

UPS Supply Chain Solutions

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November 21, 2014

U.S. Customs & Border Protection
Office of International Trade
90 K Street NE – 10th Floor
Washington, DC 20229-1177

Attention: Tracy Denning
Office of Regulations and Rulings

RE: Comments on "Agency Information Collection Activities: Importer ID Input Record"
OMB Number 1651-0064

Dear Ms. Denning:

UPS Supply Chain Solutions, Inc. (UPS) appreciates the opportunity to submit comments on the Agency Information Collection Activities for the CBP Form 5106, otherwise known as the Importer ID Input Record.

UPS is a licensed and permitted Customs brokerage firm, providing Customs brokerage services to our importer customers, whether in the express courier or the heavy freight environment. We regularly interface with U.S. Customs & Border Protection (CBP) and other partner government agencies to facilitate the entry of goods on our customers' behalf. As a customs broker we collect, place on file and maintain the [current] CBP Form 5106 data on behalf of our customers and their customers.

We have categorized our comments in the five areas requested by the Federal Register Notice.

1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility:

UPS understands the challenges faced by CBP in the identification of the proper party who may act as the Importer of Record, the Consignee (or Sold to Party), or a Drawback Claimant. CBP utilizes risk assessment methodologies to make exam and admissibility decisions, and CBP depends on the accuracy of the information presented to them. UPS supports the basic collection of information as necessary, but offer comments in Section 3 below to better define the correct amount of information collected.

We believe the role of the party to be reported factors into the amount of information required, and we recommend CBP formulate their final rule, ensuring "over collection" of information and data is avoided:

- Reporting all data elements (Sections 1, 2, 3 and 4) for a casual or infrequent importer does not appear to be practical or efficient use of time and resources
- Requiring more information from an Importer of Record than from a party receiving infrequent personal shipments is prudent – CBP needs to balance the role of the party with the amount of data collected

2) The accuracy of the agency's estimates of the burden of the collection of information:

UPS does not believe the agency's estimates of the burden of the collection of information accurately reflects the amount of time it takes to collect the information in order to provide the information to CBP. We provide the following estimates from our perspective:

- Collection of current 5106 information: we believe the 15 minute estimate does not accurately reflect the time it takes to identify and locate the right party, contact them, collect the information and then provide the information to CBP. A better estimate of collection time for the existing form would be 30 to 60 minutes.
- Collection of new 5106 information for a *Consignee (or Sold to Party)*: UPS estimates the collection time would average 60 minutes, with 30 minutes being the least amount of time and 2 hours or 120 minutes being the maximum amount of time. Much of the time spent is locating the correct party, contacting the party, explaining to the party why the information is needed, then formatting the information and electronically transmitting the information to CBP.
- Collection of new 5106 information for the *Importer of Record*: UPS estimates the collection of time would average 120 minutes, with 60 minutes being the least amount of time and 4 hours or 240 minutes being the maximum amount of time. While we anticipate the amount of information that UPS would collect from the *Importer of Record* would be similar to the collection of information from a *Consignee (or Sold to Party)* we are anticipating the amount of time the Importer of Record might spend in collecting and submitting the information in Section 3 of the proposed new form.

3) Ways to enhance the quality, utility and clarity of the information to be collected:

3A. DATA REQUIREMENTS – REQUIRED OR OPTIONAL:

It is important to identify what data elements are required versus optional, understanding that the only the very basic information should be required or mandatory. We believe CBP should utilize the available information to make admissibility decisions, as they do today. The role of the party being reported should be considered in CBP's risk assessment methodology.

