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Department of Commerce

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15 CFR Part 30

**Automated Export System Mandatory
Filing for Items on the Commerce
Control List (CCL) and the United States
Munitions List (USML) that Currently
Require a Shipper's Export Declaration
(SED); Final Rule**

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket Number 010622161–3092–03]

RIN 0607–AA34

Automated Export System Mandatory Filing for Items on the Commerce Control List (CCL) and the United States Munitions List (USML) That Currently Require a Shipper's Export Declaration (SED)

AGENCY: Bureau of the Census, Commerce.

ACTION: Final rule.

SUMMARY: The U.S. Census Bureau (Census Bureau) is amending the Foreign Trade Statistics Regulations (FTSR) to incorporate requirements for the mandatory Automated Export System (AES)/AESDirect filing for items identified on the Department of Commerce's Commerce Control List (CCL) and the Department of State's United States Munitions List (USML). The AES is the electronic method to file the paper Shipper's Export Declaration (SED) and the ocean manifest information directly with the Bureau of Customs and Border Protection (CBP). AESDirect is the Census Bureau's free Internet-based system for filing SED information with the CBP's AES. Further references to AES covers both AES and AESDirect. You are only required to file information via AES for those CCL and USML items that require an SED. This rule will, among other things, provide provisions for AES mandatory filing in the FTSR.

DATES: *Effective Date:* This rule is effective August 18, 2003.

Implementation Date: The Census Bureau will implement provisions of this rule on October 18, 2003. This will allow all affected entities sufficient time to come into compliance with this rule.

FOR FURTHER INFORMATION CONTACT: C. Harvey Monk, Jr., Chief, Foreign Trade Division, U.S. Census Bureau, Room 2104, Federal Building 3, Washington, DC 20233–6700, (301) 763–2255, by fax (301) 457–2645, or by e-mail: c.harvey.monk.jr@census.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Census Bureau is responsible for collecting, compiling, and publishing trade statistics for the United States under the provisions of Title 13, United States Code (U.S.C.), chapter 9, section 301. The paper SED and the AES are the primary media used for collecting such

trade data, and the information contained therein is used by the Census Bureau for statistical purposes only. This information is exempt from public disclosure under the provisions of Title 13, U.S.C., chapter 9, section 301(g). The SED and AES records also are used for export control purposes under Title 50, U.S.C., and Title 22, U.S.C., to detect and prevent the export of certain critical technology and commodities to unauthorized destinations or end users and to ensure compliance with export control laws and regulations under the authority of the Department of State.

Under the current rules and regulations, export information is compiled from both paper and electronic transactions filed by the export community with CBP and the Census Bureau. The AES is an electronic method by which the U.S. principal party in interest (USPPI) or the authorized agent can transmit the required export information. For purposes of completing the SED or AES record, the USPPI is the person in the United States that receives the primary benefit, monetary or otherwise, from the export transaction. The authorized agent is the person in the United States who is authorized by power of attorney or written authorization by the USPPI or the foreign principal party in interest to prepare and file the SED or AES record. A paper SED or the electronic equivalent AES record is required, with certain exceptions, for exports of merchandise valued at more than \$2,500 from the United States, Puerto Rico, and the U.S. Virgin Islands to foreign countries or exports between the U.S. Virgin Islands and Puerto Rico and the United States. The SED or AES record also is required for all exports under a Bureau of Industry and Security (BIS) or Department of State (State Department) export license or State Department license exemption, regardless of value, unless exempted from the requirement for an SED or AES record by the State Department (see 15 CFR, part 30, § 30.55(h)(2) and 22 CFR parts 120–130).

For export data filed via a paper SED, the USPPI or freight forwarder must present the SED to the exporting carrier when the cargo is tendered to the carrier. The vessel, air, or rail carrier must present the manifest and supporting documentation to the CBP Port Director at the port of export within four days after departure if a bond is posted with CBP. However, this rule does not apply to SEDs or AES shipments subject to BIS or State Department licenses or State Department license exemptions. If the information is filed in the AES, an exemption legend is included on the

vessel, air, or rail manifest, or other commercial loading documents indicating that no SED is attached, with a transaction identification number or unique identifier to identify the electronic AES record. If no manifest is required or the manifest is electronically filed, the paper SEDs or the electronically filed AES exemption legends are presented directly to CBP.

Electronic filing strengthens the U.S. Government's ability to control the export of critical goods and technologies and weapons of mass destruction to prohibited and unauthorized end-users and affords the government the ability to significantly improve the quality, timeliness, and coverage of export statistics. Currently, fifty (50) percent of the paper SEDs submitted contain one or more errors in export reporting, accounting for a significant percentage of unreported exports. Reporting on the AES has demonstrated that, compared to paper filing, the error rate is reduced substantially and coverage is improved. Currently, the error rate for export transactions filed through the AES is approximately six (6) percent. At this time, the electronic AES filing of the required export information under Title 13, U.S.C., Section 301, is strictly voluntary for the export of most items.

On November 29, 1999, the President signed H.R. 3194, the Consolidated Appropriations Act of 1999, into law (Pub. L. 106–113). Section 1252(a) of this law, amends Title 13, U.S.C., chapter 9, section 301, to add subsection “(h)” authorizing the Secretary of Commerce to require by regulation, mandatory reporting requirements for filing export information through the AES for items identified on the CCL and USML that require the SED. The effective date of this amendment was 270 days after the Secretary of Commerce, the Secretary of the Treasury, and the Director of the National Institute of Standards and Technology jointly provided a certification to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the U.S. House of Representatives that a secure AES mainframe computer system of CBP and the Internet-based AESDirect system of the Census Bureau was capable of handling the expected volume of information required to be filed, plus the anticipated volume from voluntary use of the AES, and AES had been successfully implemented and tested and was fully functional with respect to reporting all items on the CCL and USML, including quantities and destinations. The required certification report was submitted to Congress in June 2001. The certification report

described the security measures in place to develop, implement, and maintain each system; summarized the information system assessment reports prepared by the General Services Administration, Office of Information Security, and CBP; and provided the Census Bureau's response to those security assessment reports listing the specific actions taken by both agencies to ensure the security and functionality of the system. In addition, the AES received a security accreditation from CBP, and the AESDirect system received a security accreditation from the Census Bureau. On July 26, 2001, the Census Bureau published a program notice in the **Federal Register** (66 FR 39006) announcing that the AES certification report was submitted to Congress, and that the Census Bureau would be issuing rules, and allowing the public to comment, on this subject.

As authorized by section 1252(b) of Pub. L. 106-113, the Census Bureau is amending the FTSR to specify the mandatory provisions for electronically filing SEDs as well as the time and place requirements for filing. In addition, the Census Bureau is amending the FTSR to specify: (1) The requirements for the filing of SEDs through the electronic AES and the provisions and responsibilities of parties exporting items identified on the CCL and USML via the AES; (2) the provision by the Department of Commerce for the establishment of on-line assistance services to be available for those individuals who must use the AES; (3) the provision by the Department of Commerce for ensuring that an individual required to use the AES is able to print out from the AES a validated record of the individual's submission, including the date of submission and a transaction number or unique identifier, where appropriate, for the export transaction; and (4) a requirement that the Department of Commerce print out and maintain on file a paper copy or other acceptable back-up record of the individual's submission at a location selected by the Secretary of Commerce.

