

ASSOCIATION OF
AMERICAN RAILROADS

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☐ Urgent ☐ For Review ☐ Please Reply

Date: April 18, 2005 Pages: 6

From: Michael Rush

To: Director Fax: 301-763-2645

Subject: Docket N. 031009254-4355-02

Please deliver to the Director. The hard copy of the comments are being mailed out today. Thanks.

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April 18, 2005

Director
U.S. Census Bureau
Room 2049
Federal Building 3
Washington, DC 20233

Re: Docket No. 031009254-4355-02

Dear Sir or Madam:

Enclosed are the comments of the Association of American Railroads for the above referenced docket.

Respectfully submitted,

Michael J. Rush

BEFORE THE
BUREAU OF THE CENSUS

DOCKET NO. 031009254-4355-02:
FOREIGN TRADE REGULATIONS: MANDATORY
AUTOMATED EXPORT SYSTEM FILING FOR ALL SHIPMENTS
REQUIRING SHIPPER'S EXPORT DECLARATION INFORMATION

COMMENTS OF THE
ASSOCIATION OF AMERICAN RAILROADS

The Association of American Railroads (AAR),[1] on behalf of itself and its member railroads, submits the following comments in response to the Bureau's notice of proposed rulemaking concerning the filing of export information.[2] AAR is concerned about three issues presented by the proposed rule: the impossibility of complying with the requirements for railroads; the desirability of establishing a system for providing manifest information electronically; and the inability of filers of electronic export information (EEI) to identify the railroad that will be transporting cargo across the United States border where there are multiple railroads involved in the shipment.

Rail Carriers Cannot Comply with the Proposed Requirements for Carriers

Railroads could not comply with the requirement in proposed subsection 30.45(a) that the bill of lading contain the internal transaction number (ITN). Rail shipments would almost always be in transit well before the filing deadline for

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[1] AAR is a trade association whose membership includes freight railroads that operate 77 percent of the line-haul mileage, employ 92 percent of the workers, and account for 94 percent of the freight revenue of all railroads in the United States; and passenger railroads that operate intercity passenger trains and provide commuter rail service.

[2] 70 Fed. Reg. 8200 (Feb. 17, 2005).

EEI. Furthermore, the prohibition against an exporting railroad loading cargo unless the railroad has an ITN for the cargo makes no sense since railroads do not load cargo.

The requirement in proposed subsection 30.45(a) that the bill of lading contain the ITN is impractical for rail transportation. Proposed paragraph 30.4(b)(2)(iv) provides that the U.S. Principal Party in Interest (USPPI) or the authorized agent must file the EEI no later than two hours prior to a train arriving at the border. In virtually all cases, rail cars are loaded by shippers and transferred to rail carriers many hours or days before the cars reach the border. Thus, in many cases, rail cars would be loaded by shippers and transferred to rail carriers well before the assignment of an ITN.

If shipments are in transit before the ITN is issued, railroads would be unable comply with a requirement that each bill of lading contain the ITN. This is only a compliance issue. There is no substantive reason that the ITN must be on the bill of lading.

Furthermore, with respect to shipments to Canada, even if there were a need for the ITN to be on the bill of lading, the proposed regulations would establish an unworkable system for a small minority of export rail shipments. The vast majority of shipments exported to Canada, perhaps 90 percent or more, are destined for consumption in Canada. Thus, no ITN would be required for these shipments. It would be an unnecessary paperwork exercise to require the entering of an exemption citation for 90 percent of the shipments exported to Canada. Note that the Canadian government tracks import information for goods shipped from the U.S. and shares these data with the U.S. government. Consequently, Census does not even stand to gain any useful information from this proposal for the vast majority of Canadian shipments.

With respect to the issue of loading cargo before the assignment of an ITN, railroads do not load cargo. Consequently, railroads could not ensure compliance with the prohibition in proposed subsection 30.45(f) against loading cargo before an ITN is assigned. Even if the requirement were reworded as stating a railroad could not receive cargo until an ITN is issued (assuming no exemption applies), since shipments would be placed in transit many hours or days prior to the issuance of an ITN, compliance would be impossible. Again, there is no

substantive reason for requiring the issuance of an ITN prior to a shipment being placed in transit.

Accordingly, AAR suggests deleting the second and third sentences in proposed subsection 30.45(a) and proposed paragraphs 30.45(f)(1) and 30.45(f)(2)(ii).

Customs and CBP Should Develop an Electronic System for the Transmission of Manifest Information

Proposed paragraph 30.45(a)(3) requires that rail carriers exporting goods file a car manifest at the port of export. There is no provision for providing this information electronically.

The transmission of information electronically is economical, more accurate, and generally perceived to be in the interests of both industry and government. For import shipments, railroads use Customs and Border Protection's Rail Automated Manifest System (Rail AMS) to file manifest information electronically. The railroads believe a system based on Rail AMS could be developed to provide export information electronically.

The industry is more than willing to work with the Bureau of the Census and Customs on the development and implementation of an electronic system for export shipments. AAR urges the Bureau to take the initiative to develop such a system.

The Carrier Name and SCAC Should Not be an EEI Element

Proposed paragraphs 30.6(a)(7) and (8) require that the carrier name and Standard Carrier Alpha Code (SCAC) are required EEI elements. Insofar as rail transportation is concerned, the EEI filer might not know which rail carrier will be transporting the cargo from the U.S. where there are multiple rail carriers involved in the shipment.

Since it might be impossible for the EEI filer to identify the carrier name and SCAC, paragraphs (7) and (8) should be deleted, at least for rail shipments.

Thank you for considering AAR's comments.

Respectfully submitted,



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April 15, 2005