

Coalition of New England Companies For Trade

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PROPOSED AES CHANGES

Census has published its proposed changes to the Automated Export System (AES). Following are some of the programmatic changes that have been proposed:

1. All Shippers Export Declarations (SEDs) will be renamed .Electronic Export Information (EEI) and electronic transmission of the EEI will be mandatory (i.e. no more paper submissions);
2. The EEI must be submitted electronically a minimum of 24 hours prior to vessel sailing – except for “Option 4” shippers;
3. The Option 4 program will continue to allow approved exporters to submit the EEI up to 10 days after the vessel sails;
4. New requirements for the Option 4 post-departure program are established;
5. The freight forwarder may no longer apply for Option 4 on behalf of its exporter clients;
6. The freight forwarder may file the EEI on behalf of the exporter once the exporter has signed up for AES or Option 4 as long as Power of Attorney is received from the exporter.

Stiff New Penalties . . . And Exporter Bonds?

In addition to the programmatic changes, Census proposes to dramatically increase penalties for non-compliance (up to \$10,000 per violation). We have identified numerous problems with the proposed penalty provisions but our biggest concern is how they will be enforced.

Census will likely transfer authority for penalties enforcement and collection over to CBP, which thus far has said they have no plan ready for collecting penalties. Enforcement could be problematic since, unlike imports, CBP cannot put a hold on the cargo if the penalty is paid, since the cargo will have sailed by the time CBP is aware of the misinformation.

Could this lead to a new requirement for a bond for exports, similar to what is required for importers? Are exporters ready for this? We understand that the underwriting requirements for bonds have become much more difficult in the past couple of years, and cash collateral is being required in many cases.

This is an issue we will address during our meetings with both Customs and Census.

Other AES Concerns

There has been identified several areas of concern with the AES proposal. We are particularly concerned about the lack of 24/7 help for electronic submissions of the EEI, how to correct errors in the EEI after the cargo has sailed, and how far back Census can reach in penalizing an exporter for errors in the transmission.