The Census Bureau is amending the FTSR to specify how electronic export information is identified on the manifest by mode of transportation and defining the carrier's responsibilities. In addition to amending regulations to provide for the mandatory filing via the AES, this rule amends §§ 30.63 (14)-(21) to collect additional data through the AES to meet the State Department's requirements and will assist the Department of State to implement the Congressional requirement in section 38(i) of the Arms Export Control Act, Title 22 U.S.C.,

section 2778(i) for U.S. persons to provide to the Department of State a report containing all shipment information of items controlled under the International Traffic in Arms Regulations (ITAR), 22 CFR parts 120-130. Finally, this rule adds to the paper SED the requirement to enter the freight forwarder's Employer Identification Number (EIN) when required. This requirement applies to filers who are not required to file through AES and who choose to file a paper SED, rather than filing voluntarily through AES.

One additional revision the Census Bureau is making to the FTSR is the removal of AES Filing Option 3. Option 3 allowed the filer to provide partial predeparture information and complete information five (5) working days from the date of exportation. The Census Bureau identified four (4) specific reasons for eliminating Option 3. Option 3 has shown to be underutilized by the AES filers. Of the 734,916 total average AES shipment transactions collected per month, Option 3 filings averaged only 28,739 or 3.9 percent. Additionally, of the 5,000 plus AES filers, only 53 filers used Option 3 and of those, only seven (7) used Option 3 exclusively. The data collected were often incomplete and inaccurate because of missing postdeparture filings. Lastly, Option 3 has shown to be a burden by requiring filers to transmit twice for one shipment.

The Census Bureau published a proposed rulemaking and request for comments in the **Federal Register** on October 9, 2002 (67 FR 62911). As previously noted, the Census Bureau also published a program notice on the subject (66 FR 39006) on July 26, 2001. A summary of comments received from the export trade community and the Census Bureau's responses to the comments are presented in this rule. The effective date of this rule is August 18, 2003. The Census Bureau will implement provisions of this rule on October 18, 2003. This will allow all affected entities sufficient time to come into compliance with this rule.

Response to Comments

The Census Bureau received 14 letters commenting on the Notice of Proposed Rulemaking (NPR) published in the **Federal Register** on October 9, 2002 (67 FR 62911). Nine of the letters contained comments on two or more issues. The Census Bureau sent letters to all commentors addressing their concerns. After consideration of the comments received, the Census Bureau revised certain provisions in the final rule to address the concerns of the commentors and to clarify the requirements of the

rule. The major concerns were as follows:

1. *Clarify the future status of postdeparture filing utilizing AES Option 4 or another form of postdeparture reporting.* There is concern among commentors that the Census Bureau will discontinue allowing postdeparture filing for data on export transactions reported through the AES. This is not the case. The Census Bureau does not intend to eliminate Option 4 postdeparture filing. We intend to eliminate only Option 3 filing, a hybrid pre- and postdeparture filing procedure. For reasons given in the NPR, AES Option 3 is underutilized by AES filers, and its use has resulted in incomplete and inaccurate data filing. Only seven (7) companies, representing less than four (4) percent of monthly export trade data transactions, used Option 3 exclusively to file data on export shipments. By requiring filers to transmit partial predeparture information initially and complete information after exportation, Option 3 has been a burden to AES filers.

Other commentors are in favor of eliminating Option 3 filing only if the Census Bureau makes a commitment to maintaining Option 4 or some form of postdeparture filing. Several commentors requested that the Census Bureau, in its final decision, emphasize the importance of retaining Option 4 filing in light of various governmental initiatives that are intended to capture information on export shipments as early as possible.

The Census Bureau supports postdeparture filing through AES because it recognizes that some trade community business practices may preclude predeparture filings. AES Option 4 filing considers the trade community's business practices and also provides for an approval process that ensures that only the most compliant companies are approved. While it is possible that Option 4 filing may undergo modifications due to current or future Census Bureau or other government agency initiatives, the Census Bureau will continue to work closely with its counterparts in other agencies to make available to the exporting community some form of postdeparture filing. In the case of ITAR controlled exports, the Department of State has determined that because of law enforcement as well as national security concerns, it will no longer authorize the use of AES Option 4.

2. *Amend the proposed rule to address time and place for presenting the exemption statements to carriers.* Commentors are concerned that USPPIs and authorized freight forwarders may

not always be able to present exemption information to exporting carriers at the time cargo is first tendered to the exporting carrier, especially when the carrier assumes responsibility for cargo at an inland port and provides intermodal transportation to the port of exportation. In some situations, the USPPI or forwarding agent may not have produced export documentation on which exemption information is required to be shown, at the time goods are tendered to the first carrier.

The Census Bureau agrees that the USPPI or its authorized agent does not always have exemption information available to provide to the carrier when cargo is initially tendered to a carrier for export. This is especially true in cases where the USPPI or agent arranges transportation that involves more than one carrier. The intent of § 30.12(d) of the FTSR is to require AES filers to deliver exemption information to the *exporting carrier*. To clarify the intent of this section, the Census Bureau is amending § 30.12(d) to emphasize that the USPPI or forwarding agent is required to deliver the AES exemption legend to the exporting carrier, that is, the carrier that will transport the goods to the foreign country.

3. *Clarify filing responsibilities of the USPPI and its authorized freight forwarder.* Commentors are concerned about the documentation responsibilities of the USPPI and the authorized forwarding agent in reporting information on export transactions. Responsibilities of the USPPI and authorized agent, including those involving routed export transactions, are specifically described in sections 30.4(b) and (c) of the FTSR. The Census Bureau does not intend to imply that any provision of section 30.4 is being revised by amending any other section of Title 15, Code of Federal Regulations, part 30 (the FTSR).

Two commentors proposed the institution of a joint filing system to be used by the USPPI and the authorized agent as a means to reduce liability on the parties and to alleviate the dependency of each party on the other to file complete data on export transactions. The Census Bureau considered establishing a method of filing export information that would allow the USPPI and the authorized forwarding agent to submit information jointly to CBP via the AES. However, the Census Bureau did not go forward with this filing option because of the cost of implementation and the potential risks associated with matching information from two different parties.

4. *Explain the need for reporting additional address information for the*

USPPI. Several commentors expressed concern that by amending § 30.7(d)(3) of the FTSR, the Census Bureau is requiring additional address information from the USPPI. Some commentors indicated that the new address requirement would be difficult to comply with because of the lack of information on the origin of shipments for multiunit establishments. Many commentors also questioned the reason for the amendment. In amending § 30.7(d)(3) of the FTSR, the Census Bureau is not requiring an additional address for the USPPI, but is merely defining the address required for the USPPI as the location where the goods began their journey to the port of export. For shipments handled by freight forwarders, it is the responsibility of the USPPI to provide forwarding agents addresses that reflect the origin of goods for export reporting purposes.

