



UNITED STATES TRANSPORTATION COMMAND
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MAR 23 2011

Ms Diana Hynek
Departmental Paperwork Clearance Officer
Department of Commerce
Room 6616
14th and Constitution Ave, NW
Washington DC 20230

Dear Ms Hynek,

The Department of Defense (DOD) has major concerns with the additional data elements proposed for the Automated Export System (AES) Program in the 21 January 2011 (Volume 76, Number 14) Federal Register Notice, Foreign Trade Regulations (FTR): Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information: Proposed Substantive Changes and Corrections.

Changes proposed will adversely affect the DOD's ability to comply with the requirements for filing the Shipper's Export Declaration Information and for DOD shipments do not provide added value to the U.S. Census Bureau ability to determine statistics on the balance of international trade or as use as a principal economic indicator. The attached document contains comments that were offered to the Census Bureau in response to the Federal Register Notice to support our concerns with the changes.

In addition, the DOD disagrees with the hours/cost of the agency's estimate of the burden to include the additional data elements to the AES transactions. For example, as detailed in the attachment, several of the additional data elements would require additional costs to reprogram not only DOD transportation related automated information systems, but also materiel and medical supply systems. The requirement to now include EEIs for self-propelled used vehicles would require re-negotiation of our vehicle processing centers contracts. The requirement to include the airway bill in the EEI transaction is not currently possible under the business processes used by the commercial air express industry. Finally we have significant concerns with many of the conditional data elements with the condition being "if the shippers knows". Conditional data elements where the condition is "if known" are impossible to regulate and very often end up as required when being programmed into the system. We need to ensure these data elements do not end up being defacto required elements else we will not be able to comply. Further details can be found in the attachment.

Our Point of contact is Ms Kathy Sneider, 618-256-9617, kathleen.sneider@ustranscom.mil. Thank you.


BARRY R. SMITHEY
Chief, Policy and Doctrine Division

Attachment:
DOD Comments Federal Register Vol 76, Number 14

Department of Defense Comments on Federal Register, 21 January 2011 (Volume 76, Number 14) Foreign Trade Regulations (FTR) Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information: Proposed Substantive Changes and Corrections

1. Section 30.1 (c) - Shipment Reference Number. The new definition states "The reuse of the shipment reference number is prohibited"

DOD Comment: The DOD Shipper Systems use a Transportation Control Number (TCN) as the shipper reference number for AES transactions. The systems are programmed to allow a repeat of our TCNs after 10 years. This is based on the DOD's complex supply requisition and TCN generation processes for shipments that are outside the regular supply requisition process.

The costs to shift the entire DOD supply and transportation processes would require budgetary programming for additional funding to meet this requirement and would not be available for several years. At a minimum, the likelihood of reusing a DOD shipment reference number would be 10 years. DOD requests reconsideration of this requirement. Also request information be provided on how long AES maintains transaction data on an active database.

2. Section 30.2 (a)(1)(iv)(H) – Section requires EEIs be filed for "used self-propelled vehicles as defined in 19 CFR 192.1 of U.S. Customs and Border Protection regulations"

DOD Comment: If our interpretation of the CFR is correct, that would mean that EEIs would be required for DOD privately owned vehicles (POVs) being shipped as part of military/civilian member's permanent change of station entitlement which includes household goods as well as their POVs. Section 30.2(a)(1)(iv)(I) provides an exemption for household goods if consigned to US government agencies and employees for their exclusive use and we believe that the POVs consigned to DOD agencies and employees should also be exempted. All DOD POVs are shipped through DOD established vehicle processing centers (VPCs) which ensure that all vehicles are empty of other items except for those limited items permitted by DOD. All permitted items are inspected and boxed by the staff of the vehicle processing centers to ensure no dangerous items or contraband could be shipped inside the vehicle.

To comply with this requirement, DOD would be burdened with renegotiating the VPC contract. To comply with this new requirement, DOD would need adequate lead time and would incur additional cost to the USG. EEI would have to be filed from the VPC since military member will not have required information until vehicles were dropped at the VPC.

Request exemption be granted to shipments of POVs for all government agencies and their employees.

3. Section 30.3(b)(4)(c)(1)(ii)(A)(12) – Section requires an ultimate consignee type to be entered in the EEI “if known”.

