

November 4, 2013

The Honorable Rand Beers  
Acting Secretary  
U.S. Department of Homeland Security  
245 Murray Lane SW  
Washington, D.C. 20528-0075

Dear Acting Secretary Beers,

The undersigned associations and companies are writing to express our deep concern with Federal Register Doc. 2013-20878, published on August 27, and the process that led to this action. This notice announced the U.S. Customs and Border Protection (CBP) plan to conduct a test requiring the manifesting and entry of residual cargo found in containers arriving as Instruments of International Traffic (IIT). The notice also announced that CBP will begin enforcement of HQ Ruling H026715, dated June 19, 2009, in conjunction with the test. The test is slated to begin November 25, 2013.

We have previously expressed to CBP that residue remaining in IITs generates no value and yet presents numerous issues to the free flow of trade. While we have tried to deal with CBP on this issue for four years, CBP has failed to incorporate industry feedback or provide any clear basis for adopting their position. The pending actions could add millions in compliance costs, outsource U.S. jobs and capital, and create congestion at the borders – all without providing CBP with any operational, safety or security benefits.

We believe CBP should delay the test and enforcement of HQ Ruling H026715 for 12 months. A 12-month delay would give CBP much needed time to continue to engage with other government agencies – namely the Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA), whose own regulatory requirements would be triggered by the test. Further, a delay would allow appropriate time for Congress to consider the Residue Entries and Streamlining Trade Act (H.R. 2806), introduced by Rep. Kenny Marchant (R-TX) and Rep. Ron Kind (D-WI) in July. The test, and enforcement of the ruling, would be rendered moot by enactment of this bill.

If the CBP test proceeds, we recommend limiting its scope. As written, the notice will extend to all ports and all carriers unless they affirmatively opt out. Such an approach is more akin to a rulemaking than a test. We believe that any test should be limited to four ports – one for each modality – and volunteer carriers. Throughout the duration of the test, enforcement of HQ Ruling H026715 should be suspended.

Because of the importance of trade flows to U.S. economic growth and competitiveness, we strongly urge you to delay this test that will negatively impact U.S. exports. Thank you in advance for your support.

Sincerely,

Marianne Rowden  
President & CEO  
American Association of Exporters and  
Importers

Cal Dooley  
President and CEO  
American Chemistry Council

Charles T. Drevna  
President  
American Fuel and Petrochemical  
Manufacturers

Jack Gerard  
President and CEO  
American Petroleum Institute

Bill Graves  
President & CEO  
American Trucking Associations

Kurt McMillan  
President, Interim  
National Association of Chemical Distributors

Joy Nott  
President and CEO  
Canadian Association of Importers and  
Exporters Inc.

Jay Timmons  
President and CEO  
National Association of Manufacturers

Vaughn Arthur  
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Bruce J. Carlton  
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Chris Jahn  
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Daniel R. Furth  
President  
National Tank Truck Carriers, Inc.

J. Christopher Ronay  
President  
Institute of Makers of Explosives

Peter M. Robinson  
President and CEO  
United States Council for International Business

CC: The Honorable Thomas S. Winkowski, Acting Commissioner, US Customs & Border Protection  
The Honorable Dave Camp, Chairman, U.S. House Ways & Means Committee  
The Honorable Carl Levin, Ranking Member, U.S. House Ways & Means Committee  
The Honorable Max Baucus, Chairman, U.S. Senate Finance Committee  
The Honorable Orin Hatch, Ranking Member, U.S. Senate Finance Committee  
The Honorable Kenny Marchant  
The Honorable Ron Kind