

changes to post-departure reporting jointly, and as appropriate.

Comment

The trade indicated a need for priority/exemption for a range of commodities and transaction types. Examples of commodities proposed for exemption were bulk cargo, perishables, and human organs/perishable medical products. Related or "twin plant" shipments were also suggested as candidates for exemption.

CBP Response

The CBP is not planning to eliminate exemptions or pre-approval programs in regulations promulgated pursuant to the Trade Act. The CBP agrees with the exemption of select export shipments such as human organs, perishable medical supplies, and emergency humanitarian aid. As such, the scope of future exemptions and the requirements for participation in low-risk exporter programs for reporting export commodity data will be determined jointly by CBP and Census.

Internal Transaction Number; External Transaction Number

Comment

The External Transaction Number (XTN) was preferred by most of those who commented. The XTN is generated by the USPPPI or its authorized agent who transmits the electronic data. At the same time, some support in the trade community was expressed for the Internal Transaction Number (ITN), and there was near unanimity that CBP should not require reporting of both numbers. The ITN is the AES system-generated number that indicates that the transmission of required export cargo information has been received and accepted through the system.

CBP Response

The preference for the XTN is understandable, but because an XTN can be generated and annotated on export documents without transmitting shipment data to AES, the XTN is susceptible to abuse. This assertion is supported by a 60-day AES exemption statement survey conducted by CBP during the summer of 2002. Then Customs (now CBP) field locations nationwide audited over 13,000 AES exemption statements and found 25% to be invalid at the time of export. Therefore, CBP's position will be to require that the ITN number be annotated on the appropriate export documents for shipments which require full pre-departure reporting. However, CBP wishes to especially emphasize in this regard that the annotation of the

ITN number on any export documentation will not be required or enforced until the implementation of the redesign of the AES commodity module, which is anticipated to be completed in mid 2004.

The ITN provides a link to a create date and time for the record in AES from which to verify compliance with pre-departure filing requirements. The ITN is also consistent in format, starting with an "X", followed by an 8-position date (century, year, month, day) and a 6-position sequential number that is assigned by the AES system. In addition, the AES mainframe typically returns the ITN in less than one minute.

By contrast, External Transaction Numbers (XTNs) consist of the 9-digit electronic filer identification and a Shipment Reference Number (SRN) that are separated by a hyphen. The SRN may contain up to 17 letters, numbers and symbols, allowing for a longer format with more variability than the ITN.

The CBP notes that ITNs will not be required for shipments authorized for post-departure (currently AES Option 4) reporting of export cargo information. The post-departure filing citation annotated on export documentation will continue to conform to approved formats contained in the Bureau of Census Foreign Trade Statistics Regulations (FTSR) (15 CFR part 30).

The CBP recognizes conditions under which ITNs will not be available due to a failure of an automated system. Procedures for dealing with system downtime—where the Government's electronic system and/or the USPPPI's system for receiving and processing export cargo data fails—will be detailed in the Automated Export System Trade Interface Requirements handbook (AESTIR), and any successor publication. The AESTIR is available on the CBP Web site (<http://www.cbp.gov>).

Overview; Cargo Departing From the United States; All Modes

Outward Cargo Information Reporting; System To Be Used

To ensure the safety and security of cargo that would be sent from the United States, as mandated by section 343(a), as amended, CBP would use the existing approved electronic data interchange system for receiving export commodity data from the United States Principal Party in Interest (USPPPI). The current system being used for this purpose is called the Automated Export System (AES).

The CBP has elected, in consultation and cooperation with the Bureau of Census, to utilize the commodity

module of the AES (the automated Shipper's Export Declaration), to meet the mandate of the Trade Act. At such time as automated manifest modules are available for all modes, these enhanced capabilities will be reviewed to determine additional compliance with the Trade Act of 2002.

This is a considered decision recognizing that at the time of promulgation of the final rule under section 343(a), as amended, the filing of export data via the AES will not be mandatory. In short, it is intended that the final rule in this matter for the advance filing of cargo information for all reportable outbound shipments not be implemented until Bureau of Census regulations under the Security Assistance Act (Pub. L. 107-228) are implemented.

Since the inception of AES, the elimination of the paper Shipper's Export Declaration (SED) has been the ultimate goal, and with the passage of the Security Assistance Act, the Bureau of Census has the authority to mandate the electronic filing of all reportable export shipments, with promulgation of regulations planned for mid 2004. Prior to mandatory electronic filing for all reportable export shipments, the Department of Commerce, Bureau of Census, will publish a rule requiring mandatory electronic reporting for commodities on the Commerce Control List (CCL), and U.S. Munitions List (USML), planned for the summer of 2003.

The CBP, however, does intend to accomplish several things with this rulemaking:

(1) Articulate a commitment to strengthening export reporting processes in concert with external agency partners such as the Department of Commerce (the Bureau of Census and the Bureau of Industry and Security), the Department of State (the Directorate of Defense Trade Controls), the Department of Treasury (Office of Foreign Assets Control), the Department of Transportation, the Drug Enforcement Administration, and the Environmental Protection Agency;

(2) Establish time frames for automated reporting that will support targeting for high risk exports and allow CBP or other Government agencies to respond prior to export; and

(3) Establish the system generated Internal Transaction Number as *the* accepted proof of automated filing, for all reportable exports not eligible for exemption.

Utilizing the automated SED within the AES combined with mandatory filing under Census complies with the intent of the Trade Act to collect