DOD Comment: Request clarification on conditions for when this will be required. Also request information on what data values are available to describe the “type” of consignee. In most cases, the DOD will not be able to determine the ultimate consignee type. If the only condition set is “if known”, most filers will leave the data element blank. When the conditional data element is consistently left blank, the requirement tends to morph into the data becoming required and DOD would not be able to comply.

Request list of type codes and clarification on the conditional nature of the data element.

4. Section 30.4(b)(5) – Section provides filing deadlines for EEIs on shipments of used self-propelled vehicles.

DOD Comment: Per comment on section 30.2(a)(1)(v)9H) request exemption for shipments of POVs for all government agencies and their employees.

5. Section 30.6(a)(19) – Section reiterates requirement that reuse of shipment reference number is prohibited.

DOD Comment: The DOD Shipper Systems use a Transportation Control Number (TCN) as the shipper reference number for AES transactions. The systems are programmed to allow a repeat of our TCNs after 10 years. This is based on the DOD’s complex supply requisition and TCN generation processes for shipments that are outside the regular supply requisition process.

The costs to shift the entire DOD supply and transportation processes would require budgetary programming for additional funding to meet this requirement and would not be available for several years. At a minimum, the likelihood of reusing a DOD shipment reference number would be 10 years. DOD requests reconsideration of this requirement. Also request information be provided on how long AES maintains transaction data on an active database.

6. Section 30.6(b)(2) – Requires a conditional data element of Name of end user, if known.

DOD Comment: Conditional data elements where the condition is “if known” are impossible to regulate and very often end up as required when being programmed into the system. Many DOD shipments are resupply actions that can go into a Supply Support Activity prior to being issued to the final end user. The odds of the DOD being able to identify a specific final end user are remote. We need to ensure this data element does not end up being a defacto required element else we will not be able to comply.

Also request clarification on end user would be defined differently than ultimate consignee.

7. Section 30.6(b)(3) – Requires conditional data element of Name of address of end user if known.

DOD Comment: As described in para 6 above, conditional data elements where the condition is “if known” are impossible to regulate and very often end up as required when being programmed into the system. Many DOD shipments are resupply actions that can go into a Supply Support Activity prior to being issued to the final end user. The odds of the DOD being able to identify a specific final end user are remote. We need to ensure this data element does not end up being a defacto required element else we will not be able to comply

8. Section 30.6(b)(7) – Section requires a country of origin to be provided if the goods exported are of foreign origin and have undergone no change.....”

DOD Comment: DOD business processes prevent the shipper from knowing if the goods to be shipped may be of foreign origin. DOD sources materials from many different avenues and when placed into the supply warehouse, the goods are comingled and lose their individual identity and thus their point of origin. Upon shipment, the items are military equipment being shipped to support military operations. By default the DOD would not be providing this data element.

9. Section 30.6(b)(18)(ii) – Section requires the shipper submit the master airway bill number as the TRN for air shipments.

DOD Comment: With the current business practice for the commercial air industry, DOD cannot comply with this data element requirement. The commercial air carriers will not provide the shipper with an airway bill number until the shipper provides them an ITN. This puts the DOD shipper in an impossible shipment. Without the airway bill number, the shipper can't file the EEI, but without the ITN, the shipper can't get an airway bill number. Our understanding is that the commercial air industry is meeting with your staff to discuss this issue. Our position at this time is we cannot comply with the requirement.

10. Section 30.6(b)(22) – Section requires a container number for vessel shipments that will be containerized.

DOD Comment: For many shipments, specifically door to door moves and breakbulk shipments that are later containerized at the port, DOD does not have access to the container number and therefore cannot report the container number in the EEI. In some cases, the shipper might not even know if the shipment ends up containerized, when sent to the port, it could be put on a flatrack or loaded directly on the ship. In section 30.3(3)(i) under carrier responsibilities, the carrier cannot load or move cargo unless the required documentation to include the proof of filing citation (ITN) is provided. But if section 30.6 (b)(22) requires the container number to be in the EEI, the shipper is once again put into a position where they cannot move the shipment without the ITN, but can't determine the information for the receiving the ITN until after shipment movement has begun. DOD in cases of door to door movement or cases where the material is not containerized until reaching the port cannot

comply with this requirement. Discrepancies requirements cited in sections 30.3 and 30.6 will need to be resolved.

