



Customs and Border Protection In-Bond Regulations Effective 11/27/17¹

In 2012, CBP announced its proposal to revise the in-bond regulations in part 18, as well as other applicable parts of the CBP regulations. Comments were requested and submitted by the Trade; CBP recently completed its analysis of the comments & revision to the regulations and posted the [Final Rule in the Federal Register](#). Further to our earlier *Updates*, below are the changes to the in-bond process or issues resulting from the CBP proposal, followed by the regulatory action, as well as comments and significant changes from the rule as proposed in 2012.

1. In-Transit Time for Merchandise

Proposal: Establish a 30-day maximum transit time to transport in-bond merchandise between U.S. ports, for all modes of transportation except pipeline.

FINAL EFFECTIVE 11/27/17: CBP is maintaining the proposed 30-day transit time for the other modes of transportation² but changing proposed § 18.1(i)(1) in the final rule to extend the in-transit time for in-bond merchandise transported by barge to 60 days.

2. Uniform Timeframe for Report of Arrival, Notice of Export, and Other Events

Proposal: Require carriers to report the arrival and location of the in-bond merchandise within 24 hours of arrival at the port of destination or port of exportation.

***FINAL EFFECTIVE 11/27/17: CBP is changing proposed § 18.1(j) in the final rule to retain the current time limit of two working days for bonded carriers to report the arrival of merchandise at the port of destination or port of exportation. CBP is also changing proposed § 18.7(a)(3) regarding the timeframe for submitting the notice of export from 24 hours to two business days. In addition, CBP is changing all the provisions in part 18 that impose a timeframe for reporting or updating the in-bond record to two business days so that the requirements are uniform.*³**

3. Description of the Merchandise

Proposal: Require additional information on the in-bond application including the six-digit Harmonized Tariff Schedule of the United States number if available.

FINAL EFFECTIVE 11/27/17:

- 1. CBP is changing proposed § 18.1(d)(1)(i) to require the filer to provide the six digit HTSUS number, BUT:***
- 2. Changing proposed § 18.1(d)(1)(ii) in the final rule to require that in-bond merchandise subject to the authority of a U.S. government agency be described with sufficient accuracy to enable the agency concerned to determine the contents of the shipment;***
- 3. Removing the requirement in proposed § 18.1(d)(1)(iii) that the in-bond filer identify prohibited or restricted merchandise;***

¹ CBP has excepted air cargo from some of the requirements, such as: “Although CBP intends to fully automate the in-bond process, including in-bond movements by air, changes to the regulations pertaining to in-bond movements by air will be handled under a separate rulemaking. Until such time, the 7512 paper form may still be used in the air environment.” And “Proposed § 18.24(b) [requiring all split shipments to be initiated within two days of the date that the split shipment is authorized] does not apply to air shipments of in-bond merchandise.”

² ***In-bond merchandise transported by pipeline is not subject to the time limits.***

³ The sections in part 18 where these changes have been made are §§ 18.1(d)(1)(v), 18.1(h), 18.1(j), 18.7(a)(1), 18.7(a)(3), 18.20, 18.23(a), 18.24(b), 18.25(f), and 18.26(e).

4. Removing the requirement in proposed § 18.1(d)(1)(iv) to provide information regarding textiles and textile products for all in-bond applications. **This requirement will be retained in a new paragraph (d) in § 18.11 governing T&E in-bond movements.** This is consistent with current regulations and should therefore provide no additional burden to parties moving merchandise in-bond; and,
5. Eliminating the requirement in proposed § 18.1(d)(1)(v) that the filer of the in-bond application “must provide” information regarding merchandise for which the U.S. Government, foreign government or other issuing authority, has issued a visa, permit, license, or other similar number or identifying information and stating instead that the filer “may provide” this information.

4. Reporting the Quantity of In-Bond Merchandise

Proposal: Require that the quantity of the merchandise be provided to the smallest piece count.

FINAL EFFECTIVE 11/27/17: CBP is changing the text in the final rule to require “the quantity of the smallest external packing unit.”

