit the required information to CBP no later than 4 hours prior to the arrival of the aircraft at the first port of arrival in the United States. This amount of time should enable CBP to conduct an adequate analysis of the data and to select individual shipments for further document review or physical examination, while not disrupting the flow of commerce and "just-in-time" delivery systems.

Parties Required/Eligible To Present Advance Electronic Cargo Information

All carriers required to enter under § 122.41, Customs Regulations (19 CFR 122.41), would be required to participate in the electronic data

interchange system and present the necessary cargo information to CBP.

The carrier will only need to be automated at each port where entrance and clearance of the aircraft is required. Incoming air carriers and other authorized parties who choose to do so may participate in Air AMS until CBP migrates to a different processing system. For this reason, the implementing regulations will refer only to a "CBP-approved electronic data interchange system" in order to accommodate the future migration to any superseding data processing systems.

In addition to an incoming air carrier for whom participation will be mandatory, one of the following parties may elect to transmit particular data to CBP for incoming cargo: an ABI filer (importer or its Customs broker); a Container Freight Station/deconsolidator as identified by its FIRMS code; an Express Consignment Carrier Facility likewise identified by its FIRMS code; or an air carrier as identified by its IATA code, that arranged to have the incoming air carrier transport the cargo to the United States. To be qualified to file cargo information electronically, the party would need to establish the communication protocol required by CBP for properly presenting electronic information through the data interchange system; and, except for an importer or broker, the party would have to possess a Customs international carrier bond containing all the necessary provisions of 19 CFR 113.64.

Consequently, the carrier will either have to obtain all the needed cargo shipment information for presentation to CBP, or the carrier will need to obtain the unique identifier of the party that will separately transmit to CBP a portion of the required data for the cargo; the other party's unique identifier code would have to accompany the carrier's data transmission to CBP, so that CBP could associate the subject cargo shipment with both electronic transmissions related to the cargo.

Permission to unlade all or part of the cargo could be denied or delayed, and penalties and/or liquidated damages could be assessed, where the air carrier or other electronic filer transmitted inaccurate, incomplete or untimely information to CBP.

Information Required From Air Carriers

An incoming air carrier would need to transmit all of the necessary information for non-consolidated air waybills. For consolidated shipments: the carrier would have to present to CBP all the required information from the master air