The address should correspond to the two-digit state code reported for the state of origin. However, the Census Bureau requires the entire address, including ZIP Code, to develop and compile substate data or metropolitan area export data to replace the discontinued exporter location series. Substate data are used by local and State governments, among other parties, to gauge the impact of trade legislation on the economy of local jurisdictions as well as to monitor local area trade development programs. Since about 90 percent of AES transactions currently have transaction-level addresses reported, the Census Bureau does not expect to add significantly to the reporting burden of AES filers with this requirement.

5. *Amend the proposed rule requiring reporting of the Transportation Reference Number (TRN) to reflect current trade practices.* Commentors are concerned that filers of export data will not have the information to comply, in a timely manner, with the requirements of §§ 30.7(j) and 30.63(b)(11) of the FTSR, specifically for shipments sent by air and truck. After consideration of comments received concerning reporting of the TRN, the Census Bureau has determined that documents specified in the NPR, namely, the master air waybill for air shipments, the bill of lading for rail shipments, and the Freight or Pro Bill for truck shipments, are not usually available to the USPPI or the authorized agent at the time cargo is given to air, rail, and truck carriers. Currently, the TRN is a conditional field in the AES except for shipments made by vessel where the information is required. The Census Bureau has made the TRN an optional reporting requirement for other than vessel

shipments filed through the AES or via the SED. The Census Bureau amended language contained in §§ 30.7(j) and 30.63 (c) of the FTSR to reflect these revisions.

6. *Clarify the responsibilities of exporting carriers relative to presentation of the exemption legend to the CBP.* Several commentors indicated concern about the proposed language in FTSR §§ 30.21, 30.22, and 30.65 regarding requirements for annotating and transmitting exemption statements for export shipments and filing of manifests by exporting carriers. Some commentors think that the language could imply responsibility on the part of exporting carriers for properly annotating the exemption legend. This is not the case. The USPPI or the authorized agent is responsible for properly annotating the exemption legend.

Further, there is concern that references to carriers exempt from filing manifests as detailed in § 30.21(f) of the regulations do not include carriers for all modes of transportation. It is not the Census Bureau's intent to institute a change in carrier responsibility with regard to the annotation and presentation of proof of filing citations or exemption legends for shipments filed through the AES or shipments for which SEDs are not required. When required, it is the responsibility of the USPPI or the authorized agent to provide the exemption legend or proof of filing citation on bills of lading, air waybills or other commercial loading documents for presentation to the carrier prior to export.

The Census Bureau does not propose to hold exporting carriers liable for the content of exemption legends presented by USPPIs or authorized agents for transactions reported through the AES or by way of the paper SED. The Census Bureau is revising the language contained in § 30.22(a) and (b) and § 30.65(b) of the FTSR to clarify the responsibility of exporting carriers with regard to the content and submission of exemption legends. The Census Bureau also is revising the language contained in § 30.21(4) to include references to all modes of transportation exempt from filing manifests with the CBP.

Also, commentors expressed concern about the lack of availability of the International Traffic in Arms Regulations (ITAR) applicable to shipments filed through the AES and mentioned in these and other sections of the FTSR. The State Department will issue a final rule concerning time of filing and proof of filing citations prior to the Census Bureau's implementation of the final rule.

7. *Clarify the role of Data Entry Centers (DECs) in filing for CCL and USML export shipments.* Some commentors are concerned about the role of DECs in handling shipments on the CCL and USML subsequent to issuance of this rule. Currently, DECs may transmit through the AES export information submitted by a USPPI or authorized agent, including items identified on the CCL or USML lists. With issuance of this rule, only the USPPI or its authorized agent may file information on CCL or USML shipments through AES. Companies acting as DECs may transmit CCL and USML information through the AES if: (1) The reports are prepared by the USPPI or its authorized agent, or (2) the DEC becomes an authorized agent for the USPPI, with a properly executed power of attorney. The DEC cannot be the filer. The decision to transmit or not to transmit information on CCL or USML shipments through the AES is made solely by the DEC. Only companies acting as authorized agents of the USPPI with a properly executed power of attorney or written authorization are permitted to modify or amend information provided by the USPPI either before or following transmission through the AES.

Changes to the Proposed Rule as a Result of Public Comments

The changes made in this final rule to what has been included in the proposed rule are as follows:

(1) Section 30.7(j) is amended to require reporting of the TRN optional for shipments exported by modes of transportation other than vessel. This change is in response to concerns addressed in Item No. 5 of the "Response to Comments" section.

(2) Section 30.12(d) is amended to specify the proper carrier to which the USPPI or the authorized agent is to present the exemption legend or proof of filing citation for shipments filed through the AES. This change is in response to concerns addressed in Item No. 2 in the "Response to Comments" section.

(3) Section 30.21(4) is amended to clarify the types of carriers excluded from filing manifests with CBP and to stipulate the conditions under which operators of these carriers are required to present exemption legends or filing citations to CBP. This change is in response to concerns addressed in Item No. 6 in the "Response to Comments" section.

(4) Sections 30.22(a) and (b) are amended to clarify language describing the exporting carrier's responsibility for transmitting the exemption legend or

proof of filing citation to CBP when an SED is not required because data on an export transaction are filed through the AES. This change is in response to concerns addressed in Item No. 6 in the "Response to Comments" section.

(5) Section 30.22(f) is amended to limit the application of paragraph (f) to items identified on the Department of Commerce's CCL and the State Department's USML. This change is in response to concerns addressed in Item No. 6 in the "Response to Comments" section.

(6) Section 30.63(c) is amended by making reporting of the TRN optional for other than vessel shipments in § 30.63(c). This change is in response to concerns addressed in Item No. 5 in the "Response to Comments" section.

(7) Section 30.65(b) is amended to clarify the exporting carrier's responsibility for transmitting the exemption legend or proof of filing citation to CBP for data on export transactions filed through the AES. This change is in response to concerns addressed in Item No. 6 in the "Response to Comments" section.

Program Requirements

In order to comply with the requirements of Pub. L. 106–113, requiring AES mandatory filing for items on the Department of Commerce's CCL and the State Department's USML, the Census Bureau is amending the appropriate sections of the FTSR to specify the requirements for the AES mandatory filing and the revision to the paper SED. For purposes of this rule, all references to filing mandatory AES shipments are limited to those kinds of shipments and do not apply to shipments that may be reported on the paper SED.

