

CBP Publishes In-Bond Process FAQs

On November 27, 2017, U.S. Customs and Border Protection (CBP) published a final rule entitled Changes to the In-Bond Process. The final rule adopted, with several changes, proposed amendments to CBP regulations regarding the in-bond process.

The in-bond process allows imported merchandise to be entered at one U.S. port of entry without appraisement or payment of duties and transported by a bonded carrier to another U.S. port of entry or other authorized destination provided all statutory and regulatory conditions are met. At the destination port, the merchandise is entered or exported. The changes in this rule, will enhance CBP's ability to regulate and track in-bond merchandise and ensure that in-bond merchandise is properly entered or exported.

To assist all parties in understanding the expectations of CBP concerning these changes, CBP is providing guidance in the form of frequently asked questions. CBP will continue to update this document as necessary. Should you have additional questions, please forward them to cscwarehousing@cbp.dhs.gov. Please note that the responses to the FAQs are for informational purposes only and are non-binding. Questions relating to specific facts and circumstances of a prospective transaction can be the subject of a ruling request under Part 177 of the CBP regulations.

A transportation entry may be filed by: (1) The carrier, or authorized agent of the carrier, that brings the merchandise to the origination port; (2) The carrier, or authorized agent of the carrier, that is to accept the merchandise under its bond or a carnet for transportation to the port of destination or the port of exportation; or (3) Any person or the authorized agent of any person, who has a sufficient interest in the merchandise as shown by the bill of lading or manifest, a certificate of the importing carrier (such as a power of attorney or letter of authorization), or by any other document. CBP may request evidence to demonstrate sufficient interest.

An electronic in-bond application is required for in-bond merchandise transported by ocean, rail and truck. The methods available to submit an in-bond application are the Automated Commercial Environment (ACE) or QP/ WP. QP/WP is an ABI hosted in-bond system that allows all parties, carriers and non-carriers, to submit electronic in-bond applications directly to CBP, as well as report their arrival and export. The "QP" half is the application function, the "WP" half is the arrival/export function. ACE can be used to file the in-bond application in conjunction with advance or arriving manifest information. For in-bond merchandise transported by air, carriers can file the in-bond application also using ACE or QP/WP.

What are the major changes in the updated in-bond regulations?

- Except for merchandise transported by pipeline and truck shipments transiting the United States from Canada, the paper 7512 (Transportation Entry And Manifest Of Goods Subject To CBP Inspection and Permit) has

- been eliminated; henceforth carriers or their agents will be required to electronically file the in-bond application;
- a standard 30-day maximum transit time to transport in-bond merchandise between U.S. ports will be in effect for all modes of transportation except pipeline and barge traffic. Movement by barge is 60 days carriers will be required to electronically request and receive permission from CBP before diverting in-bond merchandise from its intended destination port to another port; and;
- carriers will be required to report the arrival and location of the in-bond merchandise within 48 hours of arrival at the port of destination or port of exportation.

Additional information on the in-bond application will include the six-digit Harmonized Tariff Schedule of the United States number if available.

What about the air commerce regulations found in 19 CFR part 122?

The in-bond procedures found in the air commerce regulations have not changed except for time frames to align with other modes. For the purposes of this regulation, shipments moving in-bond on an air waybill arriving via air in the U.S. and filed in ACE Air Manifest are not subject to the new in-bond requirements other than timeframes. However, shipments moving in-bond for export that originate in the U.S. will be required to file electronically.

CBP mentioned a 90 day enforcement period for this regulatory change. Are there any key dates established for enforcement?

- September 28, 2017 - Publication in Federal Register with 60 day implementation;
- November 27, 2017 - Implementation of Regulations - regulations effective on this date;
- January 8, 2018 - CBP will no longer accept paper copies of the CBPF 7512 for input of in-bond records. This function will be the responsibility of the carrier;
- February 12, 2017 - Electronic reporting will be mandatory; CBP will no longer accept paper copies of the CBPF 7512 to perform arrival and export functionality. These functions will be the requirement of the carrier. Electronic reporting will be mandatory;
- February 19, 2018 - Electronic reporting of diversion to a port other than reported on the in-bond will be required. ACE edit will reject arrival if not performed;
- March 12, 2018 - Electronic reporting of bond location (FIRMS code) will be required. ACE edit will reject arrival if not provided;
- Beginning November 27, 2017 any liquidated damage assessments for issues associated with the new regulations must be reported to CCS/CSCD for review prior to issuance. Liquidated damage assessments for mere technical violations will be discouraged;

- HTS requirements will be enforced on a date to be determined;
- Internal outreach webinars/telephone conferences will be conducted, as needed.

What about local port policy regarding in-bond procedures?

The trade should continue to abide by the regulations found at 19 CFR 18. Local port policy should be discussed with the port director. CBP ports use a variety of audit procedures to verify bonded movement, including the presentation of paper in-bond documents at ports of arrival and export. If ports require paper copies of the CBP Form 7512 to be presented at arrival and/or exportation, carriers should continue to provide them. This does not change the requirement for electronic reporting however. Arrivals and exports must still be reported via ACE except where exempted by regulation.

If I am filing an in-bond transaction for a Customs Bonded Warehouse (CBW), Foreign Trade Zone (FTZ) or Vessel/Aircraft Supply withdrawal for export or re-warehouse am I required to file electronically. If yes, am I still required to supply paper?

Yes, the bonded movement from CBWs and FTZs do require the submission of in-bond applications via the electronic interfaces. That means that an IT, T&E or IE transaction must be filed in ACE to cover the bonded movement outside of the warehouse. Permit copies of the paper CBP Form 7512, properly annotated as described in the Bonded Warehouse Manual and Foreign Trade Zone Manual must still be submitted to CBP as part of the CBW and FTZ audit and oversight procedures.

