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15 CFR Part 30

**Foreign Trade Regulations: Mandatory
Automated Export System Filing for All
Shipments Requiring Shipper's Export
Declaration Information; Final Rule**

DEPARTMENT OF COMMERCE**Bureau of the Census****15 CFR Part 30**

[Docket Number: 031009254-6014-03]

RIN 0607-AA38

Foreign Trade Regulations: Mandatory Automated Export System Filing for All Shipments Requiring Shipper's Export Declaration Information**AGENCY:** Bureau of the Census, Commerce Department.**ACTION:** Final rule.

SUMMARY: The U.S. Census Bureau (Census Bureau) issues this final rule to amend its regulations to implement provisions in the Foreign Relations Authorization Act. Specifically, the Census Bureau is requiring mandatory filing of export information through the Automated Export System (AES) or through *AESDirect* for all shipments where a Shipper's Export Declaration (SED) is required.

DATES: *Effective Date:* This rule is effective July 2, 2008.

Implementation Date: The Census Bureau will implement provisions of this rule on September 30, 2008. This will allow all affected entities sufficient time to come into compliance with this rule.

FOR FURTHER INFORMATION CONTACT:

C. Harvey Monk, Jr., Assistant Director for Economic Programs, U.S. Census Bureau, Room 8K108, Washington, DC 20233-6010, by phone (301) 763-2932, by fax (301) 457-3767, or by e-mail c.harvey.monk.jr@census.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Census Bureau is responsible for collecting, compiling, and publishing export 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 export trade data, and such data is used by the Census Bureau for statistical purposes only. The export trade data reported pursuant to this Part is referred to as Electronic Export Information (EEI). The SED and the EEI also are used for export control purposes under Title 50, U.S.C., Export Administration Act, to detect and prevent the export of certain items by unauthorized parties or to unauthorized destinations or end users. This information is exempt from public disclosure unless the Secretary of Commerce determines under the

provisions of Title 13, U.S.C., Chapter 9, Section 301(g), that such exemption would be contrary to the national interest.

This rule provides that all export information for which an SED is required be filed through the AES. The AES is an electronic method for filing the paper SED information directly with the U.S. Customs and Border Protection (CBP) and the Census Bureau. The *AESDirect* is the Census Bureau's free Internet-based system for filing SED information through the AES. Future references to the AES also shall apply to *AESDirect* unless otherwise specified. In addition, with regards to postdeparture filing, the Census Bureau and CBP have agreed that the moratorium placed on Option 4 (postdeparture filing) in August 2003, will remain in effect pending further review of the postdeparture filing program.

Electronic filing strengthens the U.S. government's ability to prevent the export of certain items by unauthorized parties to unauthorized destinations and end users, because the AES aids in targeting and identifying suspicious shipments prior to export and affords the government the ability to significantly improve the quality, timeliness, and coverage of export statistics. Since July 1995, the AES has served as an information gateway for the Census Bureau and CBP to improve the reporting of export trade information, customer service, compliance with and enforcement of export laws, and to provide paperless reports of export information.

On November 29, 1999, the President signed into law the Proliferation Prevention Enhancement Act of 1999, which authorized the Secretary of Commerce to require the mandatory filing of items on the Commerce Control List (CCL) and the U.S. Munitions List (USML). Regulations implementing this requirement were effective October 2003 (see 68 FR 42533-42543). On September 30, 2002, the President signed into law the Foreign Relations Authorization Act, Public Law 107-228. This law authorized the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Homeland Security, to publish regulations in the **Federal Register** mandating that all persons who are required to file export information via the SED under Chapter 9 of Title 13, U.S.C., file such information through the AES.

The Foreign Relations Authorization Act further authorized the Secretary of Commerce to issue regulations regarding imposition of penalties, both civil and criminal, for the delayed filing, failure

to file, false filing of export information, and/or using the AES to further any illegal activity. The Act provided for administrative proceedings for imposition of a civil penalty for violation(s) of Public Law 107-228. Finally, the Act authorized the Secretary of Commerce to designate employees of the Office of Export Enforcement of the Department of Commerce (DOC) to conduct investigations and perform the enforcement functions in Title 13, U.S.C., Chapter 9, and the Commissioner of Customs to designate employees of the Customs Service to enforce and conduct investigations under the same provisions. The latter authority is now exercised by the U.S. Immigration and Customs Enforcement (ICE) and CBP officials in the U.S. Department of Homeland Security (DHS). In addition, by Memorandum of Understanding dated September 25, 2005, the Secretary delegated the authority to enforce sections 304 and 305 of Title 13, U.S.C., and 15 CFR, part 30 to the Secretary of Homeland Security. Nothing in this rule is intended to restrict the authority of DHS under Section 343 of the Trade Act of 2002.

In the February 17, 2005, **Federal Register** (70 FR 8200), the Census Bureau published a Notice of Proposed Rulemaking (NPR) and request for comments on the regulations implementing the mandatory requirement to file export information through the AES or *AESDirect* for all shipments where SED information is required. Public comments were requested through April 18, 2005. A summary of comments received from the export trade community and the Census Bureau's response to those comments are presented in this rule.

Response to Comments

The Census Bureau received 45 letters and/or e-mails commenting on the NPR published in the **Federal Register** on February 17, 2005, (70 FR 8200). All the letters and/or e-mails contained comments on two or more issues. A summary of the comments and the Census Bureau's responses are provided below.

The major concerns were as follows:

1. *Clarify the filing requirement for Electronic Export Information (EEI).* Several commentors questioned whether the filing requirements had changed under the mandatory AES versus filing the paper SED. In addition, the commentors wanted clarification regarding the filing of EEI for Puerto Rico and U.S. territories. The requirements for filing EEI have not changed. All persons currently required

to file the SED will be required to file the same information through the AES. The requirements to file EEI for goods shipped to the United States from Puerto Rico, goods shipped to Puerto Rico from the United States, and goods shipped to the U.S. Virgin Islands from the United States or Puerto Rico, remain unchanged.

2. *Status of the use of the External Transaction Number (XTN) and the Internal Transaction Number (ITN).* Commentors wanted clarification on when the XTN and the ITN could be used under the new regulations. Under the Final Rule, only the ITN is acceptable as the proof of filing citation. The ITN confirms that the shipment information has been accepted in the AES. The XTN will no longer be accepted as a proof of filing.

3. *Clarify the time frame for filing EEI.* Commentors indicated they were unclear about the time frames for filing in the AES. The time frame varies according to method of transportation for predeparture filing. For State Department USML shipments, refer to the International Traffic in Arms Regulations (ITAR) (22 CFR 120–130), § 123.22, for the specific requirements concerning filing time frames. For non-USML shipments, file the EEI as follows: (1) For vessel cargo, the U.S. Principal Party in Interest (USPPI) or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier 24 hours prior to loading cargo on the vessel at the U.S. port where the cargo is laden; (2) for air cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier, including air express couriers, no later than two hours prior to the scheduled departure time of the aircraft; (3) for truck cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than one hour prior to the arrival of the truck at the U.S. border to go foreign; (4) for rail cargo, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two hours prior to the time the cargo arrives at the U.S. border to go foreign; (5) for mail and cargo shipped by other methods, except pipeline exports, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two hours prior to exportation; (6) for pipeline

exports, the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the operator of the pipeline within four days following the end of each calendar month; and, (7) for postdeparture filing, by approved USPPIs, in accordance with § 30.5(c), the USPPI or authorized agent shall file the EEI as required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than ten calendar days from the date of export.

4. *Clarify Option 4 (Postdeparture) filing requirements.* Commentors wanted clarification regarding parties that would be approved for postdeparture filing. In agreement with the Census Bureau and CBP, the moratorium placed on Option 4 (postdeparture filing) on August 15, 2003 (see notice at <http://www.census.gov/aes>) will remain in effect pending further review of the postdeparture filing program.

5. *Amend the regulations to reduce or eliminate the \$2,500 exemption level.* Several commentors proposed that the Census Bureau remove or reduce the current \$2,500 exemption level. The Census Bureau believes that removing the \$2,500 exemption level for reporting would substantially increase the reporting burden on the exporting community, especially on small businesses. This change would increase the number of shipments reported each month by approximately 4,000,000. In addition, the Census Bureau and CBP do not have the resources to process the additional workload.

6. *Amend the downtime requirements.* Commentors were concerned that export shipments would be delayed if the AES became unavailable. The Census Bureau has found that during its 12 years in operation, the AES has demonstrated a high level of reliability in performance. The system has been available to users 99 percent of the time. For this reason, the Census Bureau has determined that mandatory filing through the AES would not cause a substantial delay in export shipments. In the unlikely event that the AES is unavailable, the filer of a USML shipment shall not be allowed to export until the AES is operational and the filer is able to acquire an ITN. See § 30.4(b)(1) for more information. For non-USML shipments, the regulation provides for a downtime filing citation to allow goods to be exported. See § 30.4(b)(2) for more information.

