



NCBFAA

The National Customs Brokers & Forwarders Association of America, Inc.

News Release

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For Immediate Release

NCBFAA Comments on Census Clarification of Filing Requirements Notice

Washington, DC: The National Customs Brokers & Forwarders Association of America, Inc. (NCBFAA) has [submitted comments](#) in response to a Notice of Proposed Rulemaking (NPRM) recently published by the Census Bureau proposing amendments to reflect new export reporting requirements related to the implementation of the International Trade Data System (ITDS).

The NCBFAA supports the addition of the original ITN field and believes that it would be instrumental in demonstrating to enforcement authorities that a filer complied with the mandatory filing requirements for the original shipment. This is important in situations where a subsequent filing could be mistaken for a late filing in violation of applicable regulations or where there were some extenuating circumstances which could excuse untimely submission.

In addition, the NCBFAA requests that Census not add the Used Electronics Indicator Field. As proposed in the NPRM, the new provision places on forwarders the burden of explaining this new requirement to the exporting community as well as seeking out and collecting additional information related to the nature of the product being exported.

Although not specifically addressed in the NPRM, the NCBFAA urges Census to substitute the term "authorized agent" with "authorized filing agent." This would not only provide clarity to the industry and enforcement agencies but also promote understanding of the distinction between the authorized agent for Bureau of Industry and Security (BIS) purposes and the authorized filing agent for Census purposes. The Association requests that this change be implemented throughout the regulations for consistency and coherence.

The NPRM defines the term "Filer" as "[t]he USPPPI or authorized agent (of either the USPPPI or FPPI) who has been approved to file EEI." The proposed language is unclear as to who approves the agent authorized to file EEI: whether it is USPPPI/FPPI or the Census Bureau or another U.S. government agency. In that regard, to help avoid confusion, the NCBFAA requests that Census revise the definition to specify which entity it was considering in this section.

The NPRM proposes to remove the definition of the term "NVOCC." The NCBFAA requests that Census leave the definition of "NVOCC" as currently stated, and, in addition, include "NVOCC" into the definition of the term "Carrier" in Section 30.1(c) to read as follows: "An individual or legal entity in the business of transporting passengers of goods. Airlines, trucking companies, railroad companies, shipping lines, NVOCCs, pipeline companies, and slot charterers are all examples of carriers."

The NPRM proposes to add language which notes that the filer must reference the Department of State regulations for exceptions to the filing requirements for goods subject to the ITAR. The NCBFAA urges Census to consider abstaining from adding a requirement to refer to the other agency regulations. The Association believes that for training and efficiency purposes it is preferable that the FTR encompass all requirements. In that way, forwarder employees

responsible for filings need not refer to the wide array of regulations issued by other agencies, but rather can focus on familiarizing themselves with the FTR.

The NCBFAA also suggests that Census add a clarification that shipments “between the United States and Puerto Rico” to which this section applies do not include shipments that merely transit U.S. mainland ports on the way from Puerto Rico to their final destination in a foreign country, or on the way from a foreign country to their final destination in Puerto Rico.

Additional comments included:

- Retain the existing language providing that additional electronic reporting for split shipments will not be required.
- Remove the language providing the following: “in the license value field, report the value designated on the license that corresponds to the commodity being exported if required by the U.S. Government agency.”
- Clarify whether the term “commercial document” includes bills of lading, which the Association believes should be the case.

The NCBFAA also supports the revisions proposed for shipments destined to Canada. From a practical standpoint, the proposed language is helpful as it more clearly indicates when a shipment is not exempt from AES filing requirements. The letter also included some suggestions regarding voluntary self-disclosure codes to make them more effective.

In closing, the NCBFAA wishes to thank the Census Bureau again for its efforts in streamlining its regulations and would be pleased to provide any further information that may be relevant to this NPRM.

Headquartered in Washington, DC, the NCBFAA represents more than 1,000 member companies with 100,000 employees in international trade - the nation's leading freight forwarders, customs brokers, ocean transportation intermediaries (OTIs), NVOCCs and air cargo agents, serving more than 250,000 importers and exporters. Established in 1897 in New York, NCBFAA is considered the national voice of the industry. Through its various committees, counsel and representatives, the Association maintains a close watch over legislative and regulatory issues that affect its members. It keeps them informed of these and other related issues through its weekly Monday Morning eBriefing and various meetings as well as conferences throughout the year.

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