

A). In this context, it is the carrier's responsibility to ensure that the ABI transmitter of cargo data (broker or importer) receives the appropriate corresponding transportation information via fax or other means.

However, each new participant in the Air Automated Manifest System (Air AMS) will be required to undergo certification testing prior to full participation. Certification/authorization to participate in ABI will not, by itself, be sufficient to satisfy this requirement. The CBP will provide updated lists of approved Air AMS participants.

Comment: Under the 24-hour rule, where an NVOCC filed the advance vessel cargo data, the NVOCC then had to perform other duties otherwise undertaken by the incoming ocean carrier for the arriving cargo, such as handling the arrival of the cargo, obtaining permits for its transfer, and coordinating any in-bond movements. However, as to incoming air cargo, provided that accurate links existed between the house and master bills of lading, the issue arose as to whether the incoming air carrier would be responsible for all of the documentary transactions related to the arrival and movement of the air freight once it had landed at the port of arrival.

CBP Response: With consolidated shipments, given that an air carrier would transmit information for the incoming cargo at the master air waybill level, the carrier would be responsible for handling those transactions related to the arrival and movement of such cargo following its landing at the port of arrival. Coincident with this, any other eligible party transmitting (house bill) information for the incoming cargo would need to associate the house bill number with the master air waybill pertaining to such cargo (see § 122.48a(d)(2)(i) in this final rule).

Furthermore, CBP is currently working on additional programming changes to the Vessel Automated Manifest System (Vessel AMS) which would allow the incoming ocean carrier, after the cargo is landed at the port of arrival, to handle the movement of the cargo, and its clearance, etc., on the master bill of lading.

Comment: It was remarked that all CBP automated systems in place had to be able to accommodate the required manifest reporting sufficiently for legitimate trade to continue to flow smoothly.

CBP Response: The requirement that cargo information be electronically presented in advance allows CBP to effectively target any cargo that may need to be held for further examination

prior to the arrival of the vessel or other conveyance, which thereby enables legitimate cargo to move smoothly through the chain of commerce.

C-TPAT Exemption

Comment: It was proposed that "low-risk" companies and those who were engaged in supply-chain security programs, such as the Customs-Trade Partnership Against Terrorism (C-TPAT), should be given a preference that would let such parties file their cargo declarations after, rather than prior to, the arrival of the cargo, or be subject to various relaxed restrictions in cargo information reporting. It was also suggested that CBP allow C-TPAT participants to use "Buyers Consolidation" (where multiple shippers/consignees were listed on a single bill of lading, instead of each shipper/consignee having to be included on a separate bill of lading). Otherwise, CBP was asked to explain what benefits accrued to C-TPAT members.

CBP Response: The CBP will not allow exemption from, or alteration of, the requirement that C-TPAT partners submit cargo information in advance of arrival under these regulations, which includes the requirement that each shipper/consignee relationship be documented by a separate house bill of lading; and, moreover, CBP believes that compliance with these regulations complements supply chain security and efficiency procedures being implemented by C-TPAT partners.

Furthermore, it is again emphasized that C-TPAT membership will continue to be viewed in a positive light for targeting purposes. It is more likely that shipments made by C-TPAT members will be readily and expeditiously cleared, and not be delayed for greater CBP scrutiny. Other related perquisites of C-TPAT partnership may include essential security benefits for suppliers, employees, and customers, such as a reduction in the number and extent of border inspections, an opportunity for self-policing rather than Customs verifications, and eligibility for account-based processes.

Account-based processing is only offered to importers at this time. Account-based processing provides advantages to importers such as web-based views into their importing history with CBP, the important elements of their bond sufficiency records, and the future ability to make periodic payments of their duty statements. Each transaction is still reviewed as part of the manifest processing; while there may be a reduced number of trade compliance examinations, no account is

exempt from enforcement or security screening.

Comment: It was asked whether CBP would take into consideration low-risk status and participation in programs, such as C-TPAT, when minor reporting discrepancies occurred.

CBP Response: While participants in programs such as C-TPAT will not be exempt from electronically filing their cargo information in advance, as noted above, such participation will also be taken into account in connection with the occurrence of minor discrepancies in the advance reporting of cargo data.

Exemption; U.S. Department of Defense (DoD)

Comment: Concern was expressed about the movement of military cargo on U.S. Department of Defense (DoD)-chartered aircraft, vessels, or trucks where DoD had exclusive use and control of the conveyance. The revised advance reporting time standards could adversely affect transit time for DoD cargo in the commercial transportation system. Exemptions were requested from advance cargo information reporting for DoD-chartered vessels, aircraft, and trucks.

CBP Response: In the proposed rule, CBP agreed that an exemption from the requirement of entry would be extended to certain DoD-chartered vessels or aircraft (see 68 FR at 43577 and 43579, respectively). To accomplish this, §§ 4.5 and 122.41, Customs Regulations (19 CFR 4.5 and 122.41), are amended in this final rule document to exempt from entry requirements (but not from clearance requirements) any vessel or aircraft that is chartered by and exclusively carrying cargo, the property of the U.S. Department of Defense (DoD), where the DoD-chartered vessel or aircraft is manned entirely by the civilian crew of the vessel or air carrier under contract to DoD. Any vessel or aircraft exempt from entry would, of course, also be exempt from advance cargo information filing under this final rule.

However, concerning trucks chartered by DoD, CBP has at least provisionally concluded that, balancing the potential risks posed against the costs at issue, an exemption from advance filing is not needed in this case. The advance filing time frame is sufficiently abbreviated that it should not have a negative effect on the transit time for military cargo moving in the commercial transportation chain (e.g., a mere 30 minutes advance notice in the case of Free And Secure Trade (FAST) trade participants) (see the discussion for incoming truck cargo, *infra*).