



9111-14

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Automated Commercial Environment (ACE); Announcement of National Customs Automation Program Test of the In-Transit Manifest Pilot Program

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This document announces that U.S. Customs and Border Protection (CBP) plans to conduct a National Customs Automation Program (NCAP) test relating to truck shipments of commercial goods that transit from a point of origination in Canada through the United States to a point of destination in Canada. Under the NCAP test, CBP will use a new filing code to identify shipments as being part of the In-Transit Manifest Pilot Program in CBP's Automated Commercial Environmental (ACE) Truck Manifest System. Test participants will submit electronically an in-transit manifest with a relaxed validation for the value data element and they will not have to provide the Harmonized Tariff Schedule (HTS) number. This notice provides a description of the NCAP test and specifies the duration and locations of the test. It also invites public comment on any aspect of the test.

DATES: The test will commence no earlier than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] and will run for approximately six months at the following ports: Port Huron, Michigan; Pembina, North Dakota; and Blaine, Washington. Comments concerning this notice and all aspects of the announced test may be submitted at any time during the test period.

ADDRESSES: Written comments concerning program, policy and technical issues should be submitted to Manuel Garza, Director, Manifest and Conveyance Security Division, U.S. Customs and Border Protection, via email at manuel.a.garza@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. CBP Regulations

Under CBP regulations, a truck with merchandise that transits the United States during a trip that originates and terminates in Canada must present a paper manifest form, the United States-Canada Transit Manifest, known as Customs Form 7512-B Canada 8½, to CBP when it crosses the border at the U.S. ports of arrival and exit. The procedures for these in-transit shipments are addressed in 19 CFR 123.42 (Truck shipments transiting the United States). Among other things, the regulation provides that trucks transiting the United States must be sealed at the U.S. port of arrival. The regulation also provides that merchandise transported in trucks shall be forwarded in accordance with the general provisions for transportation in-bond (19 CFR 18.1-18.8).

In addition to the requirement to present a paper manifest when a truck crosses the border, CBP also requires electronic filing of certain information regarding the cargo carried by a truck in advance of the truck's arrival at the border. Under 19 CFR 123.92(a), with a few exceptions, for any inbound truck required to report its arrival under 19 CFR 123.1(b) that will have commercial cargo aboard, CBP must electronically receive certain information regarding the cargo to a CBP-approved EDI system¹ no later

¹ In a notice published in the **Federal Register** on October 27, 2006 (71 FR 62922), CBP designated the ACE Truck Manifest System as the approved EDI for the transmission of required data and announced that

than either 30 minutes² or one hour prior to the carrier's reaching the first port of arrival in the United States. This includes cargo arriving by truck for transportation through the United States from one point to another in the same foreign country.

Truck carriers have been providing up to 69 data elements (including 1 optional data element) as part of their e-Manifest in the ACE Truck Manifest System, as a result of prior NCAP tests performed in conjunction with the Federal Motor Carrier Safety Administration. See 69 FR 55167 (September 13, 2004) and 70 FR 13514 (March 21, 2005) and related test notices identified therein. For the purposes of this test, the same data elements will be required, except as otherwise provided for in this notice. The ACE Truck Manifest System enables truck carriers with merchandise transiting the United States from point to point in Canada to file an e-Manifest and enter the merchandise as a Transportation & Exportation (T&E) in-bond entry.

B. Beyond the Border Initiative

On February 4, 2011, President Obama and Prime Minister Harper announced the United States-Canada joint declaration, Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness ("Beyond the Border"). Beyond the Border articulates a shared approach to security in which both countries work together to address threats within, at, and away from the U.S.-Canada border, while expediting lawful trade and travel.

the requirement to transmit advance electronic cargo information through ACE would be phased in by groups of ports-of-entry. Through a series of **Federal Register** notices published from the October 27, 2006 notice and concluding with a November 13, 2007 notice (72 FR 63805), CBP mandated the use of ACE for the transmission of advance electronic truck cargo information at all land border ports-of-entry. ² As explained in the preamble of the final rule implementing section 123.92, published in the **Federal Register** on December 5, 2003 (68 FR 68140), the 30 minute timeframe applies to truck carriers arriving with shipments qualified for clearance under the FAST (Free and Secure Trade) Program. The FAST program is a cooperative effort between CBP and the governments of Canada and Mexico which provides expedited border processing for known, low-risk commercial drivers at the U.S.-Canada and U.S.-Mexico borders.

