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

RE: **Bureau of the Census' Proposed Rules: Foreign Trade Regulations: Mandatory Automated Export Systems Filing for All Shipments Requiring Shipper's Export Declaration Information, 15 CFR Part 30, Docket No. 031009254-4355-02**

Dear Director:

These comments to the Federal Register notice referenced above are submitted on behalf of Federal Express Corporation (FedEx). FedEx agrees with the Census Bureau's stated goal of strengthening the U.S. Government's ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users through the use of AES in targeting and identifying suspicious shipments prior to export and improving the quality, timeliness, and coverage of export statistics.

INTRODUCTION

FedEx, as a global leader of express delivery service providers, remains committed to compliance with export control laws and regulations. FedEx's corporate policy is to comply with all applicable laws and regulations pertaining to export control and sanctions while providing expeditious service needed in the time-sensitive global economy and global real-time supply chain logistics.

Here below are specific comments of interest to FedEx.

I. General Requirements for Filing EEI, 15 CFR 30.2(a) and (d)(2)

15 CFR § 30.2(a) Filing Requirements

FedEx requests that Census further clarify why shipments from the U.S. Virgin Islands to foreign countries are to be included in these regulations. The U.S. Customs territory as defined by the U.S. Customs Regulations includes the 50 states, District of Columbia and Puerto Rico but does not include U.S. Virgin Islands.

15 CFR § 30.2(d)(2) Exclusions from filing EEI

In regards to goods shipped from the U.S. possessions of Guam Island, American Samoa, Wake Island, Midway Island, Northern Mariana Islands, and Canton and Enderbury Islands to foreign countries or areas, and goods shipped between the U.S. and these possessions when an export license or license exemption is not required, FedEx requests that Census further clarify if export license or license exemption will be issued for U.S. possessions.

II. Submission of AES ITN to Exporting Carrier 2 Hours Before Exportation, 15 CFR § 30.4(b)(2)(ii)

FedEx recommends that Census clarify the time of exportation referenced in the proposed 15 CFR § 30.4(b)(2)(ii) as the time of scheduled exportation from the last U.S. port of export.

III. Ultimate Consignee: Proposed 15 CFR § 30.6(a)(3)

FedEx requests that Census further clarify the definition of an ultimate consignee in situations where carriers provide bundled shipment services in which one USPPI sells multiple goods to one foreign principal party of interest (FPPI). The FPPI is the importer in the foreign country. After clearance of the goods in the foreign country, the FPPI distributes the multiple goods to its customers. The carrier may have knowledge of the FPPI's buyers in such cases where the FPPI also subsequently uses the same or affiliated carrier as the USPPI to distribute to the FPPI's buyers. In such cases, FedEx requests that Census clarify in the regulations that the FPPI is the ultimate consignee and an electronic export information (EEI) be submitted with the FPPI as the ultimate consignee and country of ultimate export.

IV. Annotation of Proof of Filing Citation, 15 CFR § 30.7(b)

FedEx recommends that Census clarify the delineation between authorized agent and exporting carrier when both roles are fulfilled by the same, affiliated or controlled subsidiary legal entity. In such cases where the agent and the exporting carrier are the same legal person, affiliated or controlled subsidiary legal entity, FedEx recommends that the proof of filing citation (PFC) be provided on the first page of the loading document at the time the shipment is tendered to the agent/exporting carrier. In other words, if the USPPI will use the exporting carrier company or its affiliate to file the EEI as its agent, the internal transaction number (ITN) would have to be received by the USPPI and the PFC annotated on the loading document before the export shipment is tendered to the exporting agent/carrier.

If the PFC is not annotated at the time of tendering the shipment to the agent/carrier, the spirit of the FTR's objective may be vitiated by the fact that in the present global reality of real-time supply chain and express delivery services, it is very possible that export shipments will be exported without the requisite PFC. Due to the expeditious nature of shipments in the modern economy, even when government agencies or the carrier may find non-compliance with the proposed FTR requirements, the export shipment may have already been delivered overseas. Thus, it is in the interest of the government agencies and carriers that the PFC be annotated on the first page of the commercial loading document before being tendered to the agent/exporting carrier.

V. Annotating of Proof of Filing Citation 15 CFR 30.7(b)(2)(ii) and (4)

FedEx requests that Census limit the length of the AES downtime filing citation to no more than 32 characters (including spaces). The date of export would be noted on the air waybill or manifest and does not need to be included in the citation. For the USPPI this is the intended date of export – and generally USPPI indicate the date of tender, which may not be the date of export for the carrier. E.g. AESDN(filer EIN)-(shipment reference number)

VI. Split Shipments by Air, 15 CFR 30.28(a)

FedEx requests that Census reduce the procedural requirements on split shipments. The proposed procedures are too cumbersome and inconsistent with the "split shipment" process already required through AMS. Boarded quantity of total is listed today when known (for example 5 of 8, or 5/8). Split shipments can be multiple carriers and days. Therefore, "split shipment" is not currently noted on the manifest and is unfeasible in the future.

VII. Education/Outreach

FedEx requests that Census provide extensive outreach and education program for the shipping/exporting public before the final regulations are implemented and enforced.

CONCLUSION

Again, FedEx supports the Census Bureau's efforts to strengthen the U.S. Government's ability to enforce export control laws prior to export as well as to improve the quality, timeliness, and coverage of export statistics.

We would be happy to discuss or further elaborate on any of the points we have raised herein before the final regulations are published. If you have any questions, do not hesitate to contact the undersigned.

Sincerely,

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