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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Air Cargo Advance Screening (ACAS) Pilot Program

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) is formalizing and expanding an Air Cargo Advance Screening (ACAS) pilot program which revises the time frame for transmission by pilot participants of a subset of mandatory advance electronic information for air cargo. CBP regulations implementing the Trade Act of 2002 require advance information for air cargo to be submitted no later than the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations. The ACAS pilot is a voluntary test in which participants agree to submit a subset of the required data elements (ACAS data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. This notice provides a description of the ACAS pilot, sets forth eligibility requirements for participation, and invites public comment on any aspect of the test.

DATES: CBP is accepting applications from new ACAS pilot participants until
[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

ADDRESSES: Written comments concerning program, policy, and technical issues should be submitted via email to CBPCCS@cbpdhs.gov.

FOR FURTHER INFORMATION CONTACT: Regina Park, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at regina.park@dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002, as amended (Trade Act) (19 U.S.C. 2071 note), requires CBP to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation (sea, air, rail, or truck). The required cargo information is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP.

On December 5, 2003, CBP published a final rule in the **Federal Register** (68 FR 68140) to effectuate the provisions of the Trade Act. In particular, a new § 122.48a (19 CFR 122.48a) was added to the title 19 regulations to implement requirements for cargo brought into the United States by air. As provided in 19 CFR 122.48a, for any inbound

aircraft required to enter under 19 CFR 122.41 that will have commercial cargo aboard, CBP must electronically receive certain information regarding that cargo through a CBP-approved EDI system no later than the time of the departure of the aircraft 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; or no later than 4 hours prior to the arrival of the aircraft in the United States for aircraft departing for the United States from any other foreign area.

In October 2010, the global counter-terrorism community disrupted a potential terrorist attack when concealed explosive devices were discovered in cargo on board aircraft destined for the United States. CBP can better prevent such attacks and strengthen air cargo supply chain security if the required time frame for the presentation of advance electronic cargo information is, in all cases, before the air cargo is loaded and early enough so that CBP has sufficient time to identify, target, and mitigate high-risk cargo. Therefore, CBP and the Transportation Security Administration (TSA) have collaborated with the private sector to identify strategies to strengthen air cargo supply chain security, including developing a mechanism to collect cargo information at the earliest point practicable in the supply chain.

As a result of this collaboration, in December 2010, four express consignment air courier companies (“express couriers”) volunteered to provide CBP with a subset of the data elements required by 19 CFR 122.48a as early as possible before cargo is loaded onto an aircraft so that the requisite targeting could occur in the pre-loading air cargo environment, thus establishing the ACAS pilot. Since then, three passenger carriers, one-all cargo carrier, and one freight forwarder have joined the ACAS pilot and are

operational. As of the summer of 2012, an additional twelve passenger carriers, two all-cargo carriers, and fifteen freight forwarders are in the process of testing or development to become operational ACAS pilot participants or have actively expressed an interest in doing so. CBP is in ongoing communication with stakeholders from all stages of the air cargo supply chain in an effort to enhance ACAS effectiveness and functionality from an industry perspective. In response to a request from stakeholders, on July 27, 2012, CBP published “Air Cargo Advance Screening Pilot Frequently Asked Questions” at http://www.cbp.gov/xp/cgov/trade/cargo_security/cargocontrol/acasp_faq.xml.

CBP is now formalizing and expanding the pilot to include other eligible participants in the air cargo environment, including other express couriers, passenger carriers, all-cargo carriers, and freight forwarders.

Authority

CBP has statutory authority to collect advance electronic cargo information pursuant to the Trade Act, and has implemented this authority in 19 CFR 122.48a. CBP has set forth the procedure for conducting test programs, such as the ACAS pilot, in 19 CFR 101.9.

Advance Electronic Air Cargo Information Required by 19 CFR 122.48a

Under 19 CFR 122.48a, the following advance electronic information is required to be transmitted to CBP for air cargo:

- 1) Air waybill number(s) (master and house, as applicable)
- 2) Trip/flight number
- 3) Carrier/ICAO code
- 4) Airport of arrival

- 5) Airport of origin
- 6) Scheduled date of arrival
- 7) Total quantity based on the smallest external packing unit
- 8) Total weight
- 9) Precise cargo description
- 10) Shipper name and address
- 11) Consignee name and address
- 12) Consolidation identifier (conditional)
- 13) Split shipment indicator (conditional)
- 14) Permit to proceed information (conditional)
- 15) Identifier of other party which is to submit additional air waybill information (conditional)
- 16) In-bond information (conditional)
- 17) Local transfer facility (conditional)

Paragraph (d) of 19 CFR 122.48a specifies, based on the type of shipment, what information the air carrier must transmit to CBP and what information other eligible filers may transmit to CBP. For non-consolidated shipments, the air carrier must transmit to CBP the above cargo information for the air waybill record. For consolidated shipments, the air carrier must transmit to CBP the above cargo information that is applicable to the master air waybill, and the air carrier must transmit a subset of the above information for all associated house air waybills, unless another eligible filer transmits this information to CBP. For split shipments, the air carrier must submit an additional subset of this information for each house air waybill.