7. *Clarify the requirements for power of attorney or written authorization.* Commentors were concerned that the language regarding the requirement for

power of attorney or written authorization was drafted incorrectly. The Census Bureau reviewed the NPR regarding the requirement and found an instance where it stated “power of attorney and written authorization,” and it should read “power of attorney or written authorization.” This language has been changed in the Final Rule. In addition, a commentor questioned whether the language had been changed regarding the power of attorney or written authorization requirement. The Census Bureau did not change the language or the requirement for power of attorney or the need for written authorization that currently exists in the regulations.

8. *Clarify manner in which fines and penalties will be enforced and how a filer submits a voluntary self-disclosure.* Several commentors were concerned about which agency would enforce the penalty provisions of the Foreign Trade Regulations (FTR). Pursuant to the authority in Public Law 107–228, the Secretary of Commerce has delegated authority for enforcement to the Bureau of Industry and Security’s (BIS) Office of Export Enforcement (OEE) and the DHS. The Census Bureau has worked with CBP and the BIS to develop regulations implementing the process and requirements for submitting a notification disclosing a violation or suspected violation of the FTR. These regulations are found in Subpart H, § 30.74 Voluntary Self-Disclosure.

9. *Amend a number of definitions in the definition section of the proposed rule.* Several commentors proposed changes to definitions contained in the NPR. The Census Bureau revised the following definitions in § 30.1:

Booking. The Census Bureau revised this definition to add “truck and train” as methods of transportation. The Census Bureau made this revision as a result of public comments.

Carrier. The Census Bureau deleted “non-vessel operating common carriers” because a commentor felt that the term could cause confusion and the Census Bureau agreed.

Commerce Control List (CCL). The Census Bureau revised the definition to provide the location of CCL items in the Export Administration Regulations (EAR).

Commodity. The Census Bureau deleted this term and the corresponding definition because commentors indicated that it was too general.

Domicile. The Census Bureau deleted this term because it is no longer used in the FTR.

Exceptions. This term was changed to “license exception” and moved accordingly.

Exclusions. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Export Control Classification Number (ECCN). This definition was revised to clarify the description and purpose of this number.

Filers. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Filing Electronic Export Information. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Foreign Entity. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Foreign Principal Party in Interest (FPPI). The Census Bureau revised this definition because it was inconsistent with the regulations defining the responsibilities of the parties to an export transaction. Therefore the Census Bureau revised this definition to ensure clarity.

Merchandise. The Census Bureau revised this term and corresponding definition in accordance with industry standards as commentors indicated that it was too general.

Service Center. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Transmitting Electronic Export Information. The Census Bureau added this definition as a result of comments that requested clarification of this term.

Ultimate Consignee. The Census Bureau revised this definition to expand the definition of ultimate consignee to also include a party or designee that is located abroad and actually receives the export shipment. The definition was also revised to provide examples of the ultimate consignee. The Census Bureau revised the definition as a result of comments that indicated that the definition was inaccurate.

Violation of the FTR. The Census Bureau added this definition to clarify what constitutes a violation.

10. *Amend the proposed rule to make it a requirement that the agent of FPPI provides the USPPPI with a copy of the power of attorney or written authorization from the FPPI.*

Commentors were concerned about the requirement to provide information to an agent of the FPPI in a routed export transaction. The Census Bureau has revised § 30.3(e)(2) of the FTR to require the agent of the FPPI, upon request, to provide the USPPPI with a copy of power of attorney or the written authorization giving the agent the authority to file the EEI on behalf of the FPPI before the USPPPI provides the required

information necessary to complete the EEI filings.

11. *Clarify whether an export license or license exemption is required for exports from U.S. territories. Also clarify whether paper SEDs are required by CBP for items that are controlled by the Department of State or the BIS.* The commentor's request for clarification on whether an export license or license exemption or items that are controlled by the Department of State or the BIS is required for export from U.S. territories is outside the scope of the Foreign Trade Regulations. The commentor's question should be addressed to the Department of State and the BIS. Neither the Census Bureau nor CBP requires EEI or a paper SED for goods shipped from U.S. territories including, Guam Island, American Samoa, Wake Island, Midway Island, and the Northern Mariana Islands to foreign countries or areas and goods shipped between the United States and these territories.

12. *Amend the proposed rule to address the treatment of split shipments by air.* Several commentors were concerned about having to identify the piece count details of shipments that are split among multiple flights. The commentors indicated that the regulations regarding the treatment of split shipments by air would have a substantial impact on air carriers. Commentors provided no further information. The Census Bureau reviewed this section of the NPR and found that the requirement was not changed from the previous regulations and remains appropriate. This requirement has existed for more than 20 years.

13. *Amend the proposed rule to relax the security requirements regarding reporting computer viruses and the requirement that the AES Administrator change administrator codes or passwords for security purposes when employees leave the company.* Several commentors were concerned that these requirements would be a burden to the AES filers. The requirement to notify the Census Bureau Foreign Trade Division's Security Officer when a virus infection occurs only applies to systems connected to the AESDirect. This procedure is a security requirement for the purpose of maintaining the federal government's system certification for AESDirect. The requirement to change the password when an employee leaves the company only applies to employees leaving the company who had direct access to the AES § 30.5(d)(2). This is not a new requirement and remains appropriate.

14. *Amend the regulations by dropping Subpart F—Import*

Requirements. One commentor believes that having import regulations in 15 CFR 30, and also in 19 CFR is confusing to the trade. More than one federal agency has jurisdiction over imports, therefore, it is appropriate for regulations to exist in more than one place. While CBP regulations (19 CFR) cover most of the requirements for filing import information, there are additional statistical requirements specific to the Census Bureau that are found in the FTR (15 CFR) and that are not the subject of CBP regulations.

15. *Amend the proposed rule § 30.52—Foreign Trade Zones (FTZ).* Commentors are concerned that language in § 30.52 did not describe some of the activities of FTZs. The Census Bureau reviewed the proposed language changes and replaced the word "enter" with "are admitted into" in the introductory paragraph and the word "mode" with "method" in § 30.52(h) to more accurately reflect the activities of the zones.

16. *Create a registration number to be used in place of the Employer Identification Number (EIN) or Social Security Number (SSN).* A commentor was concerned about providing the EIN or SSN to a FPPI's agent or placing the EIN or SSN on the proof of filing citation. The Census Bureau agrees that a registration number should be created so that filers', USPPPI's, or agents' EIN or SSN can be kept confidential. The Census Bureau is currently working with CBP to develop a system that allows the reporting of registration numbers, and will address this issue in a future rulemaking.

17. *Clarify the filing of foreign waterborne in-transit shipments by the U.S. Army Corps of Engineers.* A commentor believes that the U.S. Army Corps of Engineers should not be responsible for reporting EEI on export of in-transit shipments. Previously, the Census Bureau, the U.S. Army Corps of Engineers, and the Maritime Administration jointly collected in-transit information for vessel shipments. This joint collection activity dates back to 1948, with the Census Bureau designated as the primary collection agency. In 1996, under joint agreement among the Census Bureau, U.S. Army Corps of Engineers, the Maritime Administration, and the Office of Management and Budget (OMB), the U.S. Army Corps of Engineers was designated the primary data collection agency for vessel in-transit data. Thus, it is the responsibility of the U.S. Army Corps of Engineers to collect data regarding vessel in-transit shipments leaving the United States. This does not, however, affect or alter the

responsibility of USPPIs and others to comply with other agency in-transit requirements such as those required by CBP. (See *e.g.*, 19 CFR 18)

18. *Redesign the Vessel Transportation Module (VTM) of the AES to allow paperless submissions of proof of filing citations and exemption legends and revise the FTR to require the paperless submission of the proof of filing citation and exemption legends.* Several commentors from the vessel shipping lines wanted to submit electronic manifests and wanted to receive the proof of filing citation and exemption legends from the filers electronically. The Census Bureau determined that this proposal would require a significant redesign of the AES, VTM, and the AES Commodity Module, and would likely need to be developed as a part of CBP's Automated Commercial Environment development. At this time, neither CBP nor the Census Bureau has the resources available to implement this proposal. Until the implementation of a system that has the capability described by the commentor, the AES will continue to require the filer to provide the vessel carriers with the proof of filing citations or the exemption legends.

