

TSA Internet at <http://www.tsa.dot.gov> under Business Opportunities.

**FOR FURTHER INFORMATION CONTACT:** For OSC technical information contact: Walter (Bud) Hunt, Office of Maritime and Land Security, Transportation Security Administration, 400 Seventh Street, SW., TSA-8, Washington, DC 20590; email: [OSC@tsa.dot.gov](mailto:OSC@tsa.dot.gov), telephone 571-227-1200. For OSC Cooperative Agreement Program contact: Ronald Ouellet, Office of Maritime and Land Security, Transportation Security Administration, 400 Seventh Street, SW., TSA-8, Washington, DC 20590; email: [OSC@tsa.dot.gov](mailto:OSC@tsa.dot.gov); telephone 571-227-1200.

**SUPPLEMENTARY INFORMATION:** 64 FR 70110, November 20, 2002, provided background information and requested comments on the proposed project criteria for Operation Safe Commerce.

Total anticipated funding available for Operation Safe Commerce Cooperative Agreement Program is \$26,040,000. Awards under this program are subject to availability of funds.

In addition, the OSC Executive Steering Committee and the Transportation Security Administration announces a non-funded federal program under OSC. This non-funded OSC Associates program seeks to capture lessons learned from private and public efforts to secure the supply chain. This program will be open to organizations that accept certain minimal requirements to be set forth by the ESC. In return, the ESC and TSA will review their efforts and, if appropriate, will include them in the final report on OSC.

Dated: January 23, 2003.

**J.M. Loy, Adm,**

*Under Secretary of Transportation for Security.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### **Announcement of a National Customs Automation Program Test To Eliminate the Submission of the Paper Master Air Waybill Document**

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** This notice announces Customs plan to conduct a test under the National Customs Automation Program (NCAP) under which a participating air carrier must

electronically transmit, through the Air Automated Manifest System, master air waybill data prior to arrival of the aircraft in the United States and will not have to submit a copy of the master air waybill as an attachment to the air cargo manifest upon arrival in the United States. Under the test, the participant still will be required to submit all other documentation as required and be capable of retrieving and printing a copy of the information contained in the master air waybill upon demand by Customs.

**DATES:** The test will commence no earlier than March 3, 2003, and will run for approximately one year. Comments concerning this notice and all aspects of the announced test must be received on or before February 20, 2003. Applications will be accepted throughout the duration of the test.

**ADDRESSES:** Written comments may be submitted to the U.S. Customs Service, Office of Field Operations, Manifest and Conveyance Branch, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, DC 20229. Interested parties may apply to participate in the test by submitting a written request to the U. S. Customs Service, Office of Field Operations, Trade Compliance and Facilitation, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, DC 20229, ATTN: Paperless Master AWB Test.

**FOR FURTHER INFORMATION CONTACT:** David King, Manifest and Conveyance Branch, Office of Field Operations (202-927-1133).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Pub. L. 103-182, 107 Stat. 2057, 2170 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of title VI establishes the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 631 of the Act creates sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411 through 1414), as amended, which define and list the existing and planned components of the NCAP (19 U.S.C. 1411), establish program goals (19 U.S.C. 1412), provide for the implementation and evaluation of the program (19 U.S.C. 1413), and provide for the remote location filing of entries (19 U.S.C. 1414).

Requirements for conducting an approved test program or procedure designed to evaluate planned components of the NCAP are set forth in

§ 101.9 of the Customs Regulations (19 CFR 101.9). These regulations, in part, enable the Commissioner of Customs to impose requirements different from those specified in the Customs Regulations, provided that the different requirements do not affect the collection of revenue, the public health and safety, or law enforcement. This test is established pursuant to that regulatory provision.

#### **I. Description of Test Program**

##### *Air Cargo Manifest*

Section 122.42(c) of the Customs Regulations (19 CFR 122.42(c)) requires that the commander of an aircraft arriving in the United States from a foreign area, or his agent, must deliver upon arrival any required forms to the Customs officer at the place of entry. (Among these forms are the general declaration (§ 122.43), crew baggage declaration (§ 122.44), crew list (§ 122.45), stores list (§ 122.47), air cargo manifest (§ 122.48), and the passenger and crew manifests (§ 122.49a).) Section 122.48 of the Customs Regulations (19 CFR 122.48) provides that an air cargo manifest is required for all cargo on board a flight arriving in the United States from a foreign area, except for cargo arriving from and departing for a foreign country on the same through flight. Section 122.48(c), Customs Regulations (19 CFR 122.48(c)), provides that the air cargo manifest must be on Customs Form (CF) 7509, that it must contain all required information, and that a more complete description of the cargo shipped under air waybills may be provided by attaching to the cargo manifest a copy of each air waybill and, if a consolidated shipment, copies of the house air waybills.