5. Divided Shipments⁴

Proposal: When merchandise for transportation in-bond is approved for diversion to more than one port, or when a portion of an in-bond shipment is approved for consumption or warehouse entry, the approval of the diversion will complete the original transportation entry. The carrier or any of the parties named in § 18.1(c) must, in accordance with the filing requirements of § 18.1, submit a new in-bond application for each portion of the original shipment to be transported in-bond. Split shipments for merchandise being transported under cover of a carnet are prohibited.

FINAL EFFECTIVE 11/27/17: (Basically no change:) The current regulations (contained in § 18.5) allow an in-bond shipment to be split after the shipment reaches the port of destination with a portion of the shipment entered for consumption or warehouse while the remainder of the shipment is forwarded under a new in-bond to a different port of destination. Because the provisions for splitting a shipment are not limited to diverted shipments CBP is simply moving the text of this provision, currently proposed § 18.5(d), to a new paragraph (m) in § 18.1.

6. Clarification of the Term “Bonded Carrier”

Proposal: Liability for a failure to comply with the in-bond requirements has initiated the question of which party would be considered the “bonded carrier”.

FINAL EFFECTIVE 11/27/17: To address these comments, CBP is adding a definition of the term “bonded carrier” in § 18.0(b). “Bonded carrier” is defined as a “carrier of merchandise whose bond under § 113.63 of this title is obligated for the transportation and delivery of merchandise.” The party that will be ultimately liable is the party whose bond is obligated in the in-bond record for the in-bond movement.

7. Transfer (Transshipment) From One Conveyance to Another

Proposal: (a) Proposed requirement to report to CBP each time the merchandise is transferred from one conveyance to another; and (b) the comments addressing proposed § 18.3, revealed that there is

⁴ For the sake of clarity, CBP is using the term “divided shipment” in this final rule instead of “split shipment” to refer to the situation where a carrier diverts an in-bond shipment to more than one port or to a consumption or warehouse entry. CBP used the term “split shipment” in the proposed rule to refer to the division of an in-bond shipment. However, the term “split shipments” refers specifically to the treatment of multiple entries of merchandise as a single transaction pursuant to 19 U.S.C. 1484(j) and 19 CFR 141.57 and 141.58.

some confusion regarding the scope of the term “transshipment” and how the provision should be applied.

FINAL EFFECTIVE 11/27/17: (a) *CBP is changing proposed § 18.3 to require that when in-bond merchandise is taken over by a subsequent bonded carrier which assumes liability for the merchandise, a report of arrival must be filed by the original bonded carrier and the subsequent carrier must submit a new in-bond application pursuant to § 18.1 for the merchandise to be transported in-bond.*

(b) *In order to clarify the rules that apply when merchandise is transferred from one conveyance to another, CBP is replacing the term “transshipment” with the term “transfer.” Accordingly, CBP is renaming § 18.3 from “Transshipment; transfer by bonded cartmen” to “Transfers.”*

8. Seals—Transportation of Bonded Merchandise With Non-Bonded Merchandise

Proposal: Does not allow for the transportation of in-bond merchandise with non-bonded merchandise in the same container, unless all of the merchandise, bonded and non-bonded, is destined for the same port. The result is that in-bond merchandise would not be able to be shipped in “less than container loads” with non-bonded merchandise.

FINAL EFFECTIVE 11/27/17: *CBP is changing the sealing requirements in proposed § 18.4 by adding new provisions § 18.4(b)(2) and (3) in the final rule that allow for the transportation of in-bond merchandise with non-bonded merchandise in a container or compartment that is not sealed, if the in-bond merchandise is corded and sealed, or labeled as in-bond merchandise. In addition, CBP is changing proposed § 18.4(c) in the final rule to allow for the removal of seals for good reason and, require new seals to be affixed by a responsible agent of the carrier. Accordingly, if the responsible agent of a carrier, e.g., the driver, is required to open a sealed container by local law enforcement or other governmental agency, the agent can replace the broken seal with a new seal.*

9. Changing Destination

Proposal: Require carriers to electronically request and receive permission from CBP before diverting in-bond merchandise from its intended destination port to another port; and