19. *Clarify the retention of export information and the authority to require proof of documentation of EEI.* Several commentors indicated that the requirements of § 30.10 were unclear. The Census Bureau agreed, and the section was completely revised to clarify the requirements for retaining export information and to eliminate the requirement to retain paper certification notices. In the course of clarifying this section, the Census Bureau determined that it was not necessary for filers to retain paper copies of certain documents. In order to reduce the recordkeeping burdens on filers, the Census Bureau eliminated the requirement that AES filers retain a paper copy of the Letter of Intent to participate in the AES and the requirement that AESDirect and/or AESPCLink filers print and maintain a copy of their electronic certification notice. In addition, the Census Bureau modified this section to add a note describing its responsibilities with respect to the retention and maintenance of EEI.

20. *Amend the rule to provide exemption from filing EEI for temporary exports including carnets.* Several commentors believe that the regulation should state that temporary exports are exempt from filing. The Census Bureau's regulations have always exempted temporary exports, such as carnets, from filing requirements.

However, the Census Bureau agrees that carnets should be expressly stated in regulations and thus it has been added to that exemption in § 30.37. However, temporary exports that require an export license, temporary exports destined for a country listed in Country Group E:1 as set forth in Supplement 1 to 15 CFR 740, or an ITAR licensing exemption are not exempt.

21. *Amend the filing citation and exemption legend requirements.* Several commentors requested changes in language with respect to the filing citations and exemption legends requirement because it was inconsistent with industry practice. The Census Bureau made several changes to the language to reflect industry practice with respect to who must provide exemption legends (see § 30.7).

22. *Clarify the procedures for responding to fatal error messages when filing postdeparture.* A commentor stated that § 30.9(b) did not take postdeparture filing into account. The Census Bureau has reviewed the section and has revised the Final Rule to address postdeparture filings. If a filer encounters a fatal error when filing a postdeparture shipment, the filer must resubmit the EEI no later than ten calendar days after export.

23. *Clarify that estimated date of departure can be used if the actual date of departure is not known.* A commentor was concerned that sometimes the filer may not know the actual date of departure. The Census Bureau acknowledges that there are times when the filer may not know the actual date of departure. In these instances, the filer may provide an estimated departure date. However, it is the USPPI's or the authorized filing agent's responsibility to transmit accurate export information as known at the time of filing in the AES and transmit any changes to that information as soon as they are known.

24. *Clarify whether export shipments to Mexico and Canada must be filed in AES.* A commentor questioned whether SEDs are required to be filed for shipments destined to Canada and Mexico. All export shipments to Mexico valued over \$2,500 or shipments that require an export license, a license exemption, or a Kimberley Process Certificate for rough diamonds classified under the 6-digit Harmonized Schedule subheadings 7102.10, 7102.21, and 7102.31, are required to be reported in the AES. Export shipments to Canada are not required to be filed through the AES, unless they require an export license, a license exemption, or a Kimberley Process Certificate for rough diamonds classified under the 6-digit Harmonized Schedule subheadings

7102.10, 7102.21, and 7102.31. See §§ 30.2(a) and 30.36.

25. *Amend the proposed rule regarding the annotation of proof of filing citations, 15 CFR § 30.7.* A commentor requested that the Census Bureau limit the length of the AES downtime filing citation to no more than 32 characters. The Census Bureau acknowledges that the filing citation may be lengthy, and thus may result in mistakes. Therefore, the Census Bureau has removed the "shipment reference number" from the downtime citation to make the AES downtime filing citation less than 32 characters.

26. *Amend § 30.7 Annotating Proof of Filing Citation.* The commentor requested that the Census Bureau amend the regulations to define the difference between an authorized agent and an exporting carrier when both roles are fulfilled by the same, affiliated, or controlled subsidiary legal entity. The Census Bureau reviewed the request and § 30.7 was revised to define the different roles of authorized agents and carriers.

27. *Clarify that intangible exports of software and technology are exempt from the EEI requirements.* A commentor requested that the Census Bureau confirm that EEI is not required for intangible exports of software and technology. The Census Bureau's FTR does not require the reporting of intangible exports of software and technology. However, the Department of State, and/or the DOC may require separate filings for intangible exports of software and technology and technical data that require a license. The Census Bureau recommends that the Department of State and DOC be contacted regarding their specific licensing requirements.

28. *Amend the proposed rule by removing the carrier name and Standard Carrier Alpha Code (SCAC) as data elements.* One commentor requested that carrier name and SCAC be removed as data elements. The Census Bureau is unable to discontinue collection of these data elements because each remains a statistical and enforcement requirement.

29. *Amend the proposed rule regarding responsibilities in a routed export transaction.* A commentor requested language be added to § 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." The Census Bureau considered the proposal and decided that the addition of the proposed language would create confusion rather than clarity. In a routed

export transaction the authorized agent of the FPPI shall be responsible for filing the EEI accurately and timely in accordance with the FTR.

30. *Amend the rule by adding a note to § 30.3.* A commentor requested that the Census Bureau revise the FTR to be consistent with the EAR. The Census Bureau added a note to § 30.3 to alert filers that the definition used for exporter in the EAR is different from the definition used for the USPPI in the FTR because of each agency's distinct obligations and requirements. Therefore, due to the different mission of each agency, conformity of documentation is not required in the FTR.

31. *Amend the proposed rule, § 30.37(a)—Miscellaneous Exemptions.* A commentor requested that the Census Bureau confirm if the miscellaneous exemption for goods valued \$2,500 or less can be used if the domestic value and the foreign value are each under \$2,500, even if their total value exceeds \$2,500. The Census Bureau's FTR requires that items of domestic or foreign origin under the same commodity classification number should always be reported separately and listed only if either is valued over \$2,500.

Changes to the Proposed Rule Made by This Final Rule

After consideration of the comments received, the Census Bureau revised certain provisions and added several provisions in the Final Rule to address the concerns of the commentors and to clarify the requirements of the rule. The changes made in this Final Rule are as follows:

1. Section 30.2(a)(ii) is amended to clarify that goods previously admitted to customs warehouses or FTZs moving under CBP bond between Puerto Rico and United States and to the U.S. Virgin Islands from the United States or Puerto Rico shall require filing EEI. This change is in response to concerns addressed in item 15 in the "Response to Comments" section.

2. Section 30.2(a)(iv) is amended to clarify exemptions in Subpart D by deleting (A), specific references to Office of Foreign Assets Control regulations, renumbering existing (B) through (E) to (A) through (D), and adding a new (E) to clarify a BIS requirement. This change was made to provide clarity and consistency.

3. Section 30.2(d)(2) is amended by deleting " * * * when an export license or license exemption is not required," because currently no export license is required for the following U.S. territories: Guam Island, American Samoa, Wake Island, Midway Island,

and the Northern Mariana Islands. This change was in response to concerns addressed in item 11 in the "Response to Comments" section.

4. In response to item 20 in the "Response to Comments" section, § 30.3(b)(2)(iv) is deleted because it relates to an exemption for reexports that is addressed in § 30.37. Section 30.3(b)(2)(v) is renumbered § 30.3(b)(2)(iv). A new § 30.3(b)(2)(v) has been added to provide clarification on who shall be the USPPI when goods are imported for consumption and reexported without being changed or enhanced. This change was made during internal agency review.

5. Section 30.3(e)(1) is amended to clarify the language describing the treatment of a routed export transaction if the FPPI agrees to allow the USPPI to file EEI. This change is in response to concerns addressed in item 10 in the "Response to Comments" section. Also, § 30.3(e)(1) is amended by adding a note to paragraph (e)(1) that was inadvertently dropped in the proposed rule.

6. Section 30.3(e)(2) is amended to clarify the authorized agents responsibilities in a routed export transaction. This change is in response to concerns addressed in item 10 in the "Response to Comments" section.

7. Section 30.3(e)(2)(xiii) and (xiv) is amended by adding a clarifying note to this paragraph that was inadvertently dropped in the proposed rule. This change was made to provide clarity and consistency.

8. Section 30.3(e)(1) is amended by adding a clarifying note to this section that was inadvertently dropped in the proposed rule. This change is in response to concerns addressed in item 29 in the "Response to Comments" section.

9. Section 30.3(f) is amended to clarify that in a routed export transaction the USPPI is not required to provide the agent of the FPPI with a power of attorney or written authorization. This change is in response to concerns addressed in item 10 in the "Response to Comments" section.

10. Section 30.6(a)(18) is amended by deleting shipments under carnet from the list of export codes. This listing of carnets in the export codes was in error. This change is made to ensure consistency with the response to concerns addressed in item 20 in the "Response to Comments" section.

11. Section 30.6(b)(13) is amended to specify that an entry number is required for goods withdrawn from a FTZ and exported. This change is in response to

concerns addressed in item 15 in the "Response to Comments" section.

12. Section 30.10 is amended to clarify the requirements for the retention of EEI and the authority to require production of documentation of EEI. This change is in response to concerns addressed in item 19 in the "Response to Comments" section.