The Census Bureau is revising the following sections of the FTSR:

- Section 30.1 to specify the general requirements for filing, via the AES, items identified on the CCL and USML that would otherwise require the filing of an SED;
- Section 30.7 to add instructions for filing the address of the USPPI, the freight forwarder's EIN on the paper SED, the transportation reference number, instructions for filing the gross shipping weight for air, vessel, truck, and rail modes of transportation via paper and the AES and delete references to "marks and numbers";
- Section 30.12 to specify the instructions regarding the time and place for presenting SED information;
- Section 30.21 to specify the departing carrier's responsibility for filing export and manifest data via paper and/or the AES, as appropriate;

- Section 30.22 to specify the responsibilities of the departing carrier to deliver to the CBP Port Director, at the time of exportation, the required documentation for electronically filed items;

- Section 30.23 to amend the requirements for the pipeline carrier when the item is identified on the CCL or USML;

- Section 30.60 is amended to specify participation requirements in the AES;

- Section 30.61 to specify the electronic filing options required for mandatory filing and to delete references to Option 3;

- Section 30.62 is amended to update the specifications for certification, qualification, and standards for AES and AES Direct;

- Section 30.63 to revise the requirements for entering a USPPI's profile in AES and to add data elements required in the AES to validate State Department's Directorate of Defense Trade Controls (DDTC) licensed or license-exempt shipments and to remove references to Option 3;

- Section 30.65 to specify the requirements for annotating the proper exemption legends when exports are filed through the AES;

- Section 30.66 to specify requirements as stated in section 1252(b)(2) of Pub. L. 106–113, which pertains to recordkeeping and documentation requirements;

- Revise Appendix A to amend the instructions for the Letter of Intent;

- Revise Appendix B to delete references to Option 3 filing and to reserve it for future use; and

- Revise Appendix C to clarify export information codes, license codes, and in-bond codes.

The collection of additional data items listed in Appendix C has been approved by the Office of Management and Budget (OMB). In addition, the Census Bureau is also making the minor revisions discussed previously in the section entitled, "Changes to the Proposed Rule as a Result of Public Comments."

The State Department and the Department of Homeland Security concur with the provisions contained in this rule.

Rulemaking Requirements

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant impact on a substantial number of small entities. The factual basis for this

certification was published in the proposed rule. No comments were received regarding the economic impact of this rule. As a result, no final regulatory flexibility analysis was prepared.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. It has been determined that this rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid OMB control number. In accordance with the PRA, 44 U.S.C., Chapter 35, OMB approved on April 26, 2002, with control number 0607-0512, the collection of all information associated with the AES and SED under this rule. We estimate that each electronic SED will take approximately 3 minutes to complete; we estimate that each paper SED will take approximately 11 minutes to complete.

List of Subjects in 15 CFR Part 30

Economic statistics, Foreign trade, Exports, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 15 CFR part 30 is amended as follows:

PART 30—FOREIGN TRADE STATISTICS

■ 1. Revise the authority citation for part 30 to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301-307; Reorganization Plan No. 5 of 1950 (3 CFR 1949-1953 Comp., 1004); and Department of Commerce Organization Order No. 35-2A, July 22, 1987, as amended.

■ 2. In Part 30, revise all references to the "Bureau of Export Administration" to read the "Bureau of Industry and Security," and revise all reference to "BXA" to read "BIS." Also, revise all references to the "U.S. Customs Service" to read the "Bureau of Customs and Border Protection," and revise all references to "Customs" to read "CBP."

■ 3. Revise the heading of subpart A to read as follows:

Subpart A—General Requirements—U.S. Principal Party In Interest (USPPI)

■ 4. Amend § 30.1 as follows:

■ a. Revise all references to "exporters or their agents" to read "U.S. principal party in interest or the authorized agent" in paragraph (a).

■ b. Revise paragraph (b).

■ c. Revise paragraph (c).

The revisions read as follows:

§ 30.1 General Statement of requirement for Shipper's Export Declarations (SEDs).

(b) SEDs shall be filed for merchandise moving as described above regardless of the method of transportation. Instructions for the filing of SEDs for vessels, aircraft, railway cars, etc., when sold foreign appear in § 30.33. Export information that is required to be filed for items identified on the Commerce Control List (CCL) of the Export Administration Regulations (EAR) (15 CFR Supplement No. 1 to part 774) or the State Department's U.S. Munitions List (USML) of the International Traffic in Arms Regulations (ITAR) (22 CFR, part 121) is to be filed electronically through AES. This requirement to file information via AES applies to those items that would otherwise require the filing of an SED. Exemptions from these requirements and exceptions to some of the provisions of these regulations for particular types of transactions are found in subparts C and D of this part.

(c) In lieu of filing paper SEDs as provided elsewhere in this Section, when an SED would be required, the USPPI or the authorized agent is required to file shippers' export information, when required, electronically through the AES for the export of items identified on the CCL of the EAR (15 CFR Supp. No. 1 to Part 774) or the USML of the ITAR (22 CFR, part 121) as provided for in subpart E of this part, Electronic Filing Requirement—Shipper's Export Information. Information for items identified on the USML, including those exported under an export license exemption, must be filed electronically prior to export, unless exempted from the SED filing requirement by the State Department. For USML shipments, refer to the ITAR (22 CFR, parts 120-130) for requirements concerning the AES proof of filing citation and filing time requirements. The USPPI or the authorized agent filing SEDs for the export of items not on the CCL or the USML has the option of filing this information electronically as provided for in subpart E of this part.

■ 5. Amend Section 30.7 as follows:

■ a. Add paragraph (d)(3).

■ b. Remove the first sentence of paragraph (e).

■ c. Revise paragraph (j).

■ d. Remove and reserve paragraph (k).

■ e. Add a sentence after the second sentence in paragraph (l).

■ f. Revise paragraph (o).

The additions and revisions read as follows:

§ 30.7 Information required on Shipper's Export Declaration.

* * * * *

(d) * * *

(3) Address (number, street, city, state, Zip Code) of the USPPI. In all export transactions, the USPPI shall report the address location from which the merchandise actually starts its journey to the port of export. For example, an SED covering merchandise laden aboard a truck at a warehouse in Georgia for transport to Florida for loading onto a vessel for export to a foreign country shall show the address of the warehouse in Georgia. If the USPPI does not have a facility (processing plant, warehouse, distribution center, or retail outlet, etc.) at the location from which the goods began their export journey, report the USPPI address from which the export was directed. For shipments of multiple origins reported on a single SED, report the address from which the greatest value begins its export journey or, if such information is not known at the time of export, the address from which the export is directed.

(e) *Forwarding or other agent.* The name, address, and EIN or Social Security Number (SSN) of the duly authorized forwarding or other agent (if any) of a principal party in interest must be recorded where required on the SED or AES record. * * *

* * * * *

(j) *Transportation Reference Number.* Enter the Transportation Reference Number as follows:

(1) *Vessel Shipments.* Report the booking number for all sea shipments. The booking number is the reservation number assigned by the carrier to hold space on the vessel for cargo being exported. This number is required to be reported for all vessel shipments.

(2) *Air Shipments.* Report the master air waybill number for all air shipments. The air waybill number is the reservation number assigned by the carrier to hold space on the airplane for cargo being exported. The reporting of this number is optional.

(3) *Rail Shipments.* Report the bill of lading (BOL) number for all rail shipments. The BOL number is the reservation number assigned by the carrier to hold space on the rail car for cargo being exported. The reporting of this number is optional.