On December 7, 2011, President Obama and Prime Minister Harper released the Beyond the Border Action Plan, which sets out joint priorities and specific initiatives for achieving this vision. The Beyond the Border Action Plan proposed a number of pilot projects to test new approaches to facilitating the secure movement of goods, including a U.S. pilot that would involve “the testing of a new in-bond module for processing in-transit/in-bond (Canada-United States-Canada) cargo traveling by truck.” See Beyond the Border Action Plan (December 7, 2011). CBP is conducting this NCAP test to assess a new automated process for in-transit shipments in the ACE Truck Manifest System.

II. Authorization for the NCAP Test

The National Customs Automation Program (NCAP) was established in Subtitle B of Title VI – Customs Modernization, in the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, 2170, December 8, 1993) (Customs Modernization Act). See 19 U.S.C. 1411. The Customs Modernization Act provides the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the NCAP. The NCAP test of In-Transit Manifest Pilot Program (referred to hereafter as “the NCAP test” or “the test”) is authorized pursuant to 19 CFR 101.9(b) which provides for the testing of NCAP programs or procedures. See T.D. 95–21.

III. In-Transit Manifest Pilot Program

This notice announces CBP’s In-Transit Manifest Pilot Program to test a new electronic in-transit manifest in the ACE Truck Manifest System. The details are provided below.

A. Description of Test

The NCAP test applies to the transportation of commercial cargo from a point of origination in Canada through the United States to a point of destination in Canada (CAN-US-CAN in-transit shipments). These shipments are essentially domestic Canadian shipments that transit through the United States. Under the test, participating truck carriers transporting cargo in CAN-US-CAN in-transit shipments will be required to submit an e-Manifest in the ACE Truck Manifest System no later than 30 minutes³ prior to arrival in the United States under a new filing type code for these in-transit shipments. Participating carriers must submit an e-Manifest to CBP using the ANSI X12 format or the ACE Secure Data Portal. Participating carriers will not be required to submit the paper manifest form, Customs Form 7512-B Canada 8 ½, that is required under 19 CFR 123.42. Participating carriers are still required to submit the paper manifest form required under Canadian law to Canadian ports of entry.

Currently, CAN-US-CAN in-transit shipments are filed under shipment release type 62 as Transportation & Exportation (T&E) in-bond entries, which includes a complete ANSI X12 manifest (referred to as a 309 manifest) with the following information: trip, shipment (including the value of the merchandise and the Harmonized Tariff Schedule (HTS) number), conveyance, equipment, crew and passenger data. Under the test, a new shipment release type 70 for CAN-US-CAN in-transit shipments will be used by participating carriers. Under shipment release type 70, participating carriers will be required to submit the same set of data elements as a 309 manifest but

³ Thirty minutes is the time-frame specified in 19 CFR 123.92(a) that applies to truck carriers using FAST commercial drivers. This is the applicable time-frame for participating truck carriers because as a condition of participation in this test, each carrier must use commercial drivers cleared under the FAST program. See part III.B of this notice.

with a relaxed validation for the value data element. They will not be required to provide the HTS number.

For the value data element, CBP will accept a value amount of \$2 per pound when the actual value is not available. With regard to the HTS number, an e-Manifest filed under shipment release type 62 requires an HTS number to the 6-digit level under which the cargo will be classified and a description of the cargo. For an e-Manifest filed by test participants under shipment release type 70, only a precise description of the cargo will be required.

Trade associations for Canadian trucking companies have identified these two data elements—value and the HTS number—as being the most problematic for CAN-US-CAN in-transit shipments. Canadian truck carriers rarely know the value and/or the exact HTS classification number for such in-transit cargo and in practice often file incorrect data when filing an e-Manifest under shipment release type 62. By relaxing the validation for the value data and removing the HTS number requirement, CBP intends to reduce the reporting burden on the industry and improve trade efficiencies between Canada and the United States.