As noted above, for any inbound aircraft required to enter under 19 CFR 122.41 that will have commercial cargo aboard, CBP must electronically receive the above information regarding that cargo through a CBP-approved EDI system no later than the time of the departure of the aircraft 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; or no later than 4 hours prior to the arrival of the aircraft in the United States for aircraft departing for the United States from any other foreign area.

Description of ACAS Pilot

Submission of ACAS Data

Participants in the ACAS pilot agree to provide a subset of the required 19 CFR 122.48a data elements (ACAS data) at the earliest point practicable before the cargo is loaded onto the aircraft destined to or transiting through the United States. Currently, the ACAS data consists of:

- 1) Air waybill number
- 2) Total quantity based on the smallest external packing unit
- 3) Total weight
- 4) Cargo description
- 5) Shipper name and address
- 6) Consignee name and address

The ACAS data is used to target high-risk air cargo. These six data elements were chosen because they are available to air carriers and other participants early in the lifecycle of a cargo transaction and allow the ACAS risk assessment and workflow to be

completed early enough in the supply chain to enhance security while minimizing disruption to the flow of goods. The collection of the ACAS data is covered under OMB Control Number 1651-0001, in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). If CBP decides to add other 19 CFR 122.48a data elements to the ACAS data, this will be announced in the **Federal Register**.

In the ACAS pilot, participants agree to submit the ACAS data to CBP through a CBP-approved EDI system. While the CBP-approved EDI under 19 CFR 122.48a is Air AMS, ACAS data may be transmitted to CBP as specified below in the section on eligibility requirements. CBP and TSA¹ are co-located at the National Targeting Center (NTC) and facilitate cooperative targeting and identification of high-risk air cargo based on this ACAS data. Any air cargo identified as high-risk will receive holds until the identified threat is mitigated through the provision of additional clarifying information related to the shipment, and/or adherence to the appropriate existing TSA screening protocols, as well as CBP/TSA Do Not Load protocols, depending on the direction provided by the NTC. Details related to these procedures are considered Sensitive Security Information (SSI), and will be made available to approved ACAS pilot participants as necessary.

Eligibility Requirements

CBP is seeking participation from stakeholders in the air cargo environment, including express couriers, passenger carriers, all-cargo carriers, and freight forwarders. There are no restrictions with regard to organization size, location, or commodity type.

¹TSA's involvement in the ACAS pilot is authorized under 49 U.S.C. 114(f) and (m), and 44901(g), as amended by the Implementing Recommendations of the 9/11 Commission Act, Pub. L. 110-53, 121 Stat. 266 (Aug. 3, 2007), and under authority of the Secretary of Homeland Security, as delegated to the Assistant Secretary of Homeland Security for TSA, under the Homeland Security Act of 2002, as amended (6 U.S.C. 112(b)).

However, participation is limited to those parties with sufficient information technology infrastructure and support, as described below. Prospective ACAS pilot participants will need to assess whether they can fulfill the following eligibility requirements:

- ACAS pilot participants will need to have the technical capability to electronically submit data to CBP and receive hold messaging responses via one of the following:
 - An existing point to point connection with CBP;
 - A connection to CBP through a trade service provider (SITA, ARINC, Descartes, etc.);
 - A secure VPN connection with CBP that the ACAS pilot participant is willing to set up.
- ACAS pilot participants who do not have an existing connection with CBP, or who are modifying their connection type, will need to sign an Interconnection Security Agreement (ISA) or amend their existing ISA, if necessary, and adhere to security policies defined in the DHS 4300a security guide. Participants using an existing CBP connection covered by a valid and up to date ISA will have already met these requirements.
- ACAS pilot participants will need to establish operational security protocols that correspond to CBP hold messages that require the participant to take responsive action and respond to CBP confirming that the requested action was taken, that is, to mitigate, according to TSA screening protocols, any threat which is identified by the NTC; respond promptly with complete and accurate information when contacted by the NTC with questions regarding the data submitted; and follow any Do Not Load instructions.

Application Process and Acceptance

Those interested in participating in the ACAS pilot should submit an email to CBPCCS@cbp.dhs.gov, stating their interest and their qualifications based on the above eligibility requirements. The email should also include a point of contact. The email will serve as an electronic signature of intent. Applications will be accepted until [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**] and will be processed in the order in which they are received.

Pilot participants will receive technical, operational, and policy guidance through all stages of pilot participation – from planning to implementation – on the necessary steps for the transmission of ACAS data. Therefore, the number of applicants CBP will accept will depend on CBP's technical, fiscal, and personnel capacity to provide the necessary guidance. Once applications are processed, those selected as ACAS pilot participants will be notified by CBP by email.