(4) *Truck Shipments.* Report the Freight or Pro Bill number for all truck shipments. The Freight or Pro Bill number is the number assigned by the carrier to hold space on the truck for cargo being exported. The Freight or Pro Bill number correlates to a bill of lading number, air waybill number or Trip number for multi-modal shipments. The reporting of this number is optional.

(k) [Reserved]

(l) * * * Include marks, numbers, or other identification shown on packages and the number and kinds of packages (*i.e.*, boxes, barrels, baskets, bales, etc.).
* * *

(o) *Gross (shipping) weight.* Enter the gross shipping weight in kilograms on the SED or the AES record, including the weight of containers, for air, vessel, truck, and rail methods of transportation. However, for containerized cargo in lift vans, cargo vans, or similar substantial outer containers, the weight of such containers should not be included in the gross weight of the commodities. If the gross shipping weight information is not available for individual Schedule B items because commodities covered by more than one Schedule B number are contained in the same shipping container, approximate shipping weights should be used for each Schedule B item in the container. The total estimated weights must equal the actual shipping weight of the entire container or containers and contents.

* * * * *

■ 6. Revise § 30.12 to read as follows:

§ 30.12 Time and Place for Presenting the SED, Exemption Legends or Proof of Filing Citations.

The following conditions govern the time and place to present paper SEDs, exemption legends, or proof of filing citations. It is the duty of the USPPi or the authorized agent to deliver the required number of copies of the SED, the exemption legends, or the proof of filing citations when the cargo is tendered to the exporting carrier. Information on items identified on the CCL of the EAR (15 CFR Supp. No. 1 to Part 774) or the USML of the ITAR (22 CFR part 121) that would otherwise require the filing of an SED, must be filed through the AES. Information for items identified on the USML, including those exported under an export license exemption, must be filed electronically prior to export, unless exempted from the SED filing requirements by the State Department. For State Department USML shipments, refer to the ITAR (22 CFR parts 120–130) for more specific requirements concerning the AES proof of filing citation and filing time. Failure

of the USPPi or the authorized agent of either the USPPi or foreign principal party in interest to comply with these requirements constitutes a violation of the provisions of these regulations, and renders such principal party or the authorized agent subject to the penalties provided for in § 30.95 of this part.

(a) *Postal Exports.* SEDs for exports of items being sent by mail, as required in § 30.1 of this part, shall be presented to the postmaster with the packages at the time of mailing.

(b) *Pipeline Exports.* SEDs for exports being sent by pipeline are not required to be presented prior to exportation; however, they are required to be filed within four (4) working days after the end of each calendar month. These SEDs must be filed with the CBP Port Director having jurisdiction for the pipeline, and the filer must deliver the SED in the number of copies specified in § 30.5 of this part to cover exports to each consignee during the calendar month.

(c) *Exports by other methods of transportation.* For exports sent other than by mail or pipeline, the required number of copies of SEDs as prescribed in § 30.5 of this part shall be delivered to the exporting carrier when the cargo is tendered to the exporting carrier.

(d) *Exports Filed Via AES.* For exports filed through the AES, it is the duty of the USPPi or the authorized agent to deliver to the exporting carrier, the AES exemption legends as provided for in § 30.65 of this part or the AES proof of filing citation as provided for in 22 CFR (parts 120–130) of the ITAR when the cargo is tendered to the exporting carrier for transport to the foreign country.

Subpart B—General Requirements—Exporting Carriers

■ 7. Revise § 30.21 to read as follows:

§ 30.21 Requirements for the filing of manifests.

Carriers transporting merchandise via vessel, aircraft, or rail are required to file an outbound manifest (along with the required SEDs, supporting documentation and/or the exemption statement or the proof of filing citation) to the CBP Port Director at the port of exportation. Outbound vessel manifests may be filed via paper or electronically through the vessel transportation module, a component of the AES, as provided in CBP Regulations, 19 CFR, §§ 4.63 and 4.76. SEDs may be filed via paper or electronically via the AES.

(a) *Paper SED—paper manifest.* If filing paper SEDs and paper manifest, attach the copies of the SEDs to the manifest. For each item of cargo

transported via vessel, the Transportation Reference Number on the SED covering the item must be shown on the manifest.

(b) *Paper SED—electronic manifest.* If filing paper SEDs and the electronic outbound vessel manifest, carriers are responsible for submitting paper SEDs directly to the CBP Port Director.

(c) *Electronic SED (AES)—paper manifest.* If filing the SED information electronically (AES) and paper outbound manifest, carriers must annotate the outbound manifest with the appropriate AES exemption legends as provided in § 30.65 of this part.

(d) *Electronic SED (AES) and manifest.* If filing the SED information and outbound vessel manifest electronically through the AES, the carrier must adhere to the instructions specified in CBP Regulations (19 CFR, § 4.76) and § 30.60 of this part and transmit the appropriate AES proof of filing citation as provided in § 30.65 of this part.

(e) *When an SED is not required.* If an item does not require the filing of an SED, the appropriate exemption legends must be annotated on the outbound manifest or other appropriate commercial documents as provided in § 30.50 of this part.

(f) *Exports to Puerto Rico.* When filing paper manifests for shipments from the United States to Puerto Rico, the manifest shall be filed with the CBP Port Director where the merchandise is unladen in Puerto Rico.

(1) *Vessels.* Vessels transporting merchandise as specified in § 30.20 of this part (except vessels exempted by paragraph (f)(4) of this section) shall file a complete Cargo Declaration Outward With Commercial Forms, CBP Form 1302–A. In addition, vessel carriers are required to perform the following:

(i) *Bunker fuel.* The manifest for vessels (including vessels carrying bunker fuel to be laden aboard vessels on the high seas) clearing for foreign countries shall show quantities and values of bunker fuel taken aboard at that port for fueling use of the vessel, apart from such quantities as may have been laden on vessels as cargo.

(ii) *Coal and Fuel Oil.* The quantity of coal shall be reported in metric tons (2240 pounds), and the quantity of fuel oil shall be reported in barrels of 158.98 liters (42 gallons). Fuel oil shall be described in such manner as to identify diesel oil as distinguished from other types of fuel oil.

(2) *Aircraft.* Aircraft transporting merchandise as specified in § 30.20 of this part, shall file a complete manifest on CBP Form 7509, as required in CBP Regulations, 19 CFR 122.72 through

122.76. All the cargo so laden shall be listed and shall show, for each item, the air waybill number or marks and numbers on packages, the number of packages, and the description of the goods.

(3) *Rail carriers.* Rail carriers transporting merchandise as specified in § 30.20 of this part shall file a car manifest. Such manifest shall be filed with the CBP Port Director at the port of exportation, giving the marks and numbers, the name of the shipper or consignor, description of goods and the destination thereof. The manifest may be a waybill, or copy thereof, or a copy of the manifest prepared for foreign customers.