The in-transit manifest will be processed and retained in ACE in the same manner as a type 62 manifest. Upon arrival in the United States, CBP will generate a “transit movement authorized” message (referred to as a 350 message) that will be sent to the carrier. The shipment will then be able to transit the United States and proceed to the United States port of export as an in-transit entry. When the shipment arrives at the United States port of export, the carrier will report the arrival of the shipment to CBP via an EDI message or through the carrier’s ACE portal account. CBP will issue another 350

message to the carrier notifying the carrier that the shipment has entered Canada and that the in-transit entry is closed.

Requiring participating carriers to file an in-transit manifest electronically under new shipment release type 70, along with relaxing the validation for the value data element and eliminating the HTS number requirement, will facilitate the in-transit manifest process for both the trade and CBP. Canadian carriers will be able to route certain domestic shipments through the United States with greater efficiency and CBP will benefit from an entirely electronic in-transit manifest.

B. Test Participants and Conditions of Participation

Participation in the In-Transit Manifest Pilot Program is currently limited to nine Canadian truck carriers that have been selected by CBP in consultation with the Canadian Border Services Agency (CBSA). Each participating carrier is a bonded carrier and a certified member of the Customs-Trade Partnership Against Terrorism (C-TPAT), a voluntary supply chain security program led by CBP that is focused on improving the security of private companies' supply chains with respect to terrorism. As a condition of participation, each carrier must use commercial drivers cleared under the FAST program. FAST driver identification provides CBP with a full set of identifying information regarding the driver, including the driver's name, date of birth, gender, citizenship, and address. Another condition of participation in this NCAP test is that no passengers are permitted on the Canadian trucks transiting the United States, with the exception of additional drivers also cleared under the FAST program. As provided in Section VI, participants are also required to take part in an evaluation of the test.

C. Test Duration and Locations

The NCAP test will be conducted for approximately six months from its start at the following ports of entry: Port Huron, Michigan; Pembina, North Dakota; and Blaine, Washington. Any future expansion of this NCAP test to additional ports and/or extension of the time period will be announced on CBP's website at www.cbp.gov. Participants will also be notified of any expansion.

IV. Regulatory Provisions Affected

Regulations in 19 CFR parts 18 and 123 that conflict with the terms and conditions of the NCAP test are suspended and overridden to the extent of the conflict for the duration of the test for test participants and only to the extent of their participation in this test.

V. Misconduct

If a test participant fails to abide by the rules, procedures, or term and conditions of this and all other applicable **Federal Register** notices, fails to exercise reasonable care in the execution of participant obligations, or otherwise fails to comply with all applicable laws and regulations, then the participant may be suspended from participation in this test and/or subjected to penalties, liquidated damages, and/or other administrative or judicial sanction. Additionally, CBP has the right to suspend a test participant based on a determination that an unacceptable compliance risk exists. Any decision proposing suspension may be appealed in writing to the Assistant Commissioner (Office of Field Operations) within 15 days of the decision date. Such proposed suspension will apprise the participant of the facts or conduct warranting suspension. Should the participant appeal the notice of proposed suspension, the participant should address the facts or conduct charges contained in the notice and state how he has or will achieve compliance.

However, in the case of willfulness or where public health interests are concerned, the suspension may be effective immediately.

VI. Test Evaluation Criteria

All interested parties are invited to comment on any aspect of this test at any time. To ensure adequate feedback, participants are required to take part in an evaluation of this test. CBP needs comments and feedback on all aspects of this test, including the design, conduct and implementation of the test in order to determine whether to modify, alter, expand, limit, continue, end or implement this program by regulation. The final results of the evaluation will be published in the **Federal Register** and the Customs Bulletin as required by 19 CFR 101.9.

VII. Paperwork Reduction Act

As noted above, CBP is accepting only nine participants in the NCAP test. This means that fewer than ten persons will be subject to any information collections under the NCAP test. Accordingly, collections of information encompassed within this notice are exempted from the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3502 and 3507).

Dated: April 22, 2016.

Todd Owen,
Assistant Commissioner,
Office of Field Operations.

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