The final rule at §18.1(j) states that the Electronic Data Interchange (EDI) report of arrival must be filed with CBP within two business days after the arrival of "any portion of an in-bond shipment" at the port of destination or exportation. This suggests that the report of arrival for a multiple container in-bond shipment would need to be filed when the first container arrives at the port of destination or exportation. The preamble, however, states that, for multiple container movements, the arrival will be performed at the individual equipment or container level, not at the in-bond shipment level. Please clarify.

Cargo is not arrived by container. § 18.1(d)(1)(vi) requires the reporting of the quantity using the "smallest exterior packing unit" standard. This will enable carriers to verify the quantity of the goods they are transporting and ensure that there is no shortage.

What is the process for a diversion request and who is monitoring those diversions?

The carrier will submit the diversion request using an approved software message set available to the trade. CBP's disposition of the diversion request will be automated so that the carrier will receive authorization for, or denial of, the diversion immediately. The updating of the destination port code in the system will constitute approval of the diversion request. If the destination port code is rejected, cargo must be directed to the original destination port.

Some agriculture commodities are not permitted to divert to other locations. Will the system automatically reject those diversions? If not, will an Agriculture specialist be required to approve/deny the request?

The in-bond application within ACE does not at this time govern the Agricultural permit process. Under 7 CFR 352, the carrier is responsible to know whether or not the commodity that they are moving via an in-bond transaction is governed by a permit. If the USDA regulations do not allow a diversion, it is the carrier's responsibility not to divert. Even if CBP authorizes a diversion electronically, the carrier will be subject to enforcement issues if they do not follow the requirements of a USDA transit permit.

What port handles the diversion request? The arrival, the destination port or the new destination port? Originating port where the in-bond was filed?

Neither the destination port nor the originating port handles the diversion request. Approval of the request is made strictly through ACE.

For sealed containers carrying in-transit merchandise, does this mean that the bonded carrier will no longer have to request CBP approval to break the seals to trans-load?

19 CFR 18.4 in the final rule states that seals may be removed for the purpose of transferring in-bond merchandise to another conveyance, compartment or container, or to gain access to the shipment because of casualty or for other good reason, such as when required by law enforcement or another government agency.

When can the Trade expect publication of the new CATAIR that will provide guidance on reporting of new data elements?

The IG updates are currently being reviewed.

Confirm that the system will accept both the 6-and 10-digit HTS number, at the importer's discretion.

When CBP implements the HTS portion of the final rule, CBP will require the filer to provide the six-digit HTSUS number. However, the 10-digit number will also be accepted.

Confirm that the carrier remains responsible for reporting the arrival of the in-bond within 2 business days.

Yes, the bonded carrier is responsible for reporting the arrival of the in-bond within 2 business days after actual arrival. Business relationships necessary to ensure this are the responsibility of bonded carriers when obligating their bonds.

If an exporter uses QP to file an in-bond, obligating the carrier's custodial bond, (including air shipments), does this obligates the carrier to close the in-bond electronically in QP?

An exporter would not file an in-bond for cargo arriving in the United States. However, for all applicable parties that file a QP transmission, the arrival and export is filed via a WP transmission. While Air shipments are not included in the file rule, air carriers as

well as QP filers can still arrive and export their own in-bond movements and are encouraged to continue to do so.

When will the ACE Portal be programmed to allow the party whose custodial bond is obligated (not the carrier who manifested the shipment into the USA) to have visibility to and close out the in-bond via the Portal? If not, what is the interim solution?

The ACE portal allows carriers to run reports that show in-bonds issued where their SCAC code is included in the bill of lading. The carriers cannot run this same report using their bonded carrier number. The requirement to change this functionality has been identified but is not yet prioritized.

The interim solution, if the carriers are afraid that other parties are erroneously using their bonded carrier number is to restrict their bonded carrier number from use. CBP client reps assigned to carriers can help with this functionality. The exception to this is for truck carriers who use the portal to file an in-bond, these companies do not have this functionality. The functionality requirement is identified and is tied to truck refactoring.

Why does CBP expect the carrier to know the description in sufficient details to ascertain if PGA's have jurisdiction? Based on the questions that CBP received during the period after publishing the proposed rule-making, CBP agreed that PGA requirements can be difficult for carrier's to determine and change the language to "may provide" this information.

What is the exact message, acknowledging approval to divert the in-bond? ACE does not have acceptance/rejection language specific to the in-bond diversion request.

Will CBP compare the ISF 6-digit HTS codes to the in-bond 6-digit HTS? The concern is different parties can create the ISF vs the in-bond. If so, this would dictate a deeper level of integration for partners in the supply chain, which is not feasible or practical currently.

One of the purposes of the in-bond regulations is to ensure that in-bond merchandise is properly transported in-bond before being entered or exported. The information CBP receives on the ISF is not sufficient for proper tracking and enforcement of in-bond requirements. First, ISF data is required only for merchandise arriving in the United States by vessel and not for merchandise arriving in the United States by rail or truck, which are also covered by this rule. Second, pursuant to § 343(a)(3)(F) of the Trade Act of 2002, as amended (19 U.S.C. 2071 note), CBP can only use ISF data for limited purposes, i.e., for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting. Accordingly, CBP requires the six-digit HTSUS number as part of the in-bond application.

Will PGAs have visibility (or do they currently have visibility) to in-bond transactions? In collaboration with the U.S. Customs and Border Protection (CBP).

In-bond transactions are done against the bill and not the entry. CBP's PGA Message Set is a process that occurs against the entry and/or admission. Whether or not a PGA has a visibility into transactions posted against the bill depends on the PGA's regulatory authority.