UPS recommends that CBP make mandatory all fields in Section 1 and 2 with certain exceptions as follows:

- 1B – should remain blank if applicant is applying for a CBP assigned number
- 1C – may be left blank if not applicable
- 1D – may be left blank if not applicable
- 1E – may be left blank if 1B is completed with an IRS or EIN number
- 1F – may be left blank – this field should be utilized to update information about an entity that has already received a CBP assigned number
- 1J, 1K, 1L and 1M – until the program code fields are defined, these may be left blank
- 2D – may be left blank if not applicable OR allow n/a or none
- 2E – may be left blank if not applicable OR allow n/a or none

- 2F – may be left blank if not applicable OR allow n/a or none

Please note when we reference “if not applicable” this may mean the information may not be available or the information requested does not exist.

With regard to Section 3, UPS recommends that the sensitive company data not be required data elements when initially filing the 5106 form. As a Customs broker, we are willing to collect some of the data elements for Importers of Record requested in Section 3 as follows:

- Willing to collect and submit if available: 3A, 3B, 3C, 3D, 3E, 3H, and 3I
- While the Customs broker may have at least one name of a corporate officer for an entity that is an Importer of Record, the broker does not wish to collect or report the sensitive information requested in 3F or 3J

3B. DATA REQUIREMENTS – RECOMMENDATIONS

1H. UPS recommends the data ranges in 1H be changed or modified as follows:

- Ranges appear to be too small. Suggest the ranges should be 1-5 per year, 6-100 per year, 101 or more per year
- Clarify in the instructions that the Importer of Record must select one of the data range boxes (1-5, 6-100, 101 or more)
- Clarify in the instructions that the infrequent personal shipper should only check a single box, likely ‘infrequent personal shipments’
- UPS does not understand when a party would check the box “I do not intend to import.” And we would appreciate clarification in the instructions or another guidance on the use of the CBP 5106 form when a party would check that box.

1I. UPS recommends the following for this data collection box:

- UPS requests confirmation in the instructions that the importer/consignee would check all boxes or options that would apply on the date the form is first completed. We understand that an importer or consignee’s importing intentions and habits may change over time.
- For the Consignee/Ultimate Consignee block, UPS recommends that CBP remove the word “Ultimate Consignee” as the word “ultimate” has been removed from the lexicon in the ACE world. Removing this word as an adjective from the form would comport with that desire. We believe this party is better described as the “Consignee or Sold to Party”
- UPS suggests CBP add definitions in the instructions for “Importer of Record” and “Consignee or Sold to Party” to assist the trade community in understanding what the selection means
- Parties other than Importers of Record, Consignees, Drawback Claimants, etc. will utilize this form. We recognize that these parties could be identified utilizing the block marked “Other.” Would CBP benefit from adding additional Role selections to the form? If so, we suggest:
 - Transportation Carrier
 - Licensed Customs Brokerage Firm*
 - Container Freight Station*
 - Commercial Warehouse/Foreign Trade Zone Operator*
 - Container Examination Station*
 - Deliver to Party

3H. UPS recommends the term ‘locator ID’ should be changed to State Code or ISO code. We do not believe ‘locator ID’ is a good descriptor to be used on the form itself.

3C. ROLE OF THE PARTY TO BE REPORTED:

UPS suggests that the role of the party to be reported be utilized as the basis for determining the amount of the information to be collected:

- *Consignee (or Sold to Party)*: Sections 1 and 2 should be required
- *Importer of Record* – Sections 1 and 2 should be required, Section 3 optional
- Please note our comments in item 3A above – some fields in Section 1 and 2 may be left blank if not applicable
- Regarding the suggested additional Parties in 3B above, CBP does collect significant information for some of these parties. Those parties marked with an asterisk * should require Sections 1 and 2 to be reported only.

3D. CBP ASSIGNED NUMBER:

UPS supports the use of a CBP Assigned Number in lieu of the reporting of a Social Security number (SSN) for shipment valued over \$2,500 (formal entry). As a Customs broker, we do not wish to collect or store an individuals' SSN (a very sensitive and personal identifier), in our systems.

We recommend CBP update their methodology to assign CBP Assigned Numbers, so the trade community is able to separate Non-Resident Importers of Record (who currently utilize CBP Assigned Numbers) from those individuals who wish to use a CBP Assigned Number in lieu of their Social Security number.

