

should be recognized that CBP will continue to exercise its authority to remove a container from an outbound train at the time of border crossing. Further, in the event that a shipment crosses into Canada without proper reporting and is determined to be high-risk after CBP has utilized all targeting tools and information at its disposal, CBP will work with the carrier to have the container redelivered to the port of export.

#### **Exemptions From Pre-Departure Reporting**

*Comment:* One commenter sought information about the export exemption list; and whether there was any reason to standardize the format of the citation which the USPP/Agent furnished to the outbound carrier. Exemptions for low value shipments and shipments to Canada should remain the same.

*CBP Response:* The Bureau of Census already publishes export reporting exemptions in its regulations (see 15 CFR 30.50–30.58). Exemptions for low value shipments and shipments to Canada do remain the same. Also, the citation format is already standardized and available to the trade in Census Foreign Trade Statistics Regulations (FTSR) Letter 168, Amendment 2, a copy of which may be obtained from the Bureau of Census. Additionally, it is understood that information required to be submitted under Bureau of Census regulations for exports made through the U.S. Postal Service (USPS) will not be subject to being reported within the advance filing time frames of § 192.14(b) in this final rule.

*Comment:* Two commenters inquired about the reporting status of shipments to U.S. territories and Puerto Rico.

*CBP Response:* The reporting requirements for shipments to U.S. territories and to Puerto Rico also remain unchanged. Such requirements are outlined in the Bureau of Census Regulations (see 15 CFR 30.1).

#### **Internal Transaction Number (ITN)/ External Transaction Number (XTN)**

*Comment:* One commenter—The U.S. Department of Defense—wanted to be excepted from the requirement to obtain an Internal Transaction Number (ITN) for export shipments, preferring instead to continue using the External Transaction Number for this purpose. This was said to be necessary to achieve an interface between DoD shipper systems and the AES.

*CBP Response:* The CBP will review the ITN requirement for non-licensed DoD shipments. However, it is emphasized that for those DoD shipments which are subject to the

Department of State's International Traffic in Arms Regulations (ITAR), the requirement of an ITN, to be reported within the advance time frames stipulated by State, will be mandatory. Proposed § 192.14(b)(2) is amended in this final rule to add a specific cross reference to State's ITAR Regulations (22 CFR parts 120–130) that contain the advance notification provisions for exports of items on the U.S. Munitions List.

*Comment:* Specifications of the format and electronic transmission requirements for the ITN should be provided, especially for airlines.

*CBP Response:* Many carriers already annotate the XTN/ITN, Option 4 statement, or other exemption on the manifest. Carriers should refer to FTSR Letter 168, Amendment 2, for the proper formats. This FTSR Letter may be obtained from the Bureau of Census.

*Comment:* Since carriers could not accept cargo from the shipper/exporter until an electronic filing number or exemption code had been annotated on the export documentation at the time of freight acceptance, it would then follow that freight acceptance times would have to be restricted to 2 hours out from the flight.

*CBP Response:* Carriers should currently not be accepting cargo without a paper SED, XTN/ITN, Option 4 or reporting exemption statement (15 CFR 30.50–30.58). Hence, the carrier's responsibility under these regulations should not perceptibly change from the proper procedure it should be following at present. It is actually the USPP/Agent who will have to plan ahead and accomplish transmission and acceptance of the data earlier, so that the ITN will be available when the cargo is tendered to the exporting carrier.

*Comment:* The ITN requirement should be revised to allow export shipments to proceed once the USPP/Agent has received the ITN/AES confirmation message; and the same policy should apply for export shipments that qualified for exemptions to the pre-departure electronic filing requirements.

*CBP Response:* If the USPP/Agent is already waiting for the ITN message to be returned, the step of noting it on the export documents would be a fairly minor exercise. Also, export exemptions follow a standard format and are listed in 15 CFR 30.50–30.58 and FTSR Letter 168, Amendment 2, *supra*. The ITN is provided via a return message from AES. Carriers are required to obtain, and, therefore, USPP/Agents or their agents must provide to the carrier, an AES proof of filing citation, low-risk exporter citation (currently the Option 4

citation), or an exemption statement under current Census Bureau regulations. This procedure will remain the same under section 343(a) of the Trade Act of 2002, as amended.

*Comment:* It was not at all clear how a driver, who was out picking up freight on various shippers' loading docks, would have access to the ITN.

*CBP Response:* The USPP/Agent should have the ITN already annotated on the export documentation that would be presented to the driver. All the driver would have to do is simply verify that the shipping documents include an ITN, Option 4, or other exemption statement.

*Comment:* Two commenters were of the opinion that the performance of AES in the past in timely returning ITN confirmation numbers had led to the trade's preference for the XTN numbers.

*CBP Response:* The AES development team is required to set performance standards for system performance. One of the 2003 performance measures requires system "through-put" (the time it takes for data to reach the AES, be processed and put back out for return to the filer) to be routinely less than 1 minute.

*Comment:* One commenter asked whether there would be any merit in adding the time that the ITN was obtained by the USPP/Agent, so that the carrier would know when the 24 hours had expired (in the case of outbound vessel cargo).

*CBP Response:* The current ITN format is sufficient. It is the responsibility of the USPP/Agent to make sure the advance filing window is met.

*Comment:* The AESDirect system could only return the ITN via email, which would not be timely enough for express business. Three commenters believed that since the AES redesign was not scheduled for completion until mid-2004, and AESDirect sent the ITN via email, the ITN should not be required. One commenter requested that the XTN be used instead.

*CBP Response:* The CBP wants to especially emphasize that the annotation of the ITN number on any export documentation will not be mandated or enforced until the implementation of the redesign of the AES Commodity Module, which, as noted, is not anticipated to be completed until mid-2004. The redesign of the AES Commodity Module will make the ITN stable when records are updated.

The CBP, after consulting with the Bureau of Census, has informally estimated that its AESDirect system returns the ITN via email within 5–15 minutes. While this response period