

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security
Port Huron Field Operations
Pipeline & News



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Date: August 17, 2004

TO : Brokers, Importers, ABI Filers and Other Interested Parties

FROM : Port Director,
Port Huron, Michigan

SUBJECT : Requirements of the Advance Electronic Information for Cargo Brought into the United States by Aircraft.

Air AMS Implementation Strategy – Phase 1

On March 4, 2004, CBP published a notice in the Federal Register to advise the public of the compliance dates when Customs and Border Protection (CBP) must begin to receive the required advance electronic information for cargo brought into the United States by aircraft. CBP established three compliance dates (August 13, October 13 and December 13, 2004) based on the location of the port where the cargo first arrives in the United States.

Date	Ports in the Following Locations
Eastern U.S. August 13, 2004	Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Vermont, Virginia, West Virginia
Central U.S. October 13, 2004	Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Wisconsin
Western U.S. December 13, 2004	Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington

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Beginning on the dates established in the above schedule, CBP will establish the following procedures in each port for any aircraft that arrives in the United States which is required to transmit information through Air AMS but has not yet established Air AMS communications for that port with CBP. The focus of these initial procedures is to ensure that all carriers required to participate in Air AMS have become Air AMS participants. Subsequent enforcement phases of the final rule will be used to compel compliance with the timeliness, completeness and accuracy of the information provided. There will be 4 phases of this initial enforcement. The schedule for each of these phases is noted in the table below.

Phase 1	Phase 2	Phase 3	Phase 4
Eastern 8/13/04-8/22/04	Eastern 8/23/04-8/29/04	Eastern 8/30/04-9/6/04	Eastern After 9/7/04
Central 10/13/04- 10/24/04	Central 10/25/04- 10/31/04	Central 11/01/04- 11/08/04	Central After 11/9/04
Western 12/13/04- 12/19/04	Western 12/20/04- 12/26/04	Western 12/27/04-1/3/05	Western After 1/4/05

To ensure uniformity in the application of these regulations, CBP will adopt the following procedures at all ports beginning on the dates established in this schedule. Trade participants should be reminded that these procedures may be avoided by establishing Air AMS participation with CBP.

Phase 1

- CBP will not grant new landing rights for a carrier to land at a landing rights airport or permission to land at an international airport, if the carrier has not yet established an Air AMS user record at that port.
- In addition, CBP will establish the following procedures for entrance and unloading for those carriers that previously had landing rights or permission to land but are not yet Air AMS participants. Although no penalties will be issued in this phase, the following procedures will allow CBP conduct a full and complete review of the manifest information before any cargo may be unladen from an arriving aircraft.

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- The new regulations (part 122.38(c)) specifically state that term permits and special licenses to unlade will not be applicable to any flight with respect to which CBP has not received the required advance electronic information.
- Therefore, for carriers that are not Air AMS participants, CBP will no longer honor any term permit or special license to unlade that may already be on file with CBP. This does not mean that CBP will deny an aircraft from landing if that air carrier is not in compliance with the regulations. In the first phase of enforcement, the carrier must complete the following process before unloading any cargo from the aircraft. If any unloading occurs prior to the completion of the process, CBP will issue a penalty for violation of 19 USC 1453 – penalty equal to the value of the merchandise for unloading without a special permit or license.
 - Upon arrival of each flight, the carrier must present a paper copy of the manifest on the existing CBP Form 7509 (Air Cargo Manifest) with copies of the attached air waybills, in addition to all other required documentation for arrival reporting and entrance purposes. The carrier will also prepare and submit CBP Form 3171 (Application-Permit-Special License Unloading-Lading-Overtime Services) for each flight since the any previously filed term versions of the document will no longer be valid. Ports should designate an inspector to act as a rover on the airfield to ensure that air carriers are not unloading their aircraft without a valid CBP Form 3171. Those air carriers that are in violation of this requirement should be issued penalties for unloading without a permit.
 - Upon receipt of the above-mentioned documentation, CBP will conduct a paper review of the manifest information. Upon completion of this review, the CBP officer will sign the CBP Form 3171 to allow the unloading of the merchandise from the aircraft. CBP will conduct manifest reviews for as long as it takes to determine the threat. Be advised, the air carrier is required to submit the cargo manifest no later than four hours prior to arrival or no later than wheels-up/time of departure for designated locations. CBP will not expedite the review process upon request by the air carrier. Upon completion of this review, the CBP officer will sign the CBP Form 3171 to allow the unloading of the merchandise from the aircraft.

Phase 2

- In the second phase, CBP will begin to issue penalties for failure to submit the required electronic information to CBP. CBP will issue a penalty under 19 USC 1436 (b) / 19 CFR 122.48a for failure to file the air waybill information electronically. The penalty is \$5,000 for the first violation and \$10,000 for subsequent violations.

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- In addition to issuing a penalty, CBP will only allow the unloading of cargo for carriers that are not Air AMS participants when the procedures outlined in Phase 1 have been completed.

Phase 3

- In the third phase, CBP will no longer grant permission to unlade cargo for carriers that are not Air AMS participants even if the carrier follows the procedures outlined in phase 1. The cargo may not be unladen at the first U.S. port of arrival or at any subsequent U.S. port. CBP will still require that the carrier present a paper copy of the CBP Form 7509 (Air Cargo Manifest) upon arrival of the aircraft. The cargo will remain aboard the aircraft while CBP conducts its manifest review. CBP will conduct a full manifest review before granting permission for the aircraft to depart. Such permission to depart is granted either by signing the permit to proceed if the aircraft is continuing to another U.S. port or signing the outbound General Declaration (CBP 7507) if the aircraft is travelling to a foreign port.
- In addition to disallowing the unloading of cargo, CBP will also issue a penalty as outlined in phase 2.

Phase 4

- For any aircraft that arrives where the carrier is not an Air AMS participant, CBP will continue to disallow the unloading of cargo and issue a penalty as outlined in phase 3 of these procedures.

In addition, CBP will inform the carrier that future violations may subject it to the provisions of 19 USC 1436(b) which states that any conveyance used in connection with violations of manifest requirements may be subject to seizure and forfeiture. Any such decision to seize an aircraft must be made with concurrence from CBP headquarters.

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Robert O. Prause
Port Director