(4) *Carriers not required to file manifests.* Carriers exempted from filing manifests are required, upon request, to present to the CBP Port Director the proof of filing citations, SED exemption legends, or AES exemption legends for each shipment. Failure of the carrier to do so constitutes a violation of the provisions of these regulations, and renders such carrier subject to the penalties provided for in § 30.95 of this part.

■ 8. Amend § 30.22 as follows:

- a. Revise the heading of § 30.22.
- b. Add two sentences to the end of paragraph (a).
- c. Add two sentences after the first sentence in paragraph (b).
- d. Add paragraph (f).

The additions and revision read as follows:

§ 30.22 Requirements for the filing of SEDs or AES exemption legends and AES proof of filing citations by departing carriers.

(a) * * * When the export information for a shipment is filed electronically via the AES, the carrier is responsible for transmitting the appropriate AES exemption legend as provided in § 30.65 of this part and the AES proof of filing citation as provided in the ITAR (22 CFR, part 121) for USML shipments. Such transmittal shall be without material change or amendment of the proof of filing citation as provided to the carrier by the USPPI or the authorized agent.

(b) * * * If the export information is filed electronically via the AES, the carrier is responsible for transmitting to the CBP Port Director at the port of exportation the appropriate AES exemption legend as provided in § 30.65 of this part and the AES proof of filing citation as provided in ITAR (22 CFR, part 121) for USML shipments. Such transmittal shall be without material change or amendment of the exemption legend or the proof of filing citation as

provided to the carrier by the USPPI or the authorized agent. * * *

* * * * *

(f) Information on items identified on the CCL of the EAR (15 CFR Supp. No. 1 to part 774) or the USML of the ITAR (22 CFR, part 121) that would otherwise require the filing of an SED, must be filed through AES. The exporting carrier must not accept paper SEDs or cargo that does not have the appropriate AES filing exemption legend as set forth in § 30.65 of this part and the AES proof of filing citation as provided for in the ITAR (22 CFR, part 121) for USML shipments. Acceptance of paper SEDs or cargo for items on the CCL or USML without the appropriate exemption legend or proof of filing citation constitutes a violation of the provisions of these regulations, and renders such carrier subject to the penalties provided for in § 30.95 of this part.

* * * * *

■ 9. Amend § 30.23 by adding a sentence to the end of the paragraph to read as follows:

§ 30.23 Requirements for the filing of Shipper's Export Declarations by pipeline carriers.

* * * If the merchandise transported by pipeline is identified on the CCL of the EAR (15 CFR Supplement No. 1 to part 774) or the USML of the ITAR (22 CFR, Part 121), and requires an SED, the data regarding the shipment must be filed electronically through the AES.

* * * * *

Subpart E—Electronic Filing Requirements—Shipper's Export Information

■ 10. Revise § 30.60(a) to read as follows:

§ 30.60 General requirements for filing export and manifest data electronically using the AES.

* * * * *

(a) *Participation.* Filing using the AES is mandatory for those items identified on the CCL of the EAR (15 CFR Supplement No. 1 to part 774) or the USML of the ITAR (22 CFR, part 121) and that would otherwise require the filing of an SED. All other participation in the AES is voluntary. Information for items identified on the CCL or the USML filed via AES must be filed by the USPPI or the authorized agent. A Data Entry Center (DEC), service center, or port authority may transmit an AES record for CCL or USML items, completed by the USPPI or the authorized agent, without obtaining a power of attorney or written authorization. A DEC, service center, or port authority must have a power of

attorney or written authorization from the USPPI or foreign principal party in interest if it completes any export information in AES for CCL or USML shipments. Filers may also use a software package designed by an AES certified software vendor. Certified trade participants (filing agents) can transmit to and receive data from the AES pertaining to merchandise being exported from the United States. Participants in the AES process, who may apply for AES certification, include USPPIs or the authorized agents, ocean carriers, software vendors, or any organization acting as a service center. Once becoming certified, an AES filer (filing agent) must agree to stay in complete compliance with all export rules and regulations.

* * * * *

■ 11. Amend § 30.61 as follows:

- a. Revise the introductory text.
- b. Revise paragraph (b).
- c. Remove paragraph (c).

The revisions read as follows:

§ 30.61 Electronic filing options.

As an alternative to filing paper SEDs (Option 1), two electronic filing options (Option 2 and 4) for transmitting shipper's export information are available to U.S. principal parties or the authorized filing agent. The electronic filing Option 4 takes into account that complete information concerning export shipments is not always available prior to exportation. Information on the export of items identified on the CCL of the EAR (15 CFR Supplement No. 1 to part 774) or the USML of the ITAR (22 CFR, part 121) that would otherwise require the filing of an SED must be filed using Option 2. Option 4 may only be used when the appropriate licensing agency has granted the USPPI authorization to use this option. The available AES electronic filing options are as follows:

* * * * *

(b) *AES with no information transmitted prior to exportation (Option 4).* Option 4 is only available for approved USPPIs and requires *no* export information to be transmitted electronically using AES prior to exportation. For approved Option 4 filers, all shipments (other than those requiring an export license, unless specifically approved by the licensing agency for Option 4 filing, and those specifically required under electronic filing Option 2), by all methods of transportation, may be exported with transmission as soon as it is known, but no later than ten (10) working days from the date of exportation. Shipments of used vehicles between the United States

and Puerto Rico may be filed using Option 4. Certified AES authorized filing agents or service centers may transmit information post departure on behalf of approved Option 4 USPPIs, or the USPPi may transmit the data. All USPPIs filing a Letter of Intent for Option 4 filing privileges will be cleared through a formal review process by CBP, the Census Bureau, and other federal government agencies participating in the AES (partnership agencies) in accordance with provisions contained in § 30.62. The USPPi or the authorized agent must provide the exporting carrier with the USPPi's Option 4 AES exemption legend as described in § 30.65.

■ 12. Amend § 30.62 as follows:

- a. Add an introductory text.
- b. Revise paragraph (a).
- c. Redesignate current paragraph (b) as paragraph (e).
- d. Add a new paragraph (b).
- e. Add paragraphs (c) and (d).

The additions and revisions read as follows:

§ 30.62 AES/AES Direct Certification, qualification, and standards.

Certification for AES filing will apply to the USPPi, authorized forwarding agent, ocean carrier, or any organization acting as a service center transmitting export information electronically using the AES.

(a) *AES Certification Process.*

Applicants interested in AES filing must submit a Letter of Intent to the Census Bureau in accordance with the provisions contained in § 30.60. CBP and the Census Bureau will assign client representatives to work with the applicant to prepare them for AES certification. The AES applicant must perform an initial two-part communication test to ascertain whether the applicant's system is capable of both transmitting data to, and receiving data from, the AES. The applicant must demonstrate specific system application capabilities. The capability to correctly handle these system applications is the prerequisite to certification for participation in the AES. The applicant must successfully transmit the AES certification test. The CBP's and Census Bureau's client representatives provide assistance during certification testing. These representatives make the sole determination as to whether or not the applicant qualifies for certification. Upon successful completion of certification testing, the applicant's status is moved from testing mode to operational mode. Upon certification, the filer will be required to maintain an acceptable level of performance in AES

filings. The certified AES filer may be required to repeat the certification testing process at any time to ensure that operational standards for quality and volume of data are maintained. The Census Bureau will provide the certified AES filer with a certification notice after the applicant has been approved for operational status. The certification notice will include:

- (1) The date that filers may begin transmitting "live" data electronically using AES;
- (2) Reporting instructions; and
- (3) Examples of the required AES exemption legends.

