

October 1, 2014

Guidance to air carriers regarding APIS transmissions for FAA Inspectors aboard all-cargo flights:

On April 7, 2005, U.S. Customs and Border Protection (CBP) published a Final Rule requiring commercial air carriers to transmit to CBP passenger and crew manifests for flights to and from the United States. This is commonly referred to as Advance Passenger Information System (APIS) data. *See* 70 Fed. Reg. 17820; 19 CFR 122.49a-c and 122.75a-b.

CBP's APIS regulations define an "all-cargo flight" as a flight in operation for the purpose of transporting cargo which has onboard only "crew members" and "non-crew members" as defined in 19 CFR 122.49b(a), 19 CFR 122.49b(b) and 122.75b(a).¹ CBP's APIS regulations further state that Federal Aviation Administration (FAA) Aviation Safety Inspectors with valid credentials and authorization who are transported on commercial aircraft are considered passengers on flights arriving in or departing from the United States. 19 CFR 122.49b(c)(1) and 122.75b(c)(1). CBP's APIS regulations do not specifically address the transmission of APIS data for FAA inspectors traveling onboard flights which, absent the presence of the FAA Aviation Safety Inspectors (who are considered "passengers"), would constitute all-cargo flights under the regulations. 19 CFR 122.49b(c)(1) and 19 CFR 122.75b(c)(1). As all-cargo flights only have crew members and non-crew members, all-cargo flights do not submit passenger manifests. To overcome this discrepancy, carriers have been transmitting APIS data for FAA inspectors as part of crew manifests for all-cargo flights.

CBP is currently reviewing this issue and is working towards a solution. In the interim, air carriers operating flights which, with the exception of the presence of one or more FAA Aviation Safety Inspectors, would be considered "all-cargo flights" will be permitted to transmit APIS data for FAA inspectors as part of crew manifests for such flights. Such transmissions must otherwise fully comply with the terms of applicable regulations. If there are additional questions, CBP National APIS Account Managers are available to provide assistance and can be contacted via email at eapis.support@dhs.gov.

¹ Note that the definitions of "all-cargo flight" and "passenger" as provided in §§ 122.49a, 122.49b, 122.75a and 122.75b apply to those sections of title 19 only. *See* 19 CFR 122.49a(a), 122.49b(a), 122.75a(a) and 122.75b(a).