Exports-AES Post Departure Filing Update

November 2016

Office of Field Operations

Cargo and Conveyance Security

Outbound Enforcement & Policy Team

October 31, 2016

Action Required: Informational

Issue: AES Post-Departure Filing Solution – Update

Background: Under the current AES system, approved post departure filers are generally granted the privilege of filing commodity data about their exports up to five (5) days after a cargo shipment has been exported and manifest transportation information from the carrier up to four (4) days after the departure of the conveyance. Specific to the Post Departure filing program, CBP receives no advanced data. There is no process to validate or determine if information provided by the companies utilizing post departure is correct, or if the companies are filing the data. New applications to the program were suspended in 2003 due to misuses of the Post Departure filing program and the passing of the Trade Act of 2002.

The Trade Act of 2002 requires advance transmission of electronic cargo information from both U.S. imports and exports. CBP is seeking pre-departure data on export transactions in order to conduct risk assessments.

In October 2014, the Advanced Export Information (AEI) pilot was initiated by Census to test a possible solution to post departure filing issues. Under the AEI pilot, CBP receives a limited pre-departure data set prior to departure of the conveyance. The data set consists of 12 data elements, with the balance of the AES data requirements to be filed within five (5) days of export.

The Post Departure Workgroup was initiated in April 2015 with the COAC Export Subcommittee and includes a variety of entities including exporters from the auto industry, agriculture industry, electronics industry, freight forwarders, as well as air, rail, ocean, and truck carriers. The intent of the Workgroup is to receive recommendations from the industries impacted by post departure and collectively suggest a path forward to CBP to best implement its responsibility to obtain advance export information in the current environment.

CURRENT STATUS: On October 15, 2015, CBP and the Exports Subcommittee of COAC reconvened the Post Departure Workgroup where CBP acknowledged the following:

- CBP must be able to obtain pre-departure information to effectively risk manage current post departure shipments.
- There is no one-size-fits-all solution as current post departure filing program participants are from a myriad of industries and range in size from major complex global exporters to very small single commodity entities.

- CBP will continue to work with all relevant law enforcement and export regulatory agencies to detect and interdict export fraud.
- CBP is coordinating with the C-TPAT Trusted Trader program to identify and manage potential benefits for post departure filing program participants who are also   C-TPAT/Trusted Trader participants.

In November and December of 2015, multiple conference calls transpired between CBP, Census and the COAC Post Departure Workgroup. Multiple draft documents have been exchanged which attempt to capture "shared assumptions" between all parties regarding finding a solution to the current post departure filing challenges.

In March of 2016, COAC made a presentation proposing a potential solution to the post-departure issue and the associated risks for cargo being exported without any advanced data. CBP is currently reviewing the proposal to evaluate the impact of the presentation on CBP and industry operations. In addition to attempting to address the risks associated with post-departure filing, the presentation suggests ways in which CBP may obtain predictive data on shipments, address vetting of the program participants and to conduct random inspections on individual shipments to ensure compliance with the program guidelines.

In September and October 2016 COAC presented two different proposals for the post departure filing program to the members of the Working Group for discussion. One proposal was from the agricultural shippers view point on the program. The second proposal was from a high volume exporter point of view. Because of the differences in the two proposals, the working group is continuing to discuss the various aspects of each proposal, with the goal of making a recommendation to CBP. CBP has asked a number of questions to obtain clarity regarding some of suggested aspects of each proposal.

CBP has identified that there are approximately 3000 exporters that have been identified as being post departure filers within CBP export systems. Based on Census records, only 471 of those exporters have utilized the post departure filing program to any degree from January 2015 through the end of March 2016. Of those 471 exporters, only 311 averaged one shipment per month or greater. A total of 235 exporters averaged five shipments per month or more. Based on one recommendation only 167 exporters had an average of 25 export shipments per month or more.

Next Steps: CBP will continue to work collaboratively with the COAC workgroup to advance   an AES Post-Departure Filing solution. More work is needed to fully identify and document the current universe of post departure filing program participants, the dynamics of their business models and the impact of post-departure filing on their business practices. More work is also needed in flushing-out each proposed solution/criteria for the discontinuation of post departure including what the specific program risk eligibility requirements would entail, potential linkage to the C-TPAT Trusted Trader concept, pre-approval validations, post-departure auditing, etc.

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