AAEI American Association of Exporters and Importers
The Voice of the International Trade Community Since 1921

April 18, 2005

Via Facsimile: (301) 457-2645
U.S. Census Bureau
Room 2049
Federal Building 3
Washington, D.C. 20233

Re: Comments on Proposed Foreign Trade Regulations: Mandatory Automated Export System for Filing for All Shipments Requiring Shipper's Export Declaration Information
Docket No.: 031009254-4355-02
RIN # 0607-AA38

Dear Sir/Madame:

On behalf of the American Association of Exporters and Importers (AAEI), we respectfully submit the comments below on the U.S. Census Bureau's (Census) proposed regulations on mandatory filing of Shipper's Export Declarations (SEDs) through the Automated Export System (AES) which was published in the Federal Register on February 17, 2005. *See*, 70 Fed. Reg. 8199.

AAEI is a trade association comprised of U.S. and multinational manufacturers, distributors, retailers, and service providers engaged in the import and export of merchandise to and from the United States. It has represented the scope of America's trade community in regulatory, legislative, and public policy arenas since 1921. AAEI's primary focus is the promotion of fair and open trade policies and practices through education and advocacy. It has long been a strong supporter of supply chain integrity and security as well as full-range of trade community issues affecting customs and international trade commerce.

1. Existing AES Users

In essence, the proposed rule requires users to submit an application (*i.e.*, letter of intent and certification). It does not state whether current users must re-apply. We urge Census to allow the grandfathering of existing users, including those using AESDIRECT, AESPCLINK and AESWEBLINK. Furthermore, current AES Option IV filers should not have to apply for "postdeparture filing approval." Option IV filers in good standing should retain the privilege.

2. Section 30.5 Electronic Export Information filing application and certification processes and standards

a. The term "service center" is used without prior definition. We request that this term be defined in § 30.1.

b. In the first paragraph of this section, Census states that in addition to a properly executed power of attorney, the certified agent shall have a "written authorization" from the U.S. Principal Party in Interest (USPPI) or Foreign Principal Party in Interest

(FPPI). *See*, 70 Fed. Reg at 8210. The requirement for this written authorization is confusing and seemingly redundant because the definition of Power of Attorney in § 30.1 is "a legal authorization from a USPPI or FPPI ... ." *See*, 70 Fed. Reg. at 8206. Because a power of attorney is a written authorization, there should be no need for any other authorization. Census should clarify this sentence, eliminating its conjunctive use of power of attorney and authorization.

3. Section 30.5 (d) (3) Certification of compliance with security requirements - computer viruses

The requirement in paragraph (3) is overbroad. *See*, 70 Fed. Reg. at 8212. It states that "if the registered company's computer system is infected with a virus, the company shall contact the Census Bureau's Foreign Trade Division Computer Security Officer and refrain from using AESDirect until it is virus free." *Id.* Given the ubiquitous nature of e-mails and the constant threat that an individual workstation will confront viruses even on a temporary basis, it is overkill to require the registered company to alert Census. Such contacts should be mandated only when there is an identifiable risk that at the time of AESDirect use, there can be virus transmission. For example, just because a workstation in Los Angeles is infected does not mean that the users of AESDirect in New York, who are on a different LAN, represent a threat to the AES system.

4. Section 30.6 (a) (4) U.S. State of Origin

The U.S. state of origin is described in this section as the state in which the goods begin their journey to the port of export. *See*, 70 Fed. Reg. at 8213. This term should be changed to "U.S. State of shipment origination" so as not to misuse a customs law term "origin" that applies to the place of manufacture. *See*, Country of Origin definition in § 30.1. The change will help reduce confusion.

If you have any questions concerning the comments above, AAEI and its members are pleased to be available to discuss our comments with you.

Sincerely,

Hall Northcott

Hall Northcott
President

cc: Melvin Schwechter, Co-Chair, AAEI Export Compliance & Facilitation Committee
Phyliss Wigginton, Co-Chair, AAEI Export Compliance & Facilitation Committee