(b) *AESDirect Certification process.* Applicants interested in *AESDirect* filing or its by-products *AESWebLink*, *AESPCLink*, or *AES EDI Upload* must complete the online *AESDirect* registration form. After submitting the registration, an *AESDirect* filing account is created for the filing company. The applicant will receive separate e-mails providing an *AESDirect* user name, temporary administrator code, and temporary password. The filer uses the temporary administrator code to create a permanent administrator code that allows the user to create a permanent password. The user name and new permanent password will allow the filer to complete certification testing. Upon successful completion of the certification testing, notification by e-mail will be sent when an account is fully activated for filing via *AESDirect*. Print the page congratulating the filer on passing the test for retention purposes. The activation notice will specify which AES filing status the account has been authorized.

(c) *Filing agent certification.* Once an authorized filing agent has successfully completed the certification process, the USPPi using that agent does not need further AES certification. The certified filing agent must have a properly executed power of attorney, a written authorization from the USPPi or foreign principal party in interest, or an SED signed by the USPPi to transmit their data electronically using the AES. The USPPi or authorized agent that utilizes a service center or port authority must complete certification testing, unless the service center or port authority has a formal power of attorney or written authorization from the USPPi to file the export information on behalf of the USPPi.

(d) *AES filing standards.* The certified AES filer's data will be monitored and reviewed for quality, timeliness, and coverage. The Census Bureau will notify the AES filer if the filer fails to maintain an acceptable level of quality, timeliness, and coverage in the

transmission of export data or fails to maintain compliance with Census Bureau regulations contained in this Section. The Census Bureau, if necessary, will take appropriate action to correct the specific situation(s). In the case of *AESDirect*, when submitting a registration form to *AESDirect*, the registering company is certifying that it will be in compliance with all applicable laws and regulations. This includes complying with the following security requirements:

(1) *AESDirect* user names, administrator codes, and passwords are to be neither written down nor disclosed to any unauthorized user or any persons outside of the registered company. Filers must change administrator codes or passwords for security purposes when prompted to do so.

(2) Registered companies are responsible for those persons having a user name, administrator code, and password. If an employee with access to the user name, administrator code, and password leaves the company or otherwise is no longer an authorized user, the company must change the password, administrator code, and user name in the system and must do so immediately in order to ensure the integrity and confidentiality of Title 13 data.

(3) Antivirus software must be installed and set to run automatically on all computers that access *AESDirect*. All *AESDirect* registered companies will maintain subscriptions with their antivirus software vendor to keep antivirus lists current. Registered companies are responsible for performing full scans of these systems on a regular basis and eliminating any virus contamination. If the registered company's computer system is infected with a virus, the company should refrain from using *AESDirect* until it is virus free. Failure to comply with these requirements will result in immediate loss of privilege to use *AESDirect* until the registered company can establish to the satisfaction of the Census Bureau's Foreign Trade Division Computer Security Officer that the company's computer systems accessing *AESDirect* are virus free.

* * * * *

■ 13. Amend § 30.63 as follows:

- a. Revise paragraphs (a)(1) and (b)(13).
- b. Add paragraphs (b)(14) through (b)(21).
- c. Revise paragraph (c).

The additions and revisions read as follows:

§ 30.63 Information required to be reported electronically through AES (data elements).

(a) * * *

(1) *USPPI/USPPI identification.*—(i) *Name and address of the USPPI.* For details on the reporting responsibilities of USPPIs, see § 30.4 and § 30.7 (d)(1), (2), (3), and (e).

(ii) *USPPI's profile.* The USPPI's EIN or Social Security Number (SSN) and the USPPI's name, address, contact, and telephone number must be reported with every shipment. If neither EIN or SSN is available for the USPPI, as in the case of a foreign entity being shown as the USPPI as defined in § 30.7(d), the border crossing number, passport number, or any other number assigned by CBP is required to be reported. (See § 30.7(d)(2) for a detailed description of the EIN.)

(b) * * *

(13) *Filing option indicator.* Report the 1-character filing option that indicates Option 2 or 4 filing.

(14) *Directorate of Defense Trade Controls (DDTC) Registration Number.* The number assigned by DDTC to persons who are required to register per Part 122 of the ITAR (22 CFR, 120–130), that has an authorization (license or exemption) from DDTC to export the article.

(15) *DDTC Significant Military Equipment (SME) Indicator.* A term used to designate articles on the USML for which special export controls are warranted because of their capacity for substantial military utility or capability. See § 120.7 of the ITAR 22 CFR, parts 120–130, for a definition of SME and § 121.1 for items designated as SME articles.

(16) *DDTC Eligible Party Certification Indicator.* Certification by the U.S. exporter that the exporter is an eligible party to participate in defense trade. See ITAR 22 CFR 120.1(c). This certification is required only when an exemption is claimed.

(17) *DDTC USML Category Code.* The USML category of the article being exported (22 CFR, part 121).

(18) *DDTC Unit of Measure (UOM).* This unit of measure is the UOM covering the article being shipped as described on the export authorization or declared under an ITAR exemption.

(19) *DDTC Quantity.* This quantity is for the article being shipped. The quantity is the total number of units that corresponds to the DDTC Unit of Measure Code.

(20) *DDTC Exemption Number.* The exemption number is the specific citation from the Code of Federal Regulations (22 CFR, parts 120–130) that exempts the shipment from the

requirements for a license or other written authorization from DDTC.

(21) *DDTC Export License Line Number.* The line number of the State Department export license that corresponds to the article being exported.

(c) *Optional data elements are as follows:*

(1) *Transportation Reference Number for other than vessel shipments.*

(i) *Air Shipments.* Report the master air waybill for air shipments. The air waybill number is the reservation number assigned by the carrier to hold space on the airplane for cargo being exported.

(ii) *Rail Shipments.* Report the bill of lading (BOL) number for all rail shipments. The BOL number is the reservation number assigned by the carrier to hold space on the rail car for cargo being exported.

(iii) *Truck Shipments.* Report the Freight or Pro Bill number for all truck shipments. The Freight or Pro Bill number is the number assigned by the carrier to hold space on the truck for cargo being exported. The Freight or Pro Bill number correlates to a bill of lading number, air waybill number of Trip number for multi-modal shipments.

2. *Seal number.* Report the security seal number of the seal placed on the equipment.

■ 14. Revise § 30.65 to read as follows:

§ 30.65 Annotating the proper exemption legends or proof of filing citations for shipments transmitted electronically.

(a) Items identified on the USML must meet the predeparture reporting requirements identified in the ITAR (22 CFR, part 120–130) for the State Department requirements concerning AES proof of filing citations and time and place of filing.