13. Section 30.37 is amended by adding exemptions (q), (r), (s), and (t) that were not included in the proposed rule. This change was made to provide clarity and consistency.

14. Section 30.4(b)(2)(i) is amended to read: "(i) For vessel cargo, the USPPI or authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier 24 hours prior to the cargo being loaded on the vessel at the U.S. port where the cargo is laden." This change is in response to concerns addressed in item 21 in the "Response to Comments" section.

15. Section 30.4(b)(2)(iv) is amended to read: "(iv) For rail cargo, the USPPI or the authorized agent shall file the EEI, required by § 30.6, and provide the filing citation or exemption legend to the exporting carrier no later than two hours prior to the time train arrives at the U.S. border to go foreign." This change is in response to concerns addressed in item 21 in the "Response to Comments" section.

16. Section 30.45(a) is amended by deleting " * * * U.S. possessions" and replacing it with "the U.S. Virgin Islands." The reference to U.S. territories was too broad. Also language was added to clarify that CBP may require a variety of documents, depending upon the method of transportation, to contain the proof of filing citation or exemption legend. This change is in response to concerns addressed in item 21 in the "Response to Comments" section.

17. Section 30.45(f) is amended to clarify by method of transportation when the carrier must obtain the filing citations or exemption legends. This change is in response to concerns addressed in item 21 in the "Response to Comments" section.

18. Section 30.37 is amended to include carnets as temporary exports that should have been included in the proposed rule. This change is in response to concerns addressed in item 20 in the "Response to Comments" section.

19. Section 30.71(b)(1) is amended by adding a note to paragraph (b)(1), which notes an inflation adjustment to penalty provision of Subpart H. This change was made as a result of the Adjustment for Inflation Final Rule effective December

14, 2004, and provided for by the Debt Collection Improvement Act of 1996, Public Law 104-134.

20. Subpart H is amended by adding § 30.74, Voluntary Self-Disclosure, to specify how to disclose violations or suspected violations of the FTR. This change is in response to concerns addressed in item 8 in the "Response to Comments" section.

21. Sections 30.2(c)(1), 30.5(a), and 30.5(c) are amended to clarify that the letter of intent to participate in AES must be filed electronically at www.aesdirect.gov. This change was made to eliminate the requirement to submit the paper letter of intent and to be consistent with a pure electronic environment because filing the information electronically reduces the burden on both trade and the government.

22. Section 30.1 is amended to clarify a number of definitions. These changes are in response to concerns addressed in item 9 in the "Response to Comments" section.

23. Section 30.5(d)(1) is amended to clarify that the requirement to change password only applies to employees leaving the company that had direct access to the AES. This change is in response to concerns addressed in item 13 in the "Response to Comments" section.

24. Section 30.9(b) is amended to clarify that fatal errors for EEI filed postdeparture must be corrected as soon as possible, but no later than ten days after departure if filed postdeparture. This change is in response to concerns addressed in item 22 in the "Response to Comments" section.

25. Section 30.7 is amended by deleting the filing citation from the section and adding an Appendix D to Part 30 AES Filing Citation, Exemption and Exclusion Legends. In addition, the Census Bureau limited the length of the AES downtime filing citation to no more than 32 characters. These changes were in response to concerns addressed in item 25 of the "Response to Comments" section and to provide clarity and consistency.

26. Appendix A to Part 30—Format for Letter of Intent has been removed. The Appendix B sample of Power of Attorney and written authorization has been renamed A.

27. Appendix B to Part 30—AES Filing Codes have been added to provide one reference for all the filing codes.

28. Appendix C to Part 30—Summary of Exemptions and Exclusions from EEI filing is being added to provide a summary of all FTR exemptions and exclusions.

29. Appendix D to Part 30—AES Filing Citation, Exemption and Exclusion Legends are being added to provide a summary of all citations and legends.

30. Appendix E to Part 30—FTSR to FTR Concordances are being added to provide a crosswalk between the FTSR and FTR.

31. Appendix F to Part 30—FTR to FTSR Concordances are being added to provide a crosswalk between the FTR and FTSR.

Program Requirements

To comply with the requirements of Public Law 107-228, the Census Bureau is amending in its entirety the FTSR to specify the requirements for the mandatory reporting of all export information through the AES when a SED was required. All future references to the SED shall be referred to as AES EEI.

The Census Bureau is making the following changes to Title 15, Code of Federal Regulations (CFR), part 30:

- Rename the FTSR to "Part 30—Foreign Trade Regulations" to more accurately reflect the scope of the revised regulations implementing full mandatory AES filing, such as the inclusion of Department of State requirements and the advanced filing requirement implemented by CBP.
- Remove requirements for filing a paper SED (Option 1), Commerce Form 7525-V, from Title 15 CFR 30, so that the AES will be the only mode for filing information previously required by the SED.
- Remove requirements for filing the in-transit SED, ENG Form 7513, from 15 CFR 30. Responsibility for ENG Form 7513 was transferred to the U.S. Department of the Army, U.S. Army Corps of Engineers.
- In § 30.2(a)(2), language was included to specify the four optional means for filing EEI. Two of those methods require the development of AES software using the Automated Export System Trade Interface Requirements (AESTIR).
- Section 30.2(d), lists types of export transactions outside the scope of the FTR. The list of out-of-scope transactions included in § 30.2(d) is not all-inclusive, but includes those types of shipments about which the Census Bureau receives frequent inquiries. These types of shipments are to be excluded from EEI filing.
- In § 30.3, language was included to specify that in a "routed" transaction, the USPPI can compile and transmit export information on behalf of the FPPI when agreed upon by the FPPI. This language is consistent with the language

of § 758.3 of the EAR and permits the USPPI to act as an agent of the FPPI upon the written authorization by the FPPI.

- In § 30.4, the time and place-of-filing requirements for presenting proof of filing citations, postdeparture filing citations, and/or exemption legends are specified. Specific time and place-of-filing requirements are included in the FTR in accordance with provisions of § 341(a) of Public Law 107-210, the Trade Act of 2002. With the exception of the State Department, USML shipments under the control of the ITAR and shipments approved for postdeparture filing, the appropriate proof of filing citations and/or exemption legends are required to be provided to the exporting carrier within specified time frames depending on the mode of transportation used. For example, proof of filing citations for vessel cargo shall be provided to the exporting carrier no later than 24 hours prior to departure of the vessel from the U.S. port where the cargo is laden. Time and place-of-filing requirements for other modes of transportation also are presented in § 30.4 of the FTR.

- In § 30.4(b)(1) and § 30.4(b)(3) specify how to file EEI and acquire an ITN when AES, *AESDirect* or the participant's AES is unavailable for filing.

- In § 30.5(c), the postdeparture (formerly Option 4) approval procedures were removed. Certification and approval requirements for postdeparture filing of EEI were strengthened to address U.S. national security concerns and interests. Applications submitted by USPPIs for postdeparture filing will be subjected to closer scrutiny by the Census Bureau and other federal government partnership agencies participating in the AES postdeparture filing review process. Under the revised postdeparture filing requirements: (1) Authorized agents may no longer apply for postdeparture filing status on behalf of individual USPPIs. Only USPPIs may apply; (2) USPPIs must demonstrate the ability to meet the AES predeparture filing requirements by filing EEI through the AES before being approved for the postdeparture filing privilege; (3) USPPIs must meet a minimum number of shipments requirement before being authorized to file postdeparture; and (4) partnership agencies of the U.S. government shall determine whether or not a USPPI poses a significant threat to U.S. national security before granting the applicant postdeparture filing status.

- In § 30.6, language was added delineating the specific procedure for reporting the value of goods to the AES when inland freight and insurance

charges are not known at the time of exportation. When goods are sold at a point other than the port of export, freight, insurance, and other charges required to move the goods from their U.S. point of origin to the carrier at the port of export must be added to the selling price (or cost, if not sold) of the goods. Where the actual amount of freight, insurance, and other domestic charges are not available, an estimate of the domestic cost must be made and added to the cost or selling price of the goods to obtain the value to be reported to the AES.

- In § 30.6, a Routed Export Transaction Indicator and a Vehicle Identification Qualifier were added to the list of data elements to be reported through the AES. Both the Routed Export Transaction Indicator and the Vehicle Identification Qualifier indicate the conditions of other data elements reported to the AES. The Routed Export Transaction Indicator gives an indication of whether or not the EEI reported represents a routed export transaction. The Vehicle Identification Qualifier, when reported, identifies the type of vehicle number reported.

- In § 30.6, the Date of Arrival and the Waiver of Prior Notice Indicator were removed from the list of data elements that should be reported through the AES. These data elements were previously required to overcome disparities in reporting requirements for certain export shipments sent between the United States and Puerto Rico. With mandatory AES reporting, the Date of Arrival and Waiver of Prior Notice Indicator are no longer required, since shipments sent between the United States and Puerto Rico will no longer be reported differently from other export shipments.