##### *Electronic Submission of the Air Waybill Information*

In an attempt to facilitate cargo processing and release, Customs has accepted, on a voluntary basis, the electronic transmission of air waybill information from qualified air carriers, through the Air Automated Manifest System (AAMS), either before or upon arrival of the aircraft in the United States. However, air carriers submitting air waybill information in this way are still required to submit the paper documents, even though the data is transmitted electronically. Now, to further facilitate the control, processing, and release of air cargo, Customs, via this test program, will relieve AAMS air carriers participating in the test from the requirement of submitting a copy of the master air waybill as an attachment to

the air cargo manifest when they electronically transmit master air waybill information to Customs prior to arrival of the aircraft in the United States. Test participants still must submit all other documentation as required under the regulations and be capable of retrieving and printing a copy of the master air waybill information upon demand by Customs.

It is anticipated that the test will run for one year. In the event, however, that Customs determines that a longer test program period is warranted, Customs will announce an extension of the test by publication of a notice in the **Federal Register**.

It is noted that Customs previously announced a NCAP test program regarding submission to Customs of electronic air cargo manifest information through publication of a notice in the **Federal Register** (65 FR 58840) on October 2, 2000 (Announcement of a National Customs Automated Program Test Regarding Submission to Customs of Electronic Air Cargo Manifest Information). This October 2000 test is distinct from the test announced today in this document and remains in effect for any qualified air carriers who may wish to submit electronic air cargo manifest information to Customs prior to arrival of the aircraft in the United States without having to submit upon arrival a CF 7509 (Air Cargo Manifest). (See the cited notice for eligibility and application instructions.) Submission of the CF 7509 is required under the test announced in this document.

#### *Regulatory Provision Suspended*

As noted above, § 122.48(c) provides that a more complete description of the cargo shipped under air waybills may be provided by attaching to the cargo manifest a copy of each air waybill and, if a consolidated shipment, copies of the house air waybills. Thus, when an air carrier opts to provide cargo information in this manner, copies of the master air waybill and any house air waybills must be submitted with the air cargo manifest. Under the test, this requirement to submit a copy of the master air waybill in paper form will be suspended when the test participant electronically transmits to Customs the air waybill information prior to the aircraft's arrival in the United States. Participants will not be required to submit copies of these air waybills with the cargo manifest but must be capable of providing Customs required air waybill information, electronically or otherwise, upon demand by Customs. Participation in this test program does not relieve carriers from compliance

with applicable requirements of other government agencies.

## **II. Test Program Eligibility Criteria**

To be eligible to participate in the test program, an air carrier must meet the following eligibility criteria:

1. A carrier must be a qualified AAMS carrier in the port where it will operate under the test. A qualified AAMS carrier has been tested and certified by Customs to possess the technical capability to transmit and receive AAMS data. Technical requirements for AAMS carriers are specified in the Customs publication entitled, "Customs Automated Manifest Interface Requirements—Air (CAMIR—Air)." Any carrier not currently AAMS qualified may submit a written request to become an AAMS participant to the Customs Client Representative Branch closest to the applicant's operational location. A list of Customs Client Representatives may be obtained from the United States Customs Service, Office of Information and Technology, Client Representatives Branch, 7501 Boston Blvd., Springfield, VA 22153 (703/921-7500).

2. A carrier must be a participant in the Customs-Trade Partnership Against Terrorism (C-TPAT) program. C-TPAT is a joint Customs-business initiative to build cooperative relationships that strengthen overall supply chain and border security. Application instructions for air carriers wishing to participate in the C-TPAT program may be found on the Internet at [www.Customs.gov](http://www.Customs.gov) or may be requested in writing from the United States Customs Service, Office of Field Operations, Industry Partnership Programs, 1300 Pennsylvania Avenue, NW., Room 5.4C, Washington, DC 20229, ATTN: C-TPAT.

## **III. Test Program Application and Selection Process**

### *Application Process*

Any air carrier that satisfies the eligibility criteria may apply to participate in the test program by submitting a written request to the United States Customs Service, Office of Field Operations, Trade Compliance and Facilitation, 1300 Pennsylvania Avenue, NW., Room 5.2B, Washington, D.C. 20229, ATTN: Paperless Master AWB Test. Customs will accept applications from eligible air carriers throughout the duration of the test. The request must be signed by an authorized official, designate the Customs port where the participant will operate under the test, and designate a point of contact

and telephone number within the applicant's organization.

Upon review, Customs will issue written notification regarding the approval or denial of the application. If denied, Customs will inform the applicant of the reasons for denial and the right to reapply after any deficiencies identified in the notice of denial have been corrected. Any air carrier that applies for permission to participate in the test program will be given due consideration by Customs and will be evaluated based on its ability to meet the requirements set forth in the notice.