Please confirm that CBP Assigned Numbers will be accepted by Partner Government Agencies (PGA), for U.S. entities as well as non-resident Importers of Record. We are particularly interested to know whether the U.S. Food & Drug Administration will accept this alternate identifier.

The form instructions for the Customs Assigned Number are not clear: Does the party who checks Block 1E "I have a SSN but wish to use a CBP-Assigned Number on all my entry documents" still have to provide their SSN in 1B to obtain a CBP Assigned Number? We would presume they do not, but the instructions should provide guidance.

UPS recommends that the licensed customs brokerage firm employees should be the party who requests Customs Assigned Numbers, preferably through ABI ACE (not a mobile application). CBP licenses and regulates customs brokerage firms, and they are a known entity.

4) Ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology:

CBP should not allow changes or updates to the 5106 form without collecting detailed information about the party submitting the changes.

4A. MOBILE APPLICATION TO COLLECT THE DATA

CBP licenses and regulates the Customs brokerage firms who regularly gather and present 5106 data through the Automated Broker Interface (ABI). One of the concepts we have heard is that CBP could develop an 'online' or mobile application, allowing a corporation to provide the sensitive data required in Section 3. We believe CBP should consider the following points prior to moving forward with a mobile application:

- The criminal element – those individuals and companies who engage in schemes to avoid lawful payments of duties, including avoidance of antidumping or countervailing duties, import Intellectual Property Rights violative goods, and generally seek to

circumvent the rules and regulations of CBP – will not follow the rules, and a mobile application may provide them with a new avenue for importer identity theft.

- We recommend the initial 5106 be filed via ABI by the licensed Customs brokerage firm or authorized surety company, and when the information is filed, CBP returns to the broker/surety company, a unique authorization code that can be utilized by the Importer of Record to provide the sensitive personal data requested in Section 3, particularly 3F, 3G and 3J via a secure online application.
- If CBP pursues the development of an 'app' it must have significant security features built into it to tie to the correct 5106 record, and to ensure the party accessing the data has the authority to update the record, and they are who they say they are.
- Some additional thoughts:
 - With the submission of an email address in section 2E, CBP could initiate an email to that address, providing that individual with a link to update Section 3 information
 - CBP should consider notifying the original filer of the 5106 that there has been a change in the Section 1 and 2 data filed. This would greatly assist the brokerage filer in maintaining current records as well as provide a review mechanism that may recognize when an identity has been stolen or a record has been improperly changed. This feature should only be provided for importer of record data, not consignee/sold to party data.

4B. ALTERNATIVE IDENTIFIERS FOR NON-RESIDENT IMPORTERS OF RECORD

The Internal Revenue Service (IRS) does allow for a non-resident entity who conducts business in the United States to apply for an IRS or Employer Identification Number (EIN). UPS has a number of Canadian clients who have an IRS EIN number assigned to them. We believe CBP should allow these non-resident entities to utilize their EIN number in lieu of a CBP assigned number.

4C. ACE WEB PORTAL

In our opinion, the ACE Web Portal was never intended to be utilized by all importers bringing goods into the United States, however for those experienced importers who have ACE portal accounts, an ACE tool could be utilized to manage the 5106 data that CBP has on file for them.

4D. UTILIZATION OF THE ENCRYPTED NUMBER

The CBP query function which allows a Customs broker to obtain an encrypted number should be upgraded, taking advantage of search technology advancements. A better query function and the ability to utilize an encrypted number in lieu of an EIN number at time of entry release or entry summary could prevent numerous 5106 records from being built for the same entity.

We believe the current utilization of the encrypted number at time of entry release is very low, due to the inefficient query function, and the fact that the Customs broker is required to obtain a valid EIN for entry summary purposes. Use of the encrypted number at release helped move the freight, however the requirement to obtain an EIN number from a party the Customs broker doesn't necessarily have a relationship with (consignee/sold to party) was very difficult. The function was originally developed at the request of brokers operating on the US northern border in a 24/7 environment.