- Subpart B sets forth export control and export licensing issues relevant to 15 CFR 30. This subpart adds references to export control and licensing requirements of the Department of State and other federal agencies. General guidelines for obtaining export control and licensing information also are presented for use by preparers and filers of EEI. The purpose of this subpart is to consolidate references to export control issues. No new requirements are introduced.

- In § 30.29, the language that describes the proper manner for reporting cost of repairs and/or alterations to goods, and the reporting of the value of replacement parts exported was revised. The FTSR did not specifically describe the manner in which these export transactions should be reported. Goods previously imported for repair and alteration only, and

reexported, shall only include the value for parts and labor. Goods exported as replacement parts shall only include the value of the replacement part. No new requirements are specified in § 30.29.

- Subpart E sets forth carrier and manifest issues pertaining to provisions relevant to 15 CFR 30. Carrier and manifest issues are consolidated in Subpart E. Requirements for SEDs being attached to the manifest are replaced with requirements for proof of filing citations and/or exemption legends to be shown on the bill of lading, air waybill, or other commercial loading documents attached to the manifest. Specific requirements for annotating the bill of lading, air waybill, or other commercial loading documents are included in § 30.7, Subpart A of Part 30.

- Subpart F sets forth requirements for import shipments relevant to 15 CFR 30, including requirements for the electronic filing of statistical data for shipments imported into FTZs. Currently, requirements for electronically reporting FTZ admissions are included in the Census Bureau's "Automated Foreign Trade Zone Reporting Program" manual. Instructions to import filers on where to obtain information on reporting import data are added to Subpart F. Requirements for information on imports of goods into Guam are excluded from the FTR since Guam collects its own information on goods entering and leaving the area.

- A new Subpart H was created to cover the FTR penalty provisions formerly addressed in § 30.95 of the FTSR. New penalty provisions addressed in Subpart H of this part describe the increase in penalties imposed for violations from \$100 to \$1,000 for each day of delinquency, to a maximum from \$1,100 to \$10,000 per violation. In addition, the penalty provisions provide for situations when the filer knowingly fails to file, files false and/or misleading information and other violations of the FTR where a civil penalty shall not exceed \$10,000 per violation and a criminal penalty shall not exceed \$10,000 or imprisonment for no more than five years, or both, per violation. Finally, Subpart H provides for the enforcement of these penalty provisions by the BIS' Office of Export Enforcement (OEE) and the DHS's CBP, and ICE.

- Other nonsubstantive revisions were made to include language incorporated from the FTSR to clarify the intent of the provisions in the FTR.

The Department of State and DHS concur with the provisions contained in this Final Rule.

Rulemaking Requirements

Regulatory Flexibility Act

The Chief Counsel for Regulation of the DOC certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) 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 and is not repeated here. No comments were received regarding the economic impact of this rule. As a result, a final regulatory flexibility analysis is not required and none 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. This rule contains a collection-of-information subject to the requirements of the PRA (44 U.S.C. 3501 *et seq.*) and that has been approved under OMB control number 0607-0152. The estimated burden hours for filing the SED information through the AES and related documents (*e.g.*, the AES Participant Application (APA) and *AESDirect*) are 752,000. In addition, this rule contains a collection of information that has been approved under OMB control numbers: OMB No. 1651-0022 (Entry Summary—CBP-7501), OMB No. 1651-0027 (Record of Vessel, Foreign Repair, or Equipment—CBP-226), and OMB No. 1651-0029 (Application for Foreign Trade Zone Admission and Status Designation—CBP-214). The public's reporting burden for the collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information requirements.

List of Subjects in 15 CFR Part 30

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

■ For the reason stated in the preamble, the Census Bureau revises 15 CFR part 30 to read as follows:

PART 30—FOREIGN TRADE REGULATIONS

Subpart A—General Requirements

- Sec.
- 30.1 Purpose and definitions.
- 30.2 General requirements for filing Electronic Export Information (EEI).
- 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.
- 30.4 Electronic Export Information filing procedures, deadlines, and certification statements.
- 30.5 Electronic Export Information filing application and certification processes and standards.
- 30.6 Electronic Export Information data elements.
- 30.7 Annotating the bill of lading, air waybill, or other commercial loading documents with the proof of filing citations, and exemption legends.
- 30.8 Time and place for presenting proof of filing citations, and exemption and exclusions legends.
- 30.9 Transmitting and correcting Electronic Export Information.
- 30.10 Retention of export information and authority to require production of documents.
- 30.11–30.14 [Reserved]

Subpart B—Export Control and Licensing Requirements

- 30.15 Introduction.
- 30.16 Export Administration Regulations.
- 30.17 Customs and Border Protection regulations.
- 30.18 Department of State regulations.
- 30.19 Other federal agency regulations.
- 30.20–30.24 [Reserved]

Subpart C—Special Provisions and Specific-Type Transactions

- 30.25 Values for certain types of transactions.
- 30.26 Reporting of vessels, aircraft, cargo vans, and other carriers and containers.
- 30.27 Return of exported cargo to the United States prior to reaching its final destination.
- 30.28 “Split shipments” by air.
- 30.29 Reporting of repairs and replacements.
- 30.30–30.34 [Reserved]

Subpart D—Exemptions From the Requirements for the Filing of Electronic Export Information

- 30.35 Procedure for shipments exempt from filing requirements.
- 30.36 Exemption for shipments destined to Canada.
- 30.37 Miscellaneous exemptions.
- 30.38 Exemption from the requirements for reporting complete commodity information.
- 30.39 Special exemptions for shipments to the U.S. Armed Services.

30.40 Special exemptions for certain shipments to U.S. government agencies and employees.

30.41–30.44 [Reserved]

Subpart E—General Carrier and Manifest Requirements

- 30.45 General statement of requirement for the filing of carrier manifests with proof of filing citations for the electronic submission of export information or exemption legends when Electronic Export Information filing is not required.
- 30.46 Requirements for the filing of export information by pipeline carriers.
- 30.47 Clearance or departure of carriers under bond on incomplete manifests.
- 30.48–30.49 [Reserved]

Subpart F—Import Requirements

- 30.50 General requirements for filing import entries.
- 30.51 Statistical information required for import entries.
- 30.52 Foreign Trade Zones.
- 30.53 Import of goods returned for repair.
- 30.54 Special provisions for imports from Canada.
- 30.55 Confidential information, import entries, and withdrawals.
- 30.56–30.59 [Reserved]

Subpart G—General Administrative Provisions

- 30.60 Confidentiality of Electronic Export Information.
- 30.61 Statistical classification schedules.
- 30.62 Emergency exceptions.
- 30.63 Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.
- 30.64–30.69 [Reserved]

Subpart H—Penalties

- 30.70 Violation of the Clean Diamond Trade Act.
- 30.71 False or fraudulent reporting on or misuse of the Automated Export System.
- 30.72 Civil penalty procedures.
- 30.73 Enforcement.
- 30.74 Voluntary self-disclosure.
- 30.75–30.99 [Reserved]
- Appendix A To Part 30—Sample for Power of Attorney and Written Authorization
- Appendix B To Part 30—ES Filing Codes
- Appendix C To Part 30—Summary of Exemptions and Exclusions from EEI filing
- Appendix D To Part 30—AES Filing Citation, Exemption and Exclusion Legends
- Appendix E To Part 30—FTSR to FTR Concordance
- Appendix F To Part 30—FTR to FTSR Concordance

Authority: 5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization plan No. 5 of 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended and No. 35–2B, December 20, 1996, as amended; Public Law 107–228, 116 Stat. 1350.

Subpart A—General Requirements

§ 30.1 Purpose and definitions.

(a) This part sets forth the Foreign Trade Regulations (FTR) as required

under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, section 301. These regulations are revised pursuant to provisions of the Foreign Relations Authorization Act, Public Law 107–228 (the Act). This Act authorizes the Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Homeland Security, to publish regulations mandating that all persons who are required to file export information under Chapter 9 of 13 U.S.C., file such information through the Automated Export System (AES) for all shipments where a Shipper's Export Declaration (SED) was previously required. The law further authorizes the Secretary of Commerce to issue regulations regarding imposition of civil and criminal penalties for violations of the provisions of the Act and these regulations.

(b) Electronic filing through the AES strengthens the U.S. government's ability to prevent the export of certain items to unauthorized destinations and/or end users because the AES aids in targeting, identifying, and when necessary confiscating suspicious or illegal shipments prior to exportation.

(c) Definitions used in the FTR. As used in this part, the following definitions apply:

AES applicant. The USPPPI or authorized agent who applies to the Census Bureau for authorization to report export information electronically to the AES, or through *AESDirect* or its related applications.

