

## AGRICULTURE OCEAN TRANSPORTATION COALITION

Good afternoon,

AgOTC has been working hard on behalf of our ag exporter members to assure that the new mandatory export data filing requirements (AES) do not become a new barrier to exports. Now, we are very concerned about two significant changes just last week proposed by the Department of Homeland Security. Here is our summary of the new DHS demands, as reported by the American Shipper. We are fully engaged on this, as both of these proposals would create significant barriers to ag exports and threaten disclosure of your pricing and customer base.

U.S. Census Bureau officials warned exporters and freight forwarders that the Department of Homeland Security and specifically CBP (Customs and Border Protection) has made "eleventh hour" regulatory requests which could derail the implementation of long-awaited rules for mandatory electronic filing of export information - Automated Export System (AES). They want two significant changes.

First, DHS and CBP want Census to either eliminate post-departure filing in AES entirely, or substantially increase the requirements for accepting new companies in the program. DHS and CBP also do not want existing post-departure filers simply grandfathered into the mandatory program.

Secondly, DHS asked the bureau to make a "National Interest Determination" (NID) to allow sharing of confidential export information with foreign governments. CBP wants Census to give it a "blanket" NID to permit sharing of confidential export information with other federal agencies.

Post-departure filing in AES, also known as "Option 4," allows certain approved exporters and forwarders to process export declarations 10 calendar days after departure of goods.

About 2,300 exporters were allowed to maintain their Option 4 filing status on AES before Census placed a moratorium on program applications in August 2003. Census had planned to re-open the enrollment in Option 4 after the mandatory AES rules are implemented. This time, however, forwarders would not be allowed to apply for post-departure filing privileges on behalf of their export clients. Exporters must apply to Census.

Census is deeply disturbed by DHS and CBP's request to release confidential export data to foreign governments and other federal agencies. The confidentiality of export data is protected under Federal statute.

Census officials believe either change to the regulations would "undermine public confidence" in its pledge to safeguard information provided to it by businesses and individuals. The Census Bureau collects export information from industry to generate the nation's trade statistics.

Many industry groups including AgOTC as well as manufacturers organizations such as the National Association of Manufacturers, oppose sharing company-specific information with overseas governments because it could end up in the hands of competitors.

Census had planned to publish the AES mandatory filing rules in March, but may now issue a new Federal Register notice seeking comments from the industry. If so, this would certainly delay implementation for several months. The AgOTC is jumping back into the fray.

Regards,  
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