

along the Northern and Southern borders, while also enhancing the economic prosperity of the U.S., Canada, and Mexico by aligning, to the maximum extent possible, their customs commercial programs. While the program will still, of course, function in this capacity, nevertheless, with reference to its relationship with section 343(a), as amended, FAST will also be used for purposes of ensuring cargo safety and security and preventing smuggling. As such, and for the reasons set forth above, CBP finds it advisable to extend the overall time frame for FAST transactions to a full 30 minutes prior to arrival as an additional security measure under the program.

Thus, shipments eligible for FAST must be reported at least 30 minutes before the arrival of the conveyance at the first port of entry. FAST shipments may be reported through one of two release mechanisms: Through the all-electronic transmission of conveyance, driver and shipment information, formerly known as the National Customs Automation Program (NCAP) prototype; or through the use of the Pre-Arrival Processing System (PAPS) version of cargo selectivity. All other truck shipments still not allowed release via BRASS, must utilize PAPS and submit the data one hour before arrival of the truck. For an additional extensive review of the FAST, PAPS, BRASS, and CAFES systems, see the proposed rule at 68 FR 43586–43587.

Comment: Seven commenters requested that CBP initiate an electronic confirmation/receipt system, that would notify the broker/carrier that information was received, thus starting the 30-minute/1-hour clock.

CBP Response: The CBP already has a system in place that notifies the ABI transmitter that the data was received. This information is only available to the ABI transmitter. At this time, any notification to the carrier of successful data transmission must come via the ABI filer. Additionally, it should be pointed out that this program has already been successfully used without the need for direct electronic confirmation from CBP.

Data Systems To Be Used; In-Bond Reporting

Free And Secure Trade System (FAST)

Comment: Four commenters wanted to know when FAST, which was only available at a limited number of Northern Border ports, would be extended to other ports, including those along the Southern Border. Four other commenters wanted the FAST program

defined in the regulations as a method of acceptable cargo release.

CBP Response: A general notice published in the **Federal Register** (68 FR 55405) on September 25, 2003, announced the expansion of, and the eligibility requirements for, FAST along the Southern Border. The Southern and Northern border implementation schedule for FAST is also available on the CBP Web site (<http://www.cbp.gov>). This general notice also clearly defines FAST and its requirements.

Comment: Four commenters advocated that less-than-truckload (LTL) carriers be allowed to participate in FAST.

CBP Response: The current eligibility criteria for participation in the FAST program is set forth in the general notice that was published in the **Federal Register** (68 FR 55405) on September 25, 2003 (see 68 FR at 55406).

Pre-Arrival Processing System (PAPS)

Comment: It was suggested that CBP utilize the pre-file system, as was being done along the Southern Border.

CBP Response: The CBP contemplates mandating the implementation of the Pre-Arrival Processing System (PAPS) for all land border sites. The PAPS system, which uses the Automated Broker Interface (ABI), provides CBP with advance arrival information and includes carrier and importer information that is not included in the Southern Border Pre-file system. The PAPS system will basically also mesh with the advance truck manifest module when it is developed in ACE, while the Pre-file system would not.

Comment: The CBP should not deny the entry of PAPS shipments for failure to meet the required advance notification time. This could occur where Commercial Vehicle Processing Centers (CVPC) were not present.

CBP Response: In instances where CVPCs are not present, it is still the responsibility of the carrier or the importer/broker, as applicable, to ensure that the ABI transmitter receives the appropriate entry information via fax or by other means.

Should cargo information not be received within the allotted time frame, CBP may pursue any of the following options: (1) Denying a permit to unlade; (2) Delaying the release of the cargo until security screening is complete; and/or (3) Assessing a penalty/liquidated damages.

Comment: Three commenters sought the continued use of bar code labels until transponders were available.

CBP Response: The CBP will continue to support the use of bar codes to identify PAPS shipments, as an

acceptable method for processing the entry and release of cargo.

Comment: Four commenters questioned what software would be called for and what cost and training investment would be needed. Four other commenters wanted the proposed rule to deal with alternative methods of advance electronic presentation of cargo for those parties without access to an approved data interchange.

CBP Response: All current ABI transmitters in the truck mode have access to the ABI transmission module, which requires no new additional modifications or software changes. New individual filers may have to make some changes to their existing software, either through in-house programming or via their software vendors. However, the ABI capabilities to be utilized have been available within ABI for many years. It is the carrier's, shipper's or other trade partner's responsibility to ensure that the ABI transmitter receives the appropriate entry information via fax or by other means.

A party seeking to file cargo information with CBP electronically, who does not have an approved data interchange, may employ either the services of an automated Customs broker, or a service provider or an ABI service bureau for this purpose (see § 143.1(a) and (c), Customs Regulations; 19 CFR 143.1(a) and (c)).

Border Release Advanced Screening And Selectivity (BRASS)

Comment: Two commenters desired that CBP expand system capabilities to include advance manifest procedures for BRASS and in-bond shipments and include instructions for a Monthly Manifest.

CBP Response: The BRASS system, which is largely paper-based, will be employed, on an interim basis, for reporting data for incoming cargo. However, additional requirements may be implemented for BRASS to ensure that BRASS transactions achieve the basic objectives of cargo safety and security pursuant to section 343(a), as amended.

As additional interim measures, CBP will continue to employ CAFES or ABI in-bond reporting systems where available. The CBP also intends to continue support for what is known as Monthly Manifest (which applies to automotive products), until the periodic summary reporting that Monthly Manifest supports is available electronically. The Monthly Manifest program, and instructions for this program, however, fall outside the scope of this document.