

number at the time of its required transmission.

Comment: It was stated that the proposed data elements designated as conditional ("C") were not currently captured and would require significant modifications to the freight reservations, reporting and tracking systems and that this would be at significant cost to the carrier.

CBP Response: These data elements are essential to effective cargo targeting. It is also observed that these data elements have previously been received from other air carriers through Air AMS.

Comment: Three commenters inquired as to whether the carrier would still have to provide house air waybill numbers, pieces, weight and description on its paper air cargo manifest.

CBP Response: Under proposed § 122.48(a), except as otherwise provided, a paper air cargo manifest need not be filed for any aircraft required to enter under § 122.41. In addition, proposed § 122.48(a) is further changed in this final rule to eliminate the requirement that a cargo manifest be retained aboard any aircraft required to enter under § 122.41; however, a copy of the air cargo manifest (Customs Form (CF) 7509) must otherwise be made available to CBP upon demand.

Comment: It was asked how a company would obtain a unique identifier (which would be transmitted by the carrier to indicate its separate transmission of a portion of the required data elements).

CBP Response: A Container Freight Station (CFS) and an Express Consignment Carrier Facility (ECCF) would be identified by its FIRMS (Facilities Information and Resources Management System) code. An air carrier would be identified by its IATA (International Air Transport Association) code. All other parties would be assigned a unique identifier by the Client Representative Branch of CBP's Office of Information and Technology (OIT) upon commencement of certification testing in Air AMS.

Comment: More information was requested as to the description that would be required on the master air waybill in the case of shipments of dangerous goods. It was noted that IATA requirements did not permit a characterization of "consolidation" to be indicated as a description on the master bill.

CBP Response: For the purposes of satisfying § 122.48a only, a cargo description of "consolidation" is sufficient at the master air waybill level. However, carriers may elect to provide additional information in the

description field at the master bill level if they choose to do so.

Comment: Two commenters believed that current Air AMS programming did not allow for alpha-numeric characters of house air waybill numbers to be transmitted as printed on the paper house air waybill. They inquired as to how this would be handled.

CBP Response: Each party providing electronic cargo information must support alphanumeric characters for house air waybill records when alpha characters appear on the printed house air waybill. The CBP recognizes that some current Air AMS participants will need to undergo programming changes in order to support this feature.

Comment: One commenter noted that, quite often, the Importer of Record and the "deliver to" party (the ultimate consignee) were not the same party. The commenter wanted to know whether there would be a problem if the consignee were located somewhere other than the arrival and/or destination port.

CBP Response: The consignee need not be located at the arrival or destination port. Paragraphs (d)(1)(xi) and (d)(2)(vii) of proposed § 122.48a are revised in this final rule to so indicate.

Comment: One commenter urged that CBP allow disclaimers such as "said to contain" or "shipper's load and count".

CBP Response: The characterization, "Said to contain", is not an acceptable cargo description. The approved use of "shipper's load and count" is outlined in § 4.7a(c)(3)(ii), Customs Regulations (19 CFR 4.7a(c)(3)(ii)).

Comment: Three commenters did not agree with the requirement that the smallest external packaging unit be stated; a simple pallet count should be allowed.

CBP Response: The CBP disagrees. Such reporting is essential to ensure that no additional packages have been introduced into palletized cargo.

Comment: It was requested that the Automated Broker Interface (ABI) be made mandatory for all forwarders and brokers to transmit house data to CBP for air shipments.

CBP Response: The ABI is not the system by which electronic cargo information is to be collected under the provisions of § 122.48a.

Definitions

Comment: Under proposed § 122.48a(b)(1), one commenter wanted to know what was meant by the time of departure for the United States; and in proposed § 122.48a(b)(2), it was asked whether the time of arrival in the United States would be the scheduled or the actual time of arrival.

CBP Response: As expressly stated in § 122.48a(b)(1), the electronic cargo information must be received no later than the time of departure of the aircraft from foreign, which is the time that the wheels are up on the aircraft and it is en route directly to the United States (the trigger time is the time of departure of the aircraft for the United States). Proposed § 122.48a(b)(1) is thus further clarified in this final rule. And in § 122.48a(b)(2), the electronic cargo information must be received 4 hours prior to the actual arrival of the aircraft in the United States.

Comment: One commenter stated that gray areas still persisted as to the cargo covered by the regulation, and asked, in this respect, whether company material or aircraft parts for use by the airline would need to be reported.

CBP Response: As specified in the background discussion of the proposed rule (see 68 FR at 43580), 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.

Comment: With reference to proposed § 122.48a(d)(1)(xii), the identity of the party who issued the "consolidation identifier" was requested.

CBP Response: The consolidation identifier is transmitted by the incoming air carrier to designate an air waybill record as a "master" air waybill.

Comment: In proposed § 122.48a(d)(1)(xvii), one commenter wanted to know what a "local transfer facility" was.

CBP Response: A local transfer facility is merely a Container Freight Station as identified by its FIRMS code or the warehouse of another air carrier as identified by its carrier code. Proposed § 122.48a(d)(1)(xvii) is revised in this final rule to include this additional explanatory material.

Air AMS Issues

Comment: It was asserted that mandatory participation in the Air Automated Manifest System (Air AMS) could not be required due to the fact that it was a voluntary program.

CBP Response: Section 343(a)(1) of the Trade Act of 2002, as amended (19 U.S.C. 2071 note, section (a)(1)), gives CBP the authority to require the advance reporting of cargo information through an electronic data interchange system; and Air AMS is such a system. Moreover, Air AMS was developed as a component of the National Customs Automation Program (NCAP) (19 U.S.C. 1411(a)); and, in section 338 of the Trade Act of 2002, Congress amended 19 U.S.C. 1411(b) to permit CBP to