Participation in this test program will not be considered confidential information, and the identity of participants will be made available to the public upon written request.

## **IV. Test Program Procedures**

Test program procedures will be coordinated with all participating and affected parties. The following procedures apply to all participant air carriers and will be in effect for the duration of the test program:

1. The participant air carrier must transmit the master air waybill information to AAMS with all the necessary data elements as set forth in the CAMIR-Air publication prior to the arrival of the aircraft. Where the carrier transfers the freight to a deconsolidator that participates in the AAMS program, the deconsolidator must electronically transmit the house air waybill information. Where the carrier transfers the freight to a non-automated deconsolidator or releases the freight from its own facility, the carrier must supply through AAMS complete house air waybill details including piece count, weight, cargo description, shipper, and consignee information.

2. The participant must be able to print a paper copy of the master air waybill with the required data elements and submit it to Customs personnel upon demand by Customs.

3. If for any reason, the electronic data interchange system between Customs and the participant becomes inoperative or Customs is unable to receive electronic transmissions, the participant will print a copy of the master air waybill, attach it to the air cargo manifest, and submit it to Customs at the port of arrival.

## **V. Suspension/Termination From the Test Program and Administrative Review**

### *Suspension/Termination Process*

The failure of a participant to comply with the procedural requirements or to

maintain participation in the programs required for eligibility (AAMS and C-TPAT), or failure to adhere to all applicable laws and regulations, may result in the suspension or termination of the participant from the test program. Except in instances of willfulness on the part of the participant, or where public health, interest, or safety is at issue, the port director will issue a written notice of proposed suspension to the participant. The notice will inform the participant of the following:

1. The basis of the proposed action and all applicable terms and conditions regarding implementation of the proposed action and the administrative review process.

2. The right to seek administrative review of the action, pursuant to the terms set forth in the notice. A request for review must be received by Customs on or before the 10th calendar day from the date the notice of proposed suspension was issued.

3. That any action will be held in abeyance for a period of 10 calendar days from the date of the notice or, if the participant timely seeks administrative review of the matter pursuant to the terms set forth in the notice, pending conclusion of Customs review of the matter.

4. That failure to seek administrative review of the matter pursuant to the terms set forth in the notice will constitute acceptance of the terms and conditions set forth in the notice, preclude any further administrative review of the matter, and automatically commence the suspension at midnight of the 10th calendar day from the date of the notice.

Where there is willfulness on the part of the participant, or where public health, interest, or safety is concerned, suspension from the test program may

go into effect immediately upon issuance of an electronic notice by the port director that sets forth the basis of the action and any related information. Within 5 calendar days from the date the electronic notice was issued, Customs will issue a written notice of immediate suspension to the participant. A notice of immediate action, whether electronic or in paper form, will provide the same kind of information as that contained in a notice of proposed suspension. An immediate suspension will remain in effect pending conclusion of any administrative review of the action by Customs.

#### *Administrative Review*

To seek administrative review of any suspension from the test program, the participant must submit documentation to the port director that issued the suspension notice within 10 calendar days from the date the notice of proposed suspension or an electronic notice of immediate suspension was issued. The documentation must establish, to the satisfaction of Customs, that the alleged deficiencies which led to the action did not occur or have been corrected.

The port director will review the documentation and issue a written final notice of decision to the participant within 30 days from the date the documentation was received by Customs, unless the time period is extended upon due notice. In the case of a participant seeking review of a proposed suspension, the final notice will either impose a suspension that is effective upon the date of the final notice or indicate that no suspension will be imposed. In the case of a participant seeking administrative review of an immediate suspension, the

final notice will inform the participant that the suspension has been affirmed, modified, or revoked upon the date of the final notice.

If a suspension is imposed, the suspended participant may seek a second level of administrative review to appeal the final notice of suspension by submitting documentation to the Assistant Commissioner, Office of Field Operations, within 10 calendar days of the final notice. The Assistant Commissioner or its designee will issue to the suspended participant a written decision within 30 calendar days from the date the documentation was received, unless this time period is extended upon due notice. The decision will affirm, modify, or revoke the suspension and will set forth the basis for the determination, as well as any applicable terms and conditions.

#### **VI. Test Evaluation Criteria**

During the course of the test, Customs and the participants will evaluate the test, and the results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required by § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)). The test will be evaluated through an analysis of questionnaires completed by affected participants and Customs personnel. Evaluation criteria for Customs and other government agencies include workload impact, policy and procedural accommodation, and trade compliance impact. Criteria for participants include cost benefits and operational efficiency.

Dated: January 28, 2003.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

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