AESDirect. A free Internet application supported by the Census Bureau that allows USPPPIs, their authorized agent, or the authorized agent of the FPPI to transmit EEI through the AES via the Internet at <http://www.aesdirect.gov>.

AES downtime filing citation. A statement used in place of a proof of filing citation when the AES or *AESDirect* computer systems experiences a major failure. The downtime filing citation must appear on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents.

AES participant application (APA). An electronic submission of an individual or a company's desire to participate in the AES. It sets forth a commitment to develop, maintain, and adhere to CBP and Census Bureau performance requirements and operational standards.

Air waybill. The shipping document used for the transportation of air freight includes conditions, limitations of liability, shipping instructions, description of commodity, and applicable transportation charges. It is generally similar to a straight non-

negotiable bill of lading and is used for similar purposes.

Annotation. An explanatory note (e.g., proof of filing citation, postdeparture filing citation, AES downtime filing citation, exemption, or exclusion legend) placed on the bill of lading, air waybill, export shipping instructions, or other loading document.

Authorized agent. An individual or legal entity physically located in or otherwise under the jurisdiction of the United States that has obtained power of attorney or written authorization from a USPPI or FPPI to act on its behalf, and for purposes of this part, to complete and file the EEI.

Automated Broker Interface (ABI). A CBP system through which an importer or licensed customs broker can electronically file entry and entry summary data on goods imported into the United States.

Automated Export System (AES). The system, including AESDirect, for collecting EEI information (or any successor document) from persons exporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands; between Puerto Rico and the United States; and to the U.S. Virgin Islands from the United States or Puerto Rico.

Automated Export System Trade Interface Requirements (AESTIR). The document that describes the operational requirements of the AES. The AESTIR presents record formats and other reference information used in the AES.

Automated Foreign Trade Zone Reporting Program (AFTZRP). The electronic reporting program used to transmit statistical data on goods admitted into a FTZ directly to the Census Bureau.

Bill of lading (BL). A document that establishes the terms of a contract between a shipper and a transportation company under which freight is to be moved between specified points for a specified charge. Usually prepared by the authorized agent on forms issued by the carrier, it serves as a document of title, a contract of carriage, and a receipt for goods.

Bond. An instrument used by CBP as security to ensure the payment of duties, taxes and fees and/or compliance with certain requirements such as the submission of manifest information.

Bonded warehouse. An approved private warehouse used for the storage of goods until duties or taxes are paid and the goods are properly released by CBP. Bonds must be posted by the warehouse proprietor and by the importer to indemnify the government if the goods are released improperly.

Booking. A reservation made with a carrier for a shipment of goods on a specific voyage, flight, truck or train.

Bureau of Industry and Security (BIS). This bureau within the U.S. Department of Commerce is concerned with the advancement of U.S. national security, foreign policy, and economic interests. The BIS is responsible for regulating the export of sensitive goods and technologies; enforcing export control, antiboycott, and public safety laws; cooperating with and assisting other countries on export control and strategic trade issues; and assisting U.S. industry to comply with international arms control agreements.

Buyer. The principal in the export transaction that purchases the commodities for delivery to the ultimate consignee. The buyer and ultimate consignee may be the same.

Cargo. Goods being transported.

Carnet. An international customs document that allows the carnet holder to import into the United States or export to foreign countries certain goods on a temporary basis without the payment of duties.

Carrier. An individual or legal entity in the business of transporting passengers or goods. Airlines, trucking companies, railroad companies, shipping lines, pipeline companies, and slot charterers are all examples of carriers.

Civil penalty. A monetary penalty imposed on a USPPI, authorized agent, FPPI, carrier, or other party to the transaction for violating the FTR, including failing to file export information, filing false or misleading information, filing information late, and/or using the AES to further any illegal activity, and/or violating any other regulations of this part.

Commerce Control List (CCL). A list of items found in Supplement No. 1 to Part 774 of the EAR. Supplement No. 2 to Part 774 of the EAR contains the General Technology and Software Notes relevant to entries contained in the CCL.

Compliance alert. An electronic response sent to the filer by the AES when the shipment was not reported in accordance with this part (e.g., late filing). The filer is required to review their filing practices and take steps to conform with export reporting requirements.

Consignee. The person or entity named in a freight contract, a contract of carriage that designates to whom goods have been consigned, and that has the legal right to claim the goods at the destination.

Consignment. Delivery of goods from a USPPI (the consignor) to an agent (consignee) under agreement that the

agent sells the goods for the account of the USPPI.

Container. A uniform, reusable metal "box" in which goods are shipped by vessel, truck, or rail as defined in the International Convention for Safe Containers, as amended (TIAS 9037; 29 U.S.T. 3709).

Controlling agency. The agency responsible for the license determination on specified goods exported from the United States.

Cost of goods sold. Cost of goods is the sum of expenses incurred in the USPPI acquisition or production of the goods.

Country of origin. The country where the goods were mined, grown, or manufactured or where each foreign material used or incorporated in a good underwent a change in tariff classification indicating a substantial transformation under the applicable rule of origin for the good. The country of origin for U.S. imports are reported in terms of the International Standards Organization (ISO) codes designated in the Schedule C, Classification of Country and Territory Designations.

Country of ultimate destination. The country where the goods are to be consumed, further processed, stored, or manufactured, as known to the USPPI at the time of export.

Criminal penalty. For the purpose of this part, a penalty imposed for knowingly or willfully violating the FTR, including failing to file export information, filing false or misleading information, filing information late, and/or using the AES to further illegal activity. The criminal penalty includes fines, imprisonment, and/or forfeiture.

Customs broker. An individual or entity licensed to enter and clear imported goods through CBP for another individual or entity.

Destination. The foreign location to which a shipment is consigned.

Distributor. An agent who sells directly for a supplier and maintains an inventory of the supplier's products.

Domestic exports. Goods that are grown, produced, or manufactured in the United States, and commodities of foreign origin that have been changed in the United States, including changes made in a U.S. FTZ, from the form in which they were imported, or that have been enhanced in value or improved in condition by further processing or manufacturing in the United States.

Drayage. The charge made for hauling freight, carts, drays, or trucks.

Dun & Bradstreet Number (DUNS). The DUNS Number is a unique 9-digit identification sequence that provides identifiers to single business entities

while linking corporate family structures together.

Dunnage. Materials placed around cargo to prevent shifting or damage while in transit.

Duty. A charge imposed on the import of goods. Duties are generally based on the value of the goods (ad valorem duties), some other factor, such as weight or quantity (specific duties), or a combination of value and other factors (compound duties).

Electronic export information (EEI). The electronic export data as filed in the AES. This is the electronic equivalent of the export data formerly collected as Shipper's Export Declaration (SED) information and now mandated to be filed through the AES or AESDirect.

Employer identification number (EIN). The USPPI's Internal Revenue Service (IRS) EIN is the 9-digit numerical code as reported on the Employer's Quarterly Federal Tax Return, Treasury Form 941.

End user. The person abroad that receives and ultimately uses the exported or reexported items. The end user is not an authorized agent or intermediary, but may be the FPPI or ultimate consignee.

Enhancement. A change or modification to goods that increases their value or improves their condition.

Entry number. Consists of a three-position entry filer code and a seven-position transaction code, plus a check digit assigned by the entry filer as a tracking number for goods entered into the United States.

Equipment number. The identification number for shipping equipment, such as container or igloo (Unit Load Device (ULD)) number, truck license number, or rail car number.

Exclusions. Transactions outside of the scope of the FTR that are excluded from the requirement of filing EEI.

Exemption. A specific reason as cited within this part that eliminates the requirement for filing EEI.

Exemption legend. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading document that describes the basis for not filing EEI for an export transaction. The exemption legend shall reference the number of the section or provision in the FTR where the particular exemption is provided (See Appendix D to this part).

Export. To send or transport goods out of a country.

Export Administration Regulations (EAR). Regulations administered by the BIS that, among other things, provide specific instructions on the use and types of export licenses required for certain commodities, software, and technology. These regulations are

located in 15 CFR parts 730 through 774.

Export control. Governmental control of exports for statistical or strategic and short supply or national security purposes, and/or for foreign policy purposes.

Export Control Classification Number (ECCN). The number used to identify items on the CCL, Supplement No. 1 to Part 774 of the EAR. The ECCN consists of a set of digits and a letter. Items that are not classified under an ECCN are designated "EAR99." Section 738.2 of the EAR describes the ECCN format.

Export license. A controlling agency's document authorizing export of particular goods in specific quantities or values to a particular destination. Issuing agencies include, but are not limited to, the U.S. State Department; the BIS; the Bureau of Alcohol, Tobacco, and Firearms; and the Drug Enforcement Administration permit to export.

