

New Air Cargo Screening Regulations Go Into Effect For International Shipments To U.S.

JULY 5, 2018

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Effective June 12, 2018, U.S. Customs & Border Patrol (CBP) has implemented new interim final rules regarding Air Cargo Advance Screening (ACAS) for inbound aircraft into the United States that have commercial cargo on board. See 83 FR 27380. CBP believes that the existing regulatory time frame for transmitting air cargo data, and accompanying requirements, may be insufficient to identify high-risk cargo until it is already en route to the United States. The intent of the new rules is to allow CBP to conduct risk assessments prior to the aircraft's departure for the United States.

In December 2010, CBP, in conjunction with TSA and the air cargo industry, began operating a voluntary ACAS pilot program to collect certain advance air cargo data earlier in the supply chain. Pilot participants provided CBP with a subset of specific pilot data as early as practicable prior to the loading of cargo onto the aircraft. To address the identified security concerns, CBP is implementing a mandatory ACAS program, intended to obtain the most accurate data possible while minimizing the impact on the flow of commerce.

The new ACAS requirements apply to any inbound aircraft required to make entry under 19 CFR 122.41 that will have commercial cargo aboard. These are the same aircraft that are subject to the current 19 CFR 122.48a requirements. Under the amendments, an inbound air carrier and/or other eligible ACAS filer must transmit specified air cargo data to CBP earlier in the supply chain so that CBP can perform the necessary risk assessments prior to the aircraft's departure for the United States. Generally speaking, the key amendments are:

- **Timing of data submission:** as early as practicable, but no later than prior to loading of aircraft.
- **Data submitted:** Mirrors ACAS pilot program requirements, but includes conditional requirement of Master air waybill number and optional data point for Second Notify party.
- **Eligible filers:** Now allows indirect air carriers to constitute eligible filers (in addition to air carriers and previously eligible filers).
- **Bond requirement:** All ACAS filers are required to have an appropriate bond.

The interim final rules went into effect June 12, 2018, though comments may still be submitted on the rules until August 13, 2018.

Failure to comply with the new requirements may result in penalty of \$5,000 for each violation. CBP may also assess penalties for violation of the new ACAS regulations where CBP deems that such penalties are appropriate. CBP states that it "will show restraint" in enforcement of the new rules for

the first year (until June 12, 2019). Air carriers, indirect air carriers, and other persons involved in the shipment of international cargo should consult with counsel and review all policies and procedures to ensure compliance with the new ACAS reporting requirements.

For more information on this topic, contact a member of our [Transportation & Logistics Practice Group](#).

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