

Amending the U.S. Foreign Trade Regulations Requiring EEI Filings for Puerto Rico

The requirement of Electronic Export Information (EEI) filings for shipments between the mainland United States and Puerto Rico perpetuates the mischaracterization of Puerto Rico as a foreign country, imposes an unnecessary burden on interstate commerce, and impedes economic development on the island.

The Foreign Trade Regulations' requirement of EEI filing is inconsistent.

- EEI filings, formerly known as Shipper's Export Declarations, are currently required pursuant to the Foreign Trade Regulations of Title 15, Part 30 of the Code of Federal Regulations, in accordance with Title 13, Chapter 9 of the United States Code. These regulations are authorized by the Secretary of Commerce and administered by the U.S. Census Bureau.
- Although required for Puerto Rico, the Foreign Trade Regulations do not require EEI reporting for shipments between the U.S. mainland and the U.S. territories of Guam Island, American Samoa, Wake Island, Midway Island and Northern Mariana Islands.
- EEI filings are required for shipments from the U.S. mainland and Puerto Rico to the U.S. Virgin Islands, but not for shipments from the U.S. Virgin Islands to the U.S. mainland or Puerto Rico.
- Unless an export license is required, shipments from the U.S. to Canada do not require the filing of an EEI.
- U.S. Customs and Border Protection makes no use of the EEI data as they consider (correctly) Puerto Rico to be within the U.S. customs area.

Shipments between the mainland U.S. and Puerto Rico are interstate rather than foreign commerce.

- Unlike the other territories and possession of the United States, Puerto Rico is officially defined as a part of the U.S. Customs territory under the Customs Border Protection regulations of Title 19, Chapter 1 of the U.S. Code of Federal Regulations, similar to the 50 States and the District of Columbia. Furthermore, trade between Puerto Rico and foreign countries are included in the U.S. export and import statistics.
- Puerto Rico is part of both the political union and common market place of the U.S. While not a state, Puerto Rico has been treated as a state by the three branches of the federal government in many contexts including the regulation of interstate commerce under the Constitution's Commerce Clause.
- The requirement of EEI filings contradict the fact that Puerto Rico is a part of the United States, adding to the confusion regarding Puerto Rico's political status.
- Puerto Rico, as a U.S. territory, is part of NAFTA as well as DR-CAFTA.

The EEI filing requirement is a burden on interstate commerce and impedes economic development in Puerto Rico.

- Requiring EEI filings is tantamount to placing a boundary that separates Puerto Rico from the United States to the detriment of the Island's economic well-being.

- The EEI filing requirement adds a cost which increases the price of many goods purchased in Puerto Rico and imposes an unnecessary burden on interstate commerce, restricting the flow of trade within the United States. As a result, some stateside companies simply decide not to ship their merchandise to Puerto Rico.
- The EEI requirement is equally burdensome on companies exporting from Puerto Rico, particularly for small and medium sized business which do not have large brokerage and customs compliance staffs to generate the data.
- Puerto Rico's vast potential as the trade hub of the Americas cannot be realized if it is not perceived to be a part of the United States.
- Continued imposition of the EEI filing requirements would render Puerto Rico's participation in the U.S. Customs territory and the application of the Constitution's Commerce Clause to Puerto Rico meaningless.

For purposes of determining trade statistics and calculating U.S. GDP, the Department of Commerce should use the same data sources for Puerto Rico that are used for mainland states.

- Rather than using the complicated process of gathering data on a shipment-by-shipment basis for products entering and leaving Puerto Rico, the Government should use aggregated data sources that can provide the relevant information on a periodic (monthly) basis.
- The Puerto Rico government SURI system (Sistema Unificado de Rentas Internas) is used by merchants to report value and related information for all products imported into Puerto Rico on a monthly basis for purposes of calculating sales and use taxes. The information in SURI could be used to satisfy the current EEI requirement.
- In cases where the EEI data does not exist in current Government systems, the regulation should be changed to require importers and exporters to report the aggregated data on a monthly basis. This would be far preferable to the current system of requiring the information on a shipment-by-shipment basis.