

presented no later than 1 hour prior to arrival at the U.S. port of entry. By contrast, for CAFES and BRASS (as modified), given the limitations of these systems, the necessary information would be submitted upon arrival at the first port of entry.

The only system currently in effect that allows carrier transmission of data electronically to CBP is FAST, with respect to those transactions that have data submitted totally through an electronic interface with CBP. Other participants in FAST have the electronic shipment data transmitted via the entry filer in the Automated Broker Interface (ABI) system of the Automated Commercial System (ACS), while the carrier/driver presents a paper manifest for the goods on the conveyance. In either case, the driver must be a registered driver in the FAST Driver Registration Program. Under the FAST system, the electronic filer would need to present cargo data to CBP no later than 30 minutes prior to the carrier's arrival at a U.S. port of entry.

Additionally, CBP acknowledges the role that BRASS (formerly Line Release (19 CFR part 142, subpart D)) plays in the expeditious movement of cargo on the land border. However, the current methodology utilized in BRASS for trucks does not allow for an advance electronic notice prior to arrival. The BRASS system is, and remains, heavily based upon the presentation of paper manifests, invoices and C-4 bar code labels (19 CFR 142.43(b)). It is observed, though, that CBP has already instituted an electronic form of BRASS in the Rail Automated Manifest System, and intends to do the same with the introduction of a Truck Automated Manifest System in ACE. In the interim, CBP intends to allow the continuation of BRASS for trucks, but may institute some additional requirements or otherwise modify BRASS in order to increase the security of BRASS transactions.

The CBP proposes a gradual transition from the reliance on the paper based BRASS release system. With the incorporation of a fully electronic version of BRASS planned in the new automated truck manifest scheduled for delivery under the Automated Commercial Environment (ACE), CBP does not propose making any changes to the method in which the current paper based BRASS operates. A gradual reduction in the parties eligible to utilize the existing paper based BRASS system is planned, with limitations in participation based on concerns of other government agencies, the level of compliance within past BRASS shipments and the volume of usage over

the course of the preceding year. Additionally, CBP will take measures considered necessary to ensure the security of the BRASS program by incorporating voluntary program requirements such as FAST Driver registration and participation in the Customs-Trade Partnership Against Terrorism.

Moreover, for in-bond shipments transiting the United States that arrive by truck, as an interim procedure, CBP will also make use of those systems that are currently available, since the necessity for screening advance data for in-bond truck shipments must be addressed while awaiting future automated systems in the truck environment. In particular, the Customs Automated Forms Entry System (CAFES) will be utilized to prepare the Customs Form (CF) 7512 in-bond document at all land border crossings where no other automation is available for in-bond shipments. While this capability does not include advance notice of the details of a shipment, it does include automated screening when the shipment arrives and is processed by CBP. As an alternative, carriers or their agents may use the Automated Broker Interface (ABI) to transmit in-bond information for shipments arriving by truck.

#### *Interim Transition Periods*

Furthermore, CBP recognizes the merit, and necessity, of affording suitable transition periods for implementing the regulations for inward truck cargo. To this effect, CBP proposes that cargo information be filed electronically for truck cargo that would arrive at a United States port of entry on and after 90 days from the date that CBP has published a notice in the **Federal Register** informing affected carriers that:

- (1) The approved data interchange is in place and fully operational at that port; and
- (2) The carrier must commence the presentation of the required advance cargo information through the approved system.

During these interim periods, however, if CBP suspected that goods were being routed in an attempt to evade advance scrutiny at an automated United States port of arrival, those goods would very likely be treated as high risk upon their arrival at a non-automated port.

#### *Mandatory Filing by Truck Carrier; Voluntary Importer Participation*

Under the proposed pre-notification program, the incoming truck carrier would be obliged to submit all essential information to CBP within the

designated time period. However, the United States importer, or its Customs broker, if electing to do so, could instead timely file with CBP any required commodity and other data that it possessed in relation to the cargo. Such information would likely be directly known by the importer or its broker. If the importer or broker did elect to file the commodity data with CBP, the carrier would have to present the required data pertaining to the transportation of the cargo. Such information would, of course, be best known by the carrier.

In any event, should the electronic filer of the cargo information receive any of this information from another party, the law mandates that where the electronic filer is not reasonably able to verify the information received, the regulations must allow the filer to transmit the information based on what it reasonably believes to be true. The CBP has expressly included this mandate in the proposed regulations.

The CBP will make every effort to ensure that there will be sufficient staff to assist the trade in effectively complying with the regulations. The CBP is aware that effectively administering the advance cargo information program will undoubtedly place additional burdens upon it, especially on some of the smaller ports along the border.

Finally, CBP will not propose a contingency plan for handling cargo that is not pre-reported in accordance with the regulations; once implemented at a port, the advance reporting provisions would be mandatory for all required cargo. For any inward cargo for which advance electronic commodity and transportation information was not presented to CBP, as otherwise required in the regulations, the transporting carrier could be refused admission to the United States, or be denied a permit to unlade such cargo.

#### **Overview; Truck Cargo Destined to the United States**

##### *Transmittal of Required Information for Incoming Cargo*

For any truck required to report its arrival under 19 CFR 123.1(b), that will have commercial cargo aboard, CBP must electronically receive from the inbound truck carrier, and from the United States importer, or its Customs broker, if they choose to do so, certain information concerning the incoming cargo. Except as provided for BRASS and CAFES under the previous section concerning "Interim Measures," CBP must receive such cargo information by means of a CBP-approved electronic