Export statistics. The measure of quantity and value of goods (except for shipments to U.S. military forces overseas) moving out of the United States to foreign countries, whether such goods are exported from within the Customs territory of the United States, a CBP bonded warehouse, or a U.S. Foreign Trade Zone (FTZ).

Export value. The value of the goods at the U.S. port of export. The value shall be the selling price (or the cost if the goods are not sold), including inland or domestic freight, insurance, and other charges to the U.S. seaport, airport, or land border port of export. Cost of goods is the sum of expenses incurred in the USPPI's acquisition or production of the goods. (See § 30.6(a)(17)).

Fatal error message. An electronic response sent to the filer by the AES when invalid or missing data has been encountered, the EEI has been rejected, and the information is not on file in the AES. The filer is required to immediately correct the problem, correct the data, and retransmit the EEI.

Filers. Those USPPIs or authorized agents (of either the USPPI or the FPPI) who have been approved to file EEI directly in the AES system or AESDirect Internet application.

Filing electronic export information. The act of entering the EEI in the AES.

Foreign entity. A person that temporarily enters into the United States and purchases or obtains goods for export. This person does not physically maintain an office or residence in the United States. This is a special class of USPPI.

Foreign exports. Commodities of foreign origin that have entered the United States for consumption, for entry into a CBP bonded warehouse or U.S.

FTZ, and which, at the time of exportation, are in substantially the same condition as when imported.

Foreign principal party in interest (FPPI). The party shown on the transportation document to whom final delivery or end-use of the goods will be made. This party may be the ultimate consignee.

Foreign Trade Zone (FTZ). Specially licensed commercial and industrial areas in or near ports of entry where foreign and domestic goods, including raw materials, components, and finished goods, may be brought in without being subject to payment of customs duties. Goods brought into these zones may be stored, sold, exhibited, repacked, assembled, sorted, graded, cleaned, or otherwise manipulated prior to reexport or entry into the country's customs territory.

Forwarding agent. The person in the United States who is authorized by the principal party in interest to facilitate the movement of the cargo from the United States to the foreign destination and/or prepare and file the required documentation.

Goods. Merchandise, supplies, raw materials, and products or any other item identified by a Harmonized Tariff System (HTS) code.

Harmonized system. A method of classifying goods for international trade developed by the Customs Cooperation Council (now the World Customs Organization).

Harmonized Tariff Schedule of the United States (HTSUS). An organized listing of goods and their duty rates, developed by the U.S. International Trade Commission, which is used by CBP as the basis for classifying imported products, including establishing the duty to be charged and providing statistical information about imports and exports.

Imports. All goods physically brought into the United States, including:

- (1) Goods of foreign origin, and
- (2) Goods of domestic origin returned to the United States without substantial transformation affecting a change in tariff classification under an applicable rule of origin.

Inbond. A procedure administered by CBP under which goods are transported or warehoused under CBP supervision until the goods are either formally entered into the customs territory of the United States and duties are paid, or until they are exported from the United States. The procedure is so named because the cargo moves under a bond (financial liability assured by the principal on the bond) from the gateway seaport, airport, or land border port and remains "inbond" until CBP releases the

cargo at the inland Customs point or at the port of export.

Inland freight. The cost to ship goods between points inland and the seaport, airport, or land border port of exportation, other than baggage, express mail, or regular mail.

Intermediate consignee. The person or entity in the foreign country who acts as an agent for the principal party in interest with the purpose of effecting delivery of items to the ultimate consignee. The intermediate consignee may be a bank, forwarding agent, or other person who acts as an agent for a principal party in interest.

Internal Transaction Number (ITN). The AES generated number assigned to a shipment confirming that an EEI transaction was accepted and is on file in the AES.

International Standards Organization (ISO) Country Codes. The 2-position alphabetic ISO code for countries used to identify countries for which shipments are reportable.

International Traffic in Arms Regulations (ITAR). Regulations administered by the Directorate of Defense Trade Controls within the U.S. State Department that provide for the control of the export and temporary import of defense articles and defense services. These regulations are located in 22 CFR 120–130.

Interplant correspondence. Records or documents from a U.S. firm to its subsidiary or affiliate, whether in the United States or overseas.

In-transit. Goods shipped through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another foreign country or area without entering the consumption channels of the United States.

License applicant. The person who applies for an export or reexport license. (For example, obtaining a license for commodities, software, or technology that are listed on the CCL.)

License exception. An authorization that allows a USPPI or other appropriate party to export or reexport under stated conditions, items subject to the EAR that would otherwise require a license under the EAR. The BIS License Exceptions are currently contained in Part 740 of the EAR (15 CFR part 740).

Loading document. A document that establishes the terms of a contract between a shipper and a transportation company under which freight is to be moved between points for a specific charge. It is usually prepared by the shipper and actuated by the carrier and serves as a document of title, a contract of carriage, and a receipt for goods. Examples of loading documents include the air waybill, inland bill of lading,

ocean bill of lading, and through bill of lading.

Manifest. A collection of documents, including forms, such as the cargo declaration and annotated bills of lading, that lists and describes the cargo contents of a carrier, container, or warehouse. Carriers required to file manifests with CBP Port Director must include an AES filing citation, or exemption or exclusion legend for all cargo being transported.

Merchandise. Goods, wares, and chattels of every description, and includes merchandise the exportation of which is prohibited, and monetary instruments as defined in 31 U.S.C. 5312.

Method of transportation. The method by which goods arrive in or are exported from the United States by way of seaports, airports, or land border crossing points. Methods of transportation include vessel, air, truck, rail, or other.

North American Free Trade Agreement (NAFTA). The formal agreement, or treaty, among Canada, Mexico, and the United States to promote trade amongst the three countries. It includes measures for the elimination of tariffs and nontariff barriers to trade, as well as numerous specific provisions concerning the conduct of trade and investment.

Office of Foreign Assets Control (OFAC). An agency within the U.S. Department of the Treasury that administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals against targeted foreign countries, terrorists, international narcotics traffickers, and those engaged in activities related to the proliferation of weapons of mass destruction. The OFAC acts under Presidential wartime and national emergency powers, as well as authority granted by specific legislation, to impose controls on transactions and freeze foreign assets under U.S. jurisdiction.

Order party. The person in the United States that conducts the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, receives the order from the FPPI. If a U.S. order party directly arranges for the sale and export of goods to the FPPI, the U.S. order party shall be listed as the USPPI in the EEI.

Packing list. A list showing the number and kinds of items being shipped, as well as other information needed for transportation purposes.

Partnership agencies. U.S. government agencies that have statistical and analytical reporting and/

or monitoring and enforcement responsibilities related to AES postdeparture filing privileges.

Party ID type. Identifies whether the Party ID is an EIN, SSN, DUNS, or Foreign Entity reported to the AES, *i.e.*, E=EIN, S=SSN, D=DUNS, T=Foreign Entity.

Person. Any natural person, corporation partnership or other legal entity of any kind, domestic or foreign.

Port of export. The seaport or airport where the goods are loaded on the exporting carrier that is taking the goods out of the United States, or the port where exports by overland transportation cross the U.S. border into a foreign country. In the case of an export by mail, use port code 8000.

Postdeparture filing. The privilege granted to approved USPPIs for their EEI to be filed up to 10 calendar days after the date of export, *i.e.*, the date the goods are scheduled to cross the U.S. border.

Postdeparture filing citation. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading documents that states that the EEI will be filed after departure of the carrier. (See Appendix D of this part.)

Power of attorney. A legal authorization, in writing, from a USPPI or FPPI stating that the agent has authority to act as the principal party's true and lawful agent for purposes of preparing and filing the EEI in accordance with the laws and regulations of the United States.

Primary benefit. Receiving the majority payment or exchange of item of value or other legal consideration resulting from an export trade transaction; usually monetary.

Principal parties in interest. Those persons in a transaction that receive the primary benefit, monetary or otherwise, from the transaction. Generally, the principals in a transaction are the seller and the buyer. In most cases, the forwarding or other agent is not a principal party in interest.

Proof of filing citation. A notation placed on the bill of lading, air waybill, export shipping instructions, or other commercial loading document, usually for carrier use, that provides evidence that the EEI has been filed and accepted in the AES.

Reexport. For statistical purposes: These are exports of foreign-origin goods that have previously entered the United States, Puerto Rico, or the U.S. Virgin Islands for consumption, entry into a CBP bonded warehouse, or a U.S. FTZ, and at the time of exportation, have undergone no change in form or condition or enhancement in value by

further manufacturing in the United States, Puerto Rico, the U.S. Virgin Islands, or U.S. FTZs. For the purpose of goods subject to export controls (e.g., U.S. Munitions List (USML) articles) these are shipments of U.S.-origin products from one foreign destination to another.