CBP should continue to allow for the use of encrypted numbers (obtained by the Customs broker utilizing an ABI query) to identify a consignee at time of entry release. CBP should change their policy and allow for the use of the encrypted number at time of entry summary, and

no longer require the Customs broker to contact the consignee to obtain a number that is already in CBP's system.

Upgrading the encrypted number query, and allowing the utilization of the encrypted number on entry summary could have the following effect:

- Fewer duplicate 5106 records filed
- Better history of importations by a consignee for targeting purposes

5) Annual costs to respondents or record keepers from the collection of information (a total capital/startup costs):

UPS believes the average data collection cost per hour is approximately \$25.00. This would reflect costs for personnel as well as information systems to transmit and store the data.

CHALLENGES

UPS wishes to remind CBP of the challenges the Customs brokerage community faces in gathering the correct 5106 information for submission to CBP. Information collection activities may be impacted as follows:

- Trade moves 24 hours daily/7 days a week whether the goods are in an express courier or a border clearance environment.
- The Customs broker often does not have a business relationship with the consignee (sold to party), especially if the Importer of Record is a non-resident importer. Trying to collect the data from this unknown party can be challenging.
- The internet has opened borders, and the consignee (sold to party) may not even realize the article they ordered on line is coming across a border. The Business to Consumer (B2C) activities continue to increase, possibly requiring more and more information from casual importers.

UPS would like to know how many 5106 records placed on file are duplicates. We recommend CBP take steps to prevent duplicate records.

OPPORTUNITIES

USE OF NAME & ADDRESS

CBP currently allows for cargo (entry) release of goods valued less than \$2,500 per shipment (the informal entry limit) utilizing the transmission of the name and address of the US party receiving the goods. This is allowed, whether there is a single consignee or multiple consignees in a shipment, provided that any US party receiving goods valued greater than \$2500 be identified with an appropriate EIN number. However, at the time of entry summary in the ACE environment, CBP's requirement is to present an EIN or unique identifier number like the CBP assigned number at the line level for each consignee receiving the goods, regardless of value. Because CBP has already performed their risk assessment based on the name/address of the consignee, we believe CBP should not require the consignee identifier information on the entry summary, unless the value of goods for the individual consignee exceeds \$2,500.

If the reporting rules for informal values at entry summary are not changed, the Customs broker will be requesting numerous Customs Assigned numbers for individuals in lieu of a SSN. If CBP allows the transmission of the name/address for shipments valued less than \$2,500 for both

entry release and summary, it will prevent multiple CBP assigned numbers to be assigned to the same individual, cluttering up CBP's data base.

When an individual receives goods valued over \$2,500 (formal entry), CBP should allow for the use of the CBP assigned number in lieu of an individual's Social Security number.

It would be helpful for CBP's system to have some edits built in to recognize a valid address format recognized by the U.S. Post Office. We believe there is commercially available software available to assist with this.

REQUEST CLARIFICATION IN FINAL INSTRUCTIONS

We do recommend that CBP clarify the following questions for the trade community:

- If an existing 5106 is on file, when will a new form (with the extra data elements) be required to be filed? If there is a change in an IOR's surety bond?
- What is the obligation of the IOR to maintain the 5106 information filed with CBP? What if their bank account information changes? Or there is a change in corporate officers? Or their filer has changed?
- Recommend that firms participating in C-TPAT or ISA programs not be required to submit the elements required in Section 3 if or when a new 5106 is filed

UPS Supply Chain Solutions appreciates the opportunity to provide comments on the proposed changes to the CBP Form 5106, as the forms' requirements will be impactful to our brokerage operations should they be changed or updated. Please contact the undersigned if you have any questions concerning this submission.

Sincerely,

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