FINAL EFFECTIVE 11/27/17: *The in-bond application must be electronically transmitted to CBP via a CBP-approved EDI system.*

10. Additional Miscellaneous Changes

FINAL EFFECTIVE 11/27/17:

1. *CBP is no longer using the term “ultimate destination” in proposed § 18.1(d)(1)(vi) to avoid inconsistency with other export laws and regulations and is revising paragraph (vi) to clarify the destination information that is required on the in-bond application for IT shipments and T&E/IE shipments.*
2. *CBP is adding a sentence to proposed § 18.1(i)(1), which sets forth the maximum in-transit time, to clarify that in-bond merchandise transported by pipeline is not subject to the time limits in that section.*
3. *CBP is also revising proposed § 18.1(i)(2), which provides procedures on requesting an extension of the in-transit time, to clarify that the decision to extend the in-transit time period is within CBP’s discretion and to describe some of the factors that may be considered in CBP’s decision to extend the in-transit time period.*
4. *The statement in the list of proposed changes of the NPRM that an in-bond application must be filed for each conveyance was incorrect. A separate in-bond will not be required for each*

conveyance. One in-bond application can cover merchandise that is transported by multiple conveyances.

5. Only one T&E in-bond application is necessary to move an in-bond shipment from the origination port to the port of exportation. In-bond merchandise can be moved from one container to another container in a centralized hub, if the sealing procedures in § 18.4 are followed. However, multiple in-bond shipments from different origination ports cannot be entered under a single T&E and consolidated in a centralized hub.
6. Prior to departure from the originating port, all data elements related to the in-bond may be updated or amended. After departure (during transit), the in-bond data may **not be** updated or amended, **except for the quantity, destination, and seal numbers.** If the reported quantity is not correct or if it changes, the in-bond record **must be updated.** Updating the quantity does not relieve the initial bonded carrier from liability for any shortages based on the quantity originally reported in the in-bond application. If the seal number is not known when the in-bond application is filed, the in-bond record **must be updated with the seal number within two business days.** It is also necessary to update the in-bond record with notice and proof of export and with information regarding divided shipments at the port of exportation.
7. Any party that files an in-bond application as provided in proposed § 18.1(c) can amend the in-bond record. This may be the carrier or agent that is authorized by the carrier to obligate the carrier's bond and that brings the merchandise to the origination port; the carrier, or authorized agent of the carrier that accepts the merchandise under the carrier's bond; or any person who has a sufficient interest in the merchandise as shown by the bill of lading, manifest or other document. To provide additional clarity, CBP is changing proposed § 18.1(h) to eliminate the requirement that the party updating or amending the in-bond record receive "permission" from the "filer" and requiring instead that the party that is updating or amending the in-bond application obtain the "authorization" of the "party whose bond is obligated." CBP is requiring "authorization" from the party whose bond is obligated, as opposed to the filer because the party whose bond is obligated bears the responsibility for ensuring the proper movement of the merchandise.
8. CBP is modifying the regulatory text in § 18.1(c)(3) to allow the authorized agent of any person who has a sufficient interest in the merchandise to file the in-bond application.
9. CBP is changing proposed § 18.1(k) to provide that the **15-day period for general order merchandise begins on the date of arrival "of the entire in-bond shipment"** at the port of destination or port of exportation. However, if part of a shipment does not arrive within the timeframe for completing the in-bond movement (30 days in most cases), the general order clock for the merchandise that has already arrived will start to run at the end of the applicable timeframe for completing the in-bond movement.

C. Flexible Enforcement Period

In order to provide the trade with sufficient time to adjust to the new requirements and in consideration of the business process changes that may be necessary to achieve full compliance, CBP in implementing and enforcing the rule, will take into account challenges that carriers may face in complying with the rule, so long as carriers are making satisfactory progress toward compliance and are making a good faith effort to comply with the rule to the extent of their ability. This flexible enforcement will last for 90 days after the effective date of this rule. Additionally, CBP will provide guidance on the new requirements and endeavor to conduct outreach to interested parties in order to facilitate a smooth transition to the new requirements.