

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 122

RIN 1515-AD01

RE-USE OF AIR WAYBILL NUMBER ON AIR CARGO MANIFEST

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations pertaining to air commerce to provide that once an air waybill number is used on an air cargo manifest, one year must elapse before the same air waybill number may be used on another air cargo manifest. Current regulations prohibit the re-use of an air waybill number for three years after it is used on an air cargo manifest. The proposed amendment also specifies that air cargo manifests must reference an 11-digit air waybill number for each air waybill it covers. The document requests comments on the proposed changes.

DATES: Comments must be received on or before April 30, 2002.

ADDRESS: Written comments (preferably in triplicate), regarding both the substantive aspects of the proposed rule and how it may be made easier to understand, may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Scholtens, Trade Programs, Office of Field Operations: (202) 927-3459.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The requirements for aircraft entry and entry documents are set forth in Subpart E of Part 122 of the Customs Regulations (19 CFR Part 122; § 122.41 *et seq.*). Under § 122.41 of the regulations (19 CFR 122.41), all commercial aircraft coming to the United States from a foreign area (with certain exceptions not relevant here) must make entry. Section 122.48 (19 CFR 122.48) provides that an air cargo manifest cov-

ering all cargo on board must be filed with the general declaration for any aircraft required to make entry under § 122.41. Section 122.48(c) pertains to the air cargo manifest form (Customs Form 7509) and the information it must contain which includes an air waybill number for each air waybill covered by the manifest. The number of air waybills covered by the manifest depends on the number of air waybills that are associated with the cargo on board. This number will vary from aircraft to aircraft, depending on the number of shipments on board (including consolidated shipments).

Thus, whenever a commercial aircraft arrives from a foreign place and makes entry as required under the regulations, it must submit to Customs a manifest containing the appropriate air waybill numbers. (See also 19 U.S.C. 1431, 1433, 1434, 1644, and 1644a pertaining to vessel and air cargo manifests.)

Section 4.7a(c)(2)(iii), Customs Regulations (19 CFR 4.7a(c)(2)(iii)), concerning vessel manifests provides that bills of lading must have unique identifier numbers, that the numbers must be listed on vessel manifests, and that the identifier numbers may not be duplicated within a 3-year period. Section 122.2, Customs Regulations (19 CFR 122.2), provides that, except as otherwise provided for in the Customs Regulations, the customs laws and regulations applicable to vessels are also applicable to aircraft. (Section 122.2 implements 19 U.S.C. 1644a(b)(1)(E), under which Customs is authorized, by regulation, to apply to civil aircraft the laws and regulations concerning the entry and clearance of vessels.) Air waybills in the air commerce environment are analogous to bills of lading in the vessel commerce environment. Because the time frame in which an air waybill identifying number may be duplicated is not otherwise provided for in the Customs Regulations, § 4.7a(c)(2)(iii), in conjunction with § 122.2, sets the time frame: once an air waybill number is used on an air cargo manifest, that number may not be duplicated within a 3-year period.

Customs has reconsidered the three-year restriction on the re-use of air waybill numbers and determined that it should be reduced from three years to one year. This change is being made in conjunction with Customs efforts to improve its internal automated information systems relative to the tracking, archiving, and auditing of shipments by use of manifest numbers. Also, the huge volume of importations is affecting the availability of usable numbers for air cargo manifests. Thus, this document proposes to amend § 122.48(c) to provide a one-year time restriction on re-use of air waybill numbers on air cargo manifests.

The three-year restriction of § 4.7a(c)(2)(iii) on the re-use of bill of lading numbers will remain in effect for vessels.

Customs also proposes to amend § 122.48(c) to specify that the air waybill number referenced on the air cargo manifest must be an 11-digit number. This number is based on a standard International Air Transport Association format.

COMMENTS

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

REGULATORY FLEXIBILITY ACT

Inasmuch as adoption of the proposed amendment regarding the one-year time restriction on re-use of air waybill numbers represents a loosening of the restriction on importers’ use of such numbers, it is certified, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the proposed amendment to the Customs Regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

DRAFTING INFORMATION

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

LIST OF SUBJECTS IN 19 CFR PART 122

Air cargo, Air cargo manifest, Air carriers, Aircraft, Air transportation, Customs duties and inspection, Entry procedure.

PROPOSED AMENDMENTS TO THE REGULATIONS

For the reasons stated in the preamble, Part 122 of the Customs Regulations (19 CFR Part 122) is proposed to be amended as follows:

PART 122—AIR COMMERCE REGULATIONS

1. The general authority citation for part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

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2. Section 122.48 is proposed to be amended by revising paragraph (c) to read as follows:

§ 122.48 Air Cargo Manifest.

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(c) *Form.* The air cargo manifest, Customs Form 7509, must contain all required information regarding all cargo on board the aircraft, except that a more complete description of the cargo shipped may be provided by attaching to the manifest copies of the air waybills covering the cargo on board, including, if a consolidated shipment, any house air waybills. When copies of air waybills are attached, the statement “Cargo as per air waybills attached” must appear on the manifest. The manifest must reference an 11-digit air waybill number for each air waybill it covers. The air waybill number must not be used by the issuer for another air waybill for a period of one year after issuance.

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ROBERT C. BONNER,
Commissioner of Customs.

Approved: February 26, 2002.

TIMOTHY E. SKUD,

Acting Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, March 1, 2002 (67 FR 9423)]