

April 14, 2005



Mr. Harvey Monk, Jr., Chief
Foreign Trade Division, Census Bureau
Room 2104, Federal Building 3
Washington, D.C. 20033

Transportation and Logistics Worldwide

Re: February 17, 2004, Notice of Proposed Rule Making

Dear Mr. Monk:

Thank you for the opportunity to voice BAX Global's opinions regarding the Bureau of Census' Notice of Proposed Rule Making dated February 17, 2005.

BAX Global Inc. is a freight forwarder and Customs House Broker and acts on behalf of its customers to handle the U.S. export and import of their product. BAX Global's services entail arranging for the transportation of customers' goods, including completion of required U.S. and foreign documentation.

BAX Global has been an AES participant since February 1999 and files AES transmissions under the Freight Forwarder classification on a predeparture basis. BAX Global consistently ranks within the top 8 filers by value and by shipment count.

The area of particular concern to BAX is part 30.3(e); Responsibilities of parties in a routed export transaction.

1. In a "routed transaction", the Export Administration Regulations (EAR) gives Foreign Principle Parties in Interest (FPPI) the *authority* to negotiate with their U.S. forwarders and agents in the U.S. to determine export authorization. But the EAR does not require that FPPIs exercise this authority. The EAR part 758.3(b) states that in a routed transaction, the U.S. Principle Party In Interest (USPPI) is responsible for determining export authorization unless the FPPI expressly wishes to assume this responsibility. The EAR part 758.3 states further that "Parties are free to structure transactions as they wish and to delegate functions and tasks as they deem necessary..." The verbiage in the EAR regarding Routed Transactions is acceptable to BAX. BAX wishes to see the Foreign Trade Regulations (FTRs) part 30.3(e)(1) adopt similar verbiage.

In consideration of the EAR's position on the "exporter" in a routed transaction, BAX suggests the following verbiage for FTR part 30.3(e)(1):

"USPPI responsibilities. In a routed export transaction, the USPPI or its agent is responsible for ensuring transmission of the EEI unless the FPPI has expressly authorized their forwarder or agent in the U.S. to file the EEI. ~~FPPI may authorize or agree to allow the USPPI to prepare and file the EEI or authorize and USPPI to file the EEI on its behalf.~~ If the USPPI or its agent prepares and files the EEI, it shall maintain documentation to support the EEI filed. If the FPPI authorizes an agent to prepare and file the EEI, the USPPI shall maintain documentation to support the information provided to the agent for preparing the EEI as specified in 30.10..."

2. The following verbiage is recommended for part 30.3(e)(2), to more clearly communicate that the FPPI's U.S. forwarding agent may or may not be authorized to file the EEI.

"Authorized agent responsibilities. In a routed export transaction, the agent which has been authorized agent by the FPPI to file the EEI, is responsible for obtaining a power of attorney or written authorization from the FPPI to prepare and file the EEI on its behalf..."

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3. We suggest that the following statement be incorporated somewhere into 30.3(e):

Parties are free to structure transactions as they wish and to delegate functions and tasks, as they deem necessary, as long as the transactions comply with the FTR.

4. In view of the Department of Commerce definition of a Routed Transaction, BAX would like to see the FTRs more clearly identify the condition(s) in which the EEI should indicate that a shipment is a routed transaction.

"Routed Export Transaction. A transaction where the FPPI authorizes a U.S. forwarding or other agent to facilitate export of items from the U.S."

Shipments may be considered routed transactions without the FPPI negotiating with a U.S. forwarder or agent to determine export authorization or to file EEIs on their behalf. The Census Bureau appears to believe that in every routed transaction, the U.S. forwarder or agent is negotiating with FPPIs to file EEIs on their behalf. That is not the case.

BAX USA *has never* received a request from a FPPI to determine export authorization or to file EEIs on their behalf, even though 55% to 60% of BAX Global's 65,000 U.S. exports per month could be considered routed transactions.

BAX Global does not negotiate with FPPIs to determine export authorization or to file EEIs on their behalf. BAX instead recognizes the USPPI's responsibility to determine U.S. export authorization under the EAR part 758.3(b), whether the export shipment is considered to be a "routed transaction" or not. BAX Global believes the USPPI to be the party most capable of accurately, efficiently and economically determining export authorization. Likewise, BAX believes that in a routed transaction the USPPI bears responsibility for ensuring transmission of the EEI unless the FPPI has expressly assigned to their U.S. agent, and the agent acknowledges, responsibility for transmission of the EEI.

In an export transaction, routed or not, BAX uses only the information provided by the USPPI to effect export transportation and requires USPPIs to provide 1) their AES filing citation or 2) the FTSR exemption paragraph or 3) all the information necessary for successful transmission of the EEI, including the License or License Exception Symbol but excluding the transportation data.

Considering the above, BAX does not feel that the NPR clearly identifies the appropriate Routed Transaction selection for the EEI in cases where the U.S. Forwarder has been **designated by the FPPI to affect transportation**, but the U.S. Forwarder **has not negotiated with the FPPI to file the EEI**.

BAX Global is one of the largest forwarding agents in the U.S. These comments support BAX Global's business model. Our business model represents industry expectations for providing superior service while ensuring compliance with all regulatory agencies that control U.S. exports. We respectfully request that consideration be given to these remarks and look forward to discussing this further or to providing additional information.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michelle Switzer".

Michelle Switzer
Manager, International Services
BAX Global Inc.
mswitzer@baxglobal.com
714-442-7878