

Gerard J Horner/FTD/HQ/BOC
04/25/2005 10:18 AM

To C Harvey Monk Jr/FTD/HQ/BOC@BOC, FTD Regulations Staff
cc
bcc
Subject Fw: Mandatory AES

Here are some comments from Expeditors. I know the cut-off has expired, but usually Annie Mesagna's comments are pretty good. I thought you might want to consider them.

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----- Forwarded by Gerard J Horner/FTD/HQ/BOC on 04/25/2005 10:15 AM -----



Annie.Mesagna@expeditors.com
04/22/2005 06:18 PM

To gerard_j_horner@Census.GOV
cc
Subject Mandatory AES

Hi Gerry,
I missed the deadline for submitting comments to the Mandatory AES NPRM. Even though it may be too late to submit them as formal comments, I thought I would share these thoughts with you and if you think they are warranted perhaps you might consider them in formulating the final rule.

There were just two issues noted. One had to do with the definition of the FPPI, and the other had to do with the proposed downtime procedure for non-UMSL cargo. I've explained both below.

Foreign Principal Party in Interest (FPPI) is defined in the NPRM as follow:
"The party shown on the transportation document to whom final delivery or end-use of the goods will be made. If the FPPI is in the United States when the goods are purchased or obtained for export, it must be shown as the USPPI. If an individual representing the foreign entity does not possess an EIN or SSN, their passport number, border crossing card number, or other official document number must be shown in the USPPI field of the EEI."

Under the current regulations, the FPPI is usually the buyer. There are situations where an FPPI will buy from a USPPI, but instruct the forwarder to ship the cargo to the FPPI's buyer. In this example, the FPPI would not be the party shown on the transportation document to whom final delivery or end-use of the goods is made. Also - under the current regulations, the value to be reported on the SED is the selling price between the USPPI and the FPPI. If the definition is changed as shown above, that changes what value is reported to Census, and it becomes the selling price between the USPPI's buyer and it's buyer. Under the current regulations, in this type of "triangular" transaction , the party shown on the transportation document is going to be the buyer's buyer, and not the FPPI as suggested in the NPRM. I think this definition needs to be looked at again and clarified in the final rule.

Regarding the downtime procedures applicable to exporting non-USML items:
Section 30.4(b)(3) of the proposed rule states the following:
30.4 Electronic Export Information filing procedures, deadlines, and certification statements.
(b) Filing deadlines for EEI transmitted predeparture.

(3) For non-USML shipments when the AES is unavailable, use the following instructions:

(i) If the participant's AES is unavailable, the filer must delay the export of the goods or find an alternative filing method;

(ii) If AES or AESDirect is unavailable, the goods may be exported and the filer must:

(A) Provide the appropriate proof of filing citation as described in § 30.7(b)(4); and

(B) Report the EEI at the first opportunity AES is available.

We feel the provisions contained in 30.4(b)(3)(i) that prohibit filers who use proprietary AES filing systems from exporting cargo if their system is unavailable puts these filers at a competitive disadvantage with AESDirect filers who are allowed under 30.4(b)(ii) to export cargo if the AESDirect system is down. In order to equalize the competitive advantage we feel that AES filers who use their proprietary AES flying systems should be allowed to export the goods if their system is down as long as the requirements of 30.4(b)(3)(ii)(A) and (B) are met.

The suggestion that AES filers who use proprietary AES filing system use alternative filing method is unrealistic and would impose an enormous financial burden. In addition to training expenses and concerns, current proprietary systems are often integrated with other shipment processing and corporate accounting applications and any deviations from this integration would require the implementation of supplemental manual processes including manual reproduction of ITN numbers on shipping documents, and the loss of proprietary system edits that help prevent shipments from being completed before the ITN number is received from AES.

I know this was alot to digest. Thanks for listening!

Brgds,
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