

Comment: It was believed that the proposed regulations did not clearly address whether air cargo that merely transited, and would not be discharged in, the United States was subject to compliance with the advance reporting time frames.

CBP Response: In accordance with § 122.48a(a)(1), cargo that transits the United States, whether or not it is unladen from the aircraft, is subject to the advance reporting requirements of the regulation. Technical requirements to report such information electronically will be specified in the Air AMS technical manual.

Comment: One commenter was concerned about who would be required to report required cargo data for in-transit cargo.

CBP Response: Such information must be provided either by the incoming air carrier or one of the other specified parties in § 122.48a(c)(1).

Hand-Carried Baggage

Comment: Five commenters advocated that hand-carried merchandise should be subject to the advance cargo reporting provisions.

CBP Response: Hand-carried merchandise is covered by the requirements for passenger baggage and is not considered cargo subject to advance reporting under § 122.48a.

Landing Rights

Comment: Five commenters suggested that CBP specify in proposed § 122.14(d) that denial of landing rights would occur only if a known security threat aboard a particular aircraft posed a higher threat to safety and security than an emergency diversion to alternative airports that could also refuse landing rights. Four other commenters believed that CBP should not deny landing rights or permission to unlade cargo based upon inaccurate information received from other parties.

CBP Response: The provision to deny landing rights is generally intended for those air carriers that fail, repeatedly and egregiously, to furnish timely and accurate cargo information in advance. In such a situation, CBP would have the authority to deny landing rights for that air carrier in the future. Assuredly, this provision would not be executed without careful deliberation and dialogue with the air carrier as to its lack of compliance.

In addition, pursuant to section 343(a)(3)(B), as amended, and § 122.48a(c)(5), as already noted, if the carrier electronically transmitting cargo information has received any of this information from another party, CBP, in deciding issues of liability, will take

into account how, in accordance with ordinary commercial practices, the carrier acquired the transmitted information and whether the carrier was reasonably able to verify the information. Depending upon these circumstances, CBP reserves the authority to deny landing rights or permission to unlade if an air carrier fails to fulfill its responsibilities under these regulations.

Corrections to Cargo Information

Comment: Five commenters wanted clarification as to the procedure for making any changes to the cargo information already transmitted for a flight.

CBP Response: Complete and accurate information would need to be presented to CBP for cargo laden aboard the aircraft no later than the applicable time specified in § 122.48a(b). As for any changes in the cargo information already transmitted for a flight, the procedures for amending the cargo declaration including discrepancy reporting will be the subject of a separate rulemaking.

Comment: Two commenters inquired about who would be responsible in the case of a data discrepancy between a master air waybill and a house air waybill.

CBP Response: The party that transmits the information would be responsible for its correction. Communication between the air carrier and any other electronic filer for the incoming cargo should be maintained in order to avoid such discrepancies.

Comment: It was asked whether an electronic transmission to correct inaccurate data could be initiated from the port of destination when the initial electronic transmission occurred at the point of departure for the United States.

CBP Response: Any party supplying information will be able to correct such information, regardless of the station from which its transmission electronically originated.

Cargo Transfer

Comment: A question arose as to whether the deconsolidator's Facilities and Information Resources Management System (FIRMS) code or the carrier's identifier would be needed for incoming cargo that would be handled through a local transfer facility; and whether such information could be transmitted after arrival of the cargo.

CBP Response: A FIRMS code is the necessary data element for cargo that would be transferred to a deconsolidator or a Container Freight Station (CFS) within the limits of the port. Should the cargo be intended for transfer to another

carrier's station within the port, the code of that carrier is required. Proposed § 122.48a(d)(1)(xvii), as already mentioned, is revised in this final rule to include this additional explanation. This information must be transmitted in advance of arrival together with the other required data in § 122.48a(d)(1) and (d)(2).

Split Shipments

Comment: Because shipments that were split by the incoming carrier would affect the transmission for that cargo by another electronic filer, the rules for the handling of split shipments in Air AMS should be further clarified.

CBP Response: When the incoming air carrier elects to split a master air waybill into multiple arrivals, the carrier will be required to transmit to CBP a number of additional data elements for each house air waybill covered by the master air waybill record. Specifically, the carrier will be required to transmit the house air waybill number, certain transportation and arrival information, the manifested and boarded quantities, and the manifested and boarded weights. As such, the informational requirements for split shipments described in proposed § 122.48a(d)(1)(xiii) are revised and included in this final rule as a new § 122.48a(d)(3) (proposed § 122.48a(d)(3) dealing with the summary manifesting of letters and documents, as previously noted, is deleted from this final rule and will be the subject of a separate **Federal Register** publication). Also, further technical specifications regarding the issue of split shipments will be provided in the Air AMS technical guidelines.

Changes in Business Practices

Comment: One commenter stated that it was an undue hardship to force companies onto Air AMS if another system were going to supersede it later on, and that companies would be forced to undergo the expense of conforming to new computer programming.

CBP Response: The CBP will rely, at least initially, upon the Air AMS, with appropriate future modifications, as the principal vehicle to achieve the goal of advance cargo data filing under section 343(a), as amended, in order that these regulations may be implemented at the earliest practicable time, as an urgent and critical national security imperative. However, it is assured that any new system developed within the framework of the Automated Commercial Environment (ACE) will be compatible with these implementing regulations. For this reason, the