(b) For shipments other than USML, the USPPI or the authorized agent is responsible for annotating the proper exemption legend on the bill of lading, air waybill, or other commercial loading document for presentation to the carrier prior to tendering the cargo to the exporting carrier. The carrier is responsible for transmitting the appropriate exemption legend to the CBP Port Director at the port of exportation as stated in § 30.21 and § 30.22 of this part. Such transmittal shall be without material change or amendment of the exemption legend as provided to the carrier by the USPPI or the authorized agent. The exemption legend will identify that the shipment information has been accepted as transmitted and electronically filed using the AES. The exemption legend must appear on the bill of lading, air

waybill, or other commercial loading documentation and the manifest and must be clearly visible and include either of the following:

(1) For shipments other than USML, the exemption legend will include the statement, “NO SED REQUIRED–AES,” followed by the filer's identification number and a unique shipment reference number referred to as the External Transaction Number (XTN) or the returned confirmation number provided by AES when the transmission is accepted, referred to as the Internal Transaction Number (ITN). Items on the USML must meet the predeparture reporting requirements in the ITAR (22 CFR parts 120–130).

(2) For USPPIs who have been approved to participate in Filing Option 4, the exemption statement, “NO SED REQUIRED–AES4,” followed by the USPPI's EIN followed by the filer's identification number if other than the USPPI files the data.

■ 15. Revise § 30.66 to read as follows:

§ 30.66 Support, documentation and record keeping requirements.

(a) *Support.* “ASKAES@census.gov” is an online service that allows electronic filers to seek assistance pertaining to AES. AESDirect is supported by a help desk available twelve (12) hours a day, seven (7) days a week.

(b) *Documentation.* Filers using the AESDirect are able to print out from the AESDirect a validated record of the filer's submission. Filers using AES are able to print records containing date of submission and a unique identification number for each AES record submitted. The Census Bureau will maintain an electronic file of data sent through AES to ensure that an individual is able to receive from the system, a validated record of the submission. The USPPI or the authorized agent of the USPPI or the authorized agent of the foreign principal party in interest may request a copy of the electronic record submitted as provided for in § 30.91 of this part.

(c) *Recordkeeping.* All parties to the export transaction (owners and operators of the exporting carriers and U.S. principal party and/or the authorized agents) must retain documents or records pertaining to the shipment for five (5) years from the date of export. CBP, the Census Bureau, and other participating agencies may require that these documents be produced at any time within the 5-year time period for inspection or copying. These records may be retained in an elected format, including electronic or hard copy as provided in the applicable agency's regulations. Acceptance of the

documents by CBP or the Census Bureau does not relieve the USPPI or the authorized agent from providing complete and accurate information after the fact. The Department of State or other regulatory agencies may have additional recordkeeping requirements for exports.

- 16. Amend Appendix A as follows:
- a. Add introductory text.
- b. Revise items A.5, A.6, and A.10.
- c. Revise paragraphs B and C.
- d. Add paragraph D.

The additions and revisions read as follows:

Appendix A to Part 30—Format for the Letter of Intent, Automated Export System (AES)

The first requirement for participation in AES is a Letter of Intent. The Letter of Intent is a written statement of a company's desire to participate in the AES. It must set forth a commitment to develop, maintain, and adhere to CBP and Census performance requirements and operations standards. Once the letter of intent is received, a CBP Client Representative and U.S. Census Bureau Client Representative will be assigned to the company. Census will forward additional information to prepare the company for participation in AES.

A. Letters of Intent should be on company letterhead and must include:

* * * * *

5. Computer Site Location Address, City, State, Postal Code (Where transmissions will be initiated)

6. Type of Business—USPPI, Freight Forwarder/Broker, Ocean Carrier, Software Vendor, Service Center, etc. (Indicate all that apply)

(i) Freight Forwarders/Brokers, indicate the number of USPPIs for whom you file export information (SEDs)

(ii) USPPIs, indicate whether you are applying for AES Option 2 or Option 4 * * *

10. Filer Code—EIN, SSN or SCAC (Indicate all that apply)

* * * * *

B. The following self-certification statement, signed by an officer of the

company, must be included in your letter of intent: "We (COMPANY NAME) certify that all statements made and all information provided herein are true and correct. I understand that civil and criminal penalties, including forfeiture and sale, may be imposed for making false or fraudulent statements herein, failing to provide the requested information or for violation of U.S. laws on exportation (13 U.S.C. 305; 22 U.S.C. 401; 18 U.S.C. 1001; 50 U.S.C. App. 2410)."

C. The AES Option 4 privilege allows a USPPI to submit complete data at any time prior to or after exportation provided complete data are submitted within 10 working days after exportation. Participants will be reviewed by several government agencies prior to acceptance into the Option 4 program.

D. Send AES or Option 4 Letter of Intent to: Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233 or the copy can be faxed to: 301-457-1159.

Appendix B to Part 30 [Reserved]

- 17. Remove and reserve Appendix B.

- 18. Amend Appendix C as follows:

■ a. Under the heading "Part II—Export Information Codes," add four items to the last line of listed items (after "AE" and before the parenthetical sentence).

■ b. Under "Part III—License Codes," revise the first subheading.

■ c. Under "Part III—License Codes," add an item to the last line of the first list of items (after "C50 ENC").

■ d. Under "Part III—License Codes":

■ 1. Revise the third subheading.

■ 2. Under the current subheading "Department of State, Office of Defense Trade Controls (ODTC) Codes," add an item to the last line of the third list of items (after "S85 DSP 85").

■ e. Under "Part III—License Codes," add an item to the last line of the fifth list of items (after "OPA"), and add a sentence following the new list item under the subheading "Other License Types."

■ f. Under the subheading "Part IV—In-Bond Codes," remove two items from the sixth list of items (after "37 Warehouse

Withdrawal for Transportation and Exportation" and before "67 Immediate Exportation from a Foreign Trade Zone."

The additions, revisions, and removals read as follows:

Appendix C to Part 30—Electronic (AES) Filing Codes

Part II—Export Information Codes

* * * * *

ZD Duty deferred shipments filed via AES

FI Impelled foreign military sales

CI Impelled goods donated for charity

OI All other impelled exports

* * * * *

Part III—License Codes

* * * * *

Department of Commerce, Bureau of Industry and Security (BIS) Licenses

* * * * *

C51 AGR

* * * * *

Department of State, Directorate of Defense Trade Controls (DDTC) Codes

* * * * *

S94 DSP-94

* * * * *

Other License Types

* * * * *

SCA Canadian ITAR Exemption

For export license exemptions under International Traffic in Arms Regulations, refer to 22 CFR, Parts 120—130 of the ITAR for the list of export license exemptions.

* * * * *

Part IV—In-Bond Codes

* * * * *

62 Transportation and Exportation

[Removed]

63 Immediate Exportation [Removed]

* * * * *

Dated: July 14, 2003.

Charles Louis Kincannon,

Director, Bureau of the Census.

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