11. Section 30.6(b)(23) – Section requires seal numbers that are placed on containers.

DOD Comment: This requirement presents the same problem for DOD shippers as the container number requirement. If the shipper doesn't know the container number for the shipment at the time of filing or even if the shipment will be containerized, they cannot provide the seal number. In section 30.3(3)(i) under carrier responsibilities, the carrier cannot load or move cargo unless the required documentation to include the proof of filing citation (ITN) is provided. But if section 30.6 (b)(22) requires the seal number to be in the EEI, the shipper is once again put into a position where they cannot move the shipment without the ITN, but can't determine the information for the receiving the ITN until after shipment movement has begun. DOD in cases of door to door movement or cases where the material is not containerized until reaching the port cannot comply with this requirement. Discrepancies requirements cited in sections 30.3 and 30.6 will need to be resolved.

12. Section 30.6(b)(24) – Section requires a conditional data element for the filer to provide an ultimate consignee type if known.

DOD Comment: As discussed previously, conditional data elements where the condition is "if known" are impossible to regulate and very often end up as required when being programmed into the system. We need to ensure this data element does not end up being a defacto required element else we will not be able to comply.

Also request the reasoning behind requiring this ultimate consignee type and what benefit this information provides.

13. Section 30.26 – Section seems to be a reiteration of Section 30.2 (a)(1)(iv)(H), requiring EEIs for POVs belonging to Government Agencies and their employees.

DOD Comment: The section as written is confusing, we are unsure if this is requiring EEIs for Government agency and employees POVs or if an EEI is only required if the vehicle will have a transfer of ownership after export. Request clarification. If it does pertain to a personal vehicle that will not have a transfer of ownership, then request that exemption for vehicles belonging to Government agencies and their employees be granted. Section 30.2(a)(1)(iv)(I) provides an exemption for households goods if consigned to US government agencies and employees for their exclusive use and we believe that the POVs consigned to DOD agencies and employees should also be exempted. All DOD POVs considered a part of their permanent change of station entitlement along with their household goods. The POVs are shipped through DOD established vehicle processing centers (VPCs) which ensure that all vehicles are empty of other items except for those limited items permitted by DOD. All permitted items are inspected and boxed by the staff of the vehicle processing centers to ensure no dangerous items or contraband could be shipped inside the vehicle.

To comply with this requirement, DOD would be burdened with renegotiating the VPC contract. To comply with this new requirement, DOD would need adequate lead time and would incur additional cost to the USG. EEI would have to be filed from the VPC since military member will not have required information until vehicles were dropped at the VPC.

Request exemption be granted to shipments of POVs for all government agencies and their employees.

14. Section 30.36(b)(7) – Section requires EEIs for POVs.

DOD Comment: Section 30.2(a)(1)(iv)(I) provides an exemption for household goods if consigned to US government agencies and employees for their exclusive use and we believe that the POVs consigned to DOD agencies and employees should also be exempted. All DOD POVs considered a part of their permanent change of station entitlement along with their household goods. The POVs are shipped through DOD established vehicle processing centers (VPCs) which ensure that all vehicles are empty of other items except for those limited items permitted by DOD. All permitted items are inspected and boxed by the staff of the vehicle processing centers to ensure no dangerous items or contraband could be shipped inside the vehicle.

To comply with this requirement, DOD would be burdened with renegotiating the VPC contract. To comply with this new requirement, DOD would need adequate lead time and would incur additional cost to the USG. EEI would have to be filed from the VPC since military member will not have required information until vehicles were dropped at the VPC.

Request exemption be granted to shipments of POVs for all government agencies and their employees.

15. Section 30.36(b)(8) – Section does not mention the exemption from filing EEI for Government Agency and employees household goods

DOD Comment – Section should reiterate the exemption from filing EEI for Government Agency and their employees household goods as directed in sec 30.2.

16. Section 30.40 – Section has no exemption for Government Agency and employees POVs

DOD Comment: In line with requests from paragraphs 2,4,13 and 14, request that exemption be granted from filing EEIs for shipments of POVs for Government Agencies and their employees when used for their exclusive use.

17. Request AES database and transaction formats be expanded to allow the entry, retention and be available on line for CBP officer viewing a data element showing the port where the DSP94 is lodged. This information is required for security assistance shipments, but the AES system is not configured to accommodate the information.