Conditions of Participation

ACAS pilot participants are to provide the ACAS data to CBP at the earliest point practicable prior to loading of cargo onto the aircraft ultimately destined for or transiting through the United States. In addition to the submission of the ACAS data to CBP, ACAS pilot participants are to: (1) mitigate, according to TSA screening protocols, any threat which is identified by the NTC; (2) respond promptly with complete and accurate information when contacted by the NTC with questions regarding the data submitted; (3) follow any Do Not Load instructions; and (4) partake in regular teleconferences or meetings established by CBP, when necessary, to ensure any issues or challenges regarding the pilot are communicated and addressed.

Participation in the ACAS pilot does not impose any legally binding obligations on either CBP or TSA or the participant. In addition, CBP does not intend to enforce or levy punitive measures if ACAS pilot participants are non-compliant with these conditions of participation of the pilot.

Filing Options

ACAS pilot participants will send and receive advance security filing data and related action messages for all air cargo to CBP. The ACAS pilot uses messages based on existing industry standard message formats (Cargo-IMP and CAMIR-Air). This will simplify the process for establishing a connection with and transmitting ACAS data to CBP and will increase the likelihood that participants are able to reuse existing system software. While the overall form of the ACAS pilot message formats is similar to the form of the Cargo-IMP and CAMIR-Air message formats on which it is based, the ACAS pilot message formats have slight differences in edits, timing, and new coded values, as needed to accommodate only the necessary data elements.

Currently, three possible filing options have been identified:

- Air Carrier Dual Filing – The air carrier transmits the ACAS data prior to loading and performs any required TSA screening. The air carrier must subsequently transmit the advance electronic cargo information as required by 19 CFR 122.48a.
- Progressive Filing – The party electing to file the ACAS data transmits the House Air Waybill (AWB) ACAS data, in addition to the associated master air waybill number, directly to CBP as early as possible in the supply chain. The air carrier may also opt to send house, master, or simple bill data messages for the same shipment. The response message from CBP would reflect the current status of the shipment. The air carrier can

also send ACAS data for the same shipment. If any requisite TSA screening is not or cannot be conducted by the freight forwarder, it is expected that the air carrier will perform the required TSA screening. The air carrier must subsequently transmit the advance electronic cargo information as required by 19 CFR 122.48a.

- Single Filing – The air carrier or eligible participant transmits all of the advance electronic cargo information as required by 19 CFR 122.48a prior to loading the cargo, and performs any required TSA screening. This transmission prior to loading will be used by CBP as the submission of both the ACAS data and the advance electronic cargo information required by 19 CFR 122.48a.

Costs to ACAS Pilot Participants

ACAS pilot participants are responsible for all costs incurred as a result of their participation in the pilot and such costs will vary, depending on their pre-existing infrastructures. Costs may include carrier communication requirements, such as submission and receipt of data, and the cost of implementing the necessary screening protocols.

Benefits to ACAS Pilot Participants

While the benefits to ACAS pilot participants will vary, several advantages of joining may include:

- Increases in security by leveraging DHS threat and other data to employ a risk-based approach to improve air cargo security through targeted screening;
- Gains in efficiencies by automating the identification of high risk cargo for enhanced screening before it is consolidated and loaded on aircraft;

- Establishment of mitigation protocols for high-risk shipments;
- The ability to provide input into CBP and TSA efforts to establish, test, and refine the interface between government and industry communication systems for the implementation of ACAS;
- Ensuring a variety of business models are considered in the development and implementation of ACAS;
- Facilitation of corporate preparedness for future mandatory implementation of ACAS submission requirements; and
- Reduction in paper processes related to cargo screening requirements which may increase carrier efficiency.

Regulatory and Statutory Requirements

Participation in the ACAS pilot does not alter the participant's obligations to comply with applicable statutory and regulatory requirements, including 19 CFR 122.48a, and participants will still be subject to applicable penalties for non-compliance. In addition, submission of data under the ACAS pilot does not exempt the participant from TSA security program requirements or any statutory sanctions in the event a controlled substance or other prohibited article is introduced into the United States on a conveyance owned and/or operated by the participant.

Duration and Evaluation of the ACAS Pilot

The ACAS pilot will run for six months from [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**]. While the pilot is ongoing, the

results will be evaluated and a determination will be made as to whether the pilot will be extended. If the pilot is extended, CBP will publish another notice in the **Federal Register**. When sufficient pilot analysis and evaluation has been conducted, CBP intends to begin rulemaking to require the submission of ACAS data before the cargo is loaded onto the aircraft for all international shipments either destined for or transiting through the United States. The results of the ACAS pilot will help determine the relevant data elements, the time frame within which data should be submitted to permit CBP to effectively target, identify and mitigate any risk with the least impact practicable on trade operations, and any other related procedures and policies.

DATE: October 17, 2012

David V. Aguilar,
Deputy Commissioner.

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