

regulations refer generically to a CBP-approved electronic data interchange system (rather than to Air AMS, specifically).

Comment: Companies would need to shift current workload that was done at destination ports to the ports of departure, and those ports were not properly staffed to handle the workload.

CBP Response: The CBP is fully aware that some changes in business practices may be necessary. For example, it has been a common practice for the industry to input cargo information while the aircraft is in-transit to its destination.

This practice will need to change to require the information in a timely manner so as to meet the time frames identified by this final rule. The CBP has attempted to balance the concerns of the trade by affording a delayed effective date in the implementation of the advance air cargo reporting regulations as provided in § 122.48a(e), while, at the same time, recognizing the compelling national security need to move as deliberately as possible to protect cross-border commerce from the threat posed to cargo safety and security by international terrorism.

Comment: It was observed that for shipments with multiple intermediate foreign stops before final departure for the United States, freight forwarders needed the ability to transmit data elements to CBP at the time of departure from the departure station/location.

CBP Response: Those parties authorized to transmit house air waybill level information, as specified in § 122.48a(c)(1), will be able to do so prior to the transmission of the master air waybill information by the incoming air carrier.

General/Miscellaneous Issues

Comment: When an incoming air carrier has transmitted data to CBP for incoming cargo, one commenter inquired whether that carrier's ground handling agent, or other party, holding the goods following their arrival would also need to be automated in order to have access to the electronic freight status notifications concerning the cargo.

CBP Response: Participants in Air AMS, including the incoming air carrier, must be able to honor all electronic freight status notifications transmitted by CBP. Whether the carrier elects to employ a ground handling agent or not, the carrier is responsible for maintaining control of the cargo pending CBP disposition.

Comment: A question was raised as to how the carrier was to be advised that the house air waybill information had been transmitted to CBP.

CBP Response: The CBP does not anticipate transmitting a message to the carrier when the house air waybills are transmitted by another party. However, the failure to transmit house air waybill information for consolidated shipments, as prescribed in § 122.48a(d)(2), would preclude the release or transfer of any cargo covered by the consolidation. Thus, communication between the incoming carrier and any other electronic filer of house air waybill information, if applicable, would be essential.

In this latter connection, the Air Automated Manifest System (AAMS) has a feature known as the Freight Status Query (FSQ) message. The party that transmitted the message or another AAMS participant that has been authorized by the message originator may query the status of an air waybill record in AAMS. This feature may be invoked on a transactional basis to provide the AAMS participant with confirmation that an air waybill is on file along with details about the record.

However, to provide an automatic confirmation receipt message for every air waybill transmission would create substantial programming costs for CBP and AAMS participants. It would also substantially increase data storage and communications costs. The FSQ message provides the same information but need only be invoked on a case-by-case basis.

Comment: An issue was raised as to whether a party that was both an Automated Broker Interface (ABI) filer as well as a Container Freight Station/Deconsolidator and in possession of an international carrier bond could transmit cargo data at ports where the consolidation cargo remained under the custody of the air carrier.

CBP Response: A party authorized to transmit electronic cargo information, as provided in § 122.48a(c)(1) and (d)(2), will be able to do, even if the cargo remains in the custody of the incoming carrier.

Comment: One commenter wanted to know if there would be any amendment of requirements pertaining to international carrier bonds.

CBP Response: The changes to the international carrier bond requirements are set forth in § 113.64(a) and (c) in this final rule.

Comment: Additional explanation was sought concerning what procedures an air carrier would need to follow if cargo were targeted for inspection by CBP.

CBP Response: If it is found that a physical inspection of the cargo is necessary, CBP will electronically notify the carrier or other cargo custodian and

make arrangements for its examination. In so doing, CBP would work with the carrier to ascertain an appropriate location to examine the potentially high-risk cargo.

Comment: Air cargo that would arrive in the United States on a permit to proceed from the port of arrival should be allowed to move to the port of unloading notwithstanding that a hold was placed on the air waybill covering the cargo due to insufficient data.

CBP Response: If CBP determines that a physical inspection is necessary or if additional information is required, the cargo will be held at the port of first arrival pending resolution of the matter.

Comment: Concern was expressed that CBP ABI/AMS client representatives would not be able to sufficiently handle the additional workload under the new regulations. It was suggested that a study be done to measure the current level of service to the trade and that such a study should be shared with the trade.

CBP Response: The CBP does not believe that a study of client representative workload is necessary to the implementation of this rule. In the unlikely event that such a contingency should arise, § 122.48a(e)(2), as previously observed, does provide that the effective date of the rule may be further delayed if more time is needed to complete the certification testing of new participants.

Rail Cargo Destined to the United States Time Frame

Comment: Four commenters mentioned that cargo manifest information transmitted to CBP through the Rail Automated Manifest System (Rail AMS) could be made available two hours prior to arrival. However, information on the train sheet, sometimes called a consist (consisting of data such as the train's identification, locomotives' and cars' numbers and initials and the train's schedule) was not part of the advance cargo manifest data. This information would only be available when the final trans-border train was assembled, and in many cases, would only be available for transmission one hour prior to arrival at the border. One other commenter also advocated that the time period be reduced to one hour prior to arrival consistent with incoming truck traffic.

CBP Response: The CBP remains of the opinion that the 2-hour period for presenting rail cargo data prior to arrival effectively balances the impact on rail cargo safety and security with the likely impact on the flow of rail commerce into the United States. As such, this