Related party transaction. A transaction involving trade between a USPPI and an ultimate consignee where either party owns directly or indirectly 10 percent or more of the other party.

Remission. The cancellation or release from a penalty, including fines, and/or forfeiture, under this part.

Retention. The necessary act of keeping all documentation pertaining to an export transaction for a period of at least five years for an EEI filing, or a time frame designated by the controlling agency for licensed shipments, whichever is longer.

Routed export transaction. A transaction in which the FPPI authorizes a U.S. agent to facilitate export of items from the United States on its behalf and prepare and file the EEI.

Schedule B. The Statistical Classification of Domestic and Foreign Commodities Exported from the United States. These 10-digit commodity classification numbers are administered by the Census Bureau and cover everything from live animals and food products to computers and airplanes. It should also be noted that all import and export codes used by the United States are based on the Harmonized Tariff System.

Schedule C. The Classification of Country and Territory Designations. The Schedule C provides a list of country of origin codes. The country of origin is reported in terms of the International Standards Organization codes.

Schedule D. The Classification of CBP districts and ports. The Schedule D provides a list of CBP districts and ports and the corresponding numeric codes used in compiling U.S. foreign trade statistics.

Schedule K. The Classification of Foreign Ports by Geographic Trade Area and Country. The Schedule K lists the major seaports of the world that directly handle waterborne shipments in the foreign trade of the United States, and includes numeric codes to identify these ports. This schedule is maintained by the U.S. Army Corps of Engineers.

Seller. A principal in the transaction, usually the manufacturer, producer, wholesaler, or distributor of the goods, that receives the monetary benefit or other consideration for the exported goods.

Service center. A company, entity, or organization which has been certified and approved to only transmit complete EEI to the AES.

Shipment. Unless as otherwise provided, all goods being sent from one USPPI to one consignee to a single country of destination on a single conveyance and on the same day.

Shipment reference number. A unique identification number assigned to the shipment by the filer for reference purposes. This number must remain unique for a period of five years.

Shipper's Export Declaration. The DOC paper form used under the FTSR to collect information from a person exporting from the United States. This form was used for compiling the official U.S. export statistics for the United States and for export control purposes.

Shipping weight. The total weight of a shipment in kilograms including goods and packaging.

Split shipment. A shipment booked for export on one aircraft, but split by the carrier and sent on two or more aircrafts of the same carrier.

Subzone. A special purpose foreign trade zone established as part of a foreign trade zone project with a limited purpose that cannot be accommodated within an existing zone. Subzones are often established to serve the needs of a specific company and may be located within an existing facility of the company.

Tariff schedule. A comprehensive list or schedule of goods with applicable duty rates to be paid or charged for each listed article as it enters or leaves a country.

Transmitting electronic export information. The act of sending the completed EEI to the AES.

Transportation reference number. A reservation number assigned by the carrier to hold space on the carrier for cargo being shipped. It is the booking number for vessel shipments and the master air waybill number for air shipments, the bill of lading number for rail shipments, and the freight or pro bill for truck shipments.

Ultimate consignee. The person, party, or designee that is located abroad and actually receives the export shipment. This party may be the end user or the FPPI.

United States Munitions List (USML). Articles and services designated for defense purposes under the ITAR and specified in 22 CFR 121.

Unloading. The physical removal of cargo from an aircraft, truck, rail, or vessel.

U.S. Customs and Border Protection (CBP). CBP is the unified border agency within the DHS charged with the

management, control, and protection of our Nation's borders at and between the official ports of entry to the United States. CBP is charged with keeping terrorist and terrorist weapons from entering the country and enforcing customs, immigration, agricultural and countless other laws of the United States.

U.S. Immigration and Customs Enforcement (ICE). An agency within the DHS that is responsible for enforcing customs, immigration and related laws and investigating violations of laws to secure the Nation's borders.

U.S. principal party in interest (USPPI). The person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the export transaction. Generally, that person or entity is the U.S. seller, manufacturer, or order party, or the foreign entity while in the United States when purchasing or obtaining the goods for export.

Vehicle Identification Number (VIN). A number issued by the manufacturer and used for the identification of a self-propelled vehicle.

Verify message. An electronic response sent to the filer by the AES when an unlikely condition is found.

Violation of the FTR. Failure of the USPPI, FPPI, authorized agent of the USPPI, FPPI, carrier, or other party to the transaction to comply with the requirements set forth in 15 CFR 30, for each export shipment.

Warning message. An electronic response sent to the filer by the AES when certain incomplete and conflicting data reporting conditions are encountered.

Wholesaler/distributor. An agent who sells directly to a supplier and maintains an inventory of the supplier's products.

Written authorization. A legal authorization, in writing, by the USPPI or FPPI stating that the agent has authority to act as the USPPI's or FPPI's true and lawful agent for purposes of preparing and filing the EEI in accordance with the laws and regulations of the United States.

Zone admission number. A unique and sequential number assigned by a FTZ operator or user for shipments admitted to a zone.

§ 30.2 General requirements for filing Electronic Export Information (EEI).

(a) **Filing requirements**—(1) The EEI shall be filed through the AES by the United States Principal Party In Interest (USPPI), the USPPI's authorized agent, or the authorized U.S. agent of the Foreign Principal Party In Interest (FPPI) for all exports of physical goods,

including shipments moving pursuant to orders received over the Internet. The Automated Export System (AES) is the electronic system for collecting Shipper's Export Declaration (SED) (or any successor document) information from persons exporting goods from the United States, Puerto Rico, Foreign Trade Zones (FTZs) located in the United States or Puerto Rico, the U.S. Virgin Islands, between Puerto Rico and the United States, and to the U.S. Virgin Islands from the United States or Puerto Rico. Exceptions, exclusions, and exemptions to this requirement are provided for in paragraph (d) of this section and Subpart D of this part. References to the AES also shall apply to *AESDirect* unless otherwise specified. For purposes of the regulations in this part, the SED information shall be referred to as EEI. Filing through the AES shall be done in accordance with the definitions, specifications, and requirements of the regulations in this part for all export shipments, except as specifically excluded in § 30.2(d) or exempted in Subpart D of this part, when shipped as follows:

(i) To foreign countries or areas, including free (foreign trade) zones located therein (see § 30.36 for exemptions for shipments from the United States to Canada) from any of the following:

(A) The United States, including the 50 states and the District of Columbia.

(B) Puerto Rico.

(C) FTZs located in the United States or Puerto Rico.

(D) The U.S. Virgin Islands.

(ii) Between any of the following nonforeign areas including goods previously admitted to customs warehouses or FTZs and moving under a U.S. Customs and Border Protection (CBP) bond:

(A) To Puerto Rico from the United States.

(B) To the United States from Puerto Rico.

(C) To the U.S. Virgin Islands from the United States or Puerto Rico.

(iii) The EEI shall be filed for goods moving as described in paragraphs (a)(1)(i) and (ii) of this section by any mode of transportation. (Instructions for filing EEI for vessels, aircraft, railway cars, and other carriers when sold while outside the areas described in paragraphs (a)(1)(i) and (ii) are covered in § 30.26.)

(iv) Notwithstanding exemptions in Subpart D, EEI shall be filed for the following types of export shipments, regardless of value:

(A) Requiring a Department of Commerce, Bureau of Industry and Security (BIS) license (15 CFR 730–774).

(B) Requiring a Department of State, Directorate of Defense Trade Controls (DDTC) license under the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120 through 130).

(C) Subject to the ITAR, but exempt from license requirements.

(D) Requiring a Department of Justice, Drug Enforcement Administration (DEA) export permit (21 CFR 1312).

(E) Destined for a country listed in Country Group E:1 as set forth in Supplement 1 to 15 CFR 740.

(F) Requiring an export license issued by any other federal government agency.

(G) Classified as rough diamonds under 6-digit HS subheadings 7102.10, 7102.21, and 7102.31.

(2) *Filing methods.* The USPPI has four means for filing EEI: use *AESDirect*; develop AES software using the AESTIR (see <http://www.cbp.gov/xp/cgov/export/aes/>); purchase software developed by certified vendors using the AESTIR; or use an authorized agent. An FPPI can only use an authorized agent in a routed export transaction.

(b) *General requirements*—(1) The EEI shall be filed prior to exportation (see § 30.4) unless the USPPI has been approved to submit export data on a postdeparture basis (see § 30.5(c)). Shipments requiring a license or license exemption may be filed postdeparture only when the appropriate licensing agency has granted the USPPI authorization. See Subpart B of this part.

(2) Specific data elements required for EEI filing are contained in § 30.6.

(3) The AES downtime procedures provide uniform instructions for processing export transactions when the AES or *AESDirect* or the computer system of an AES participant is unavailable for transmission. (See § 30.4(b)(1) and § 30.4(b)(3).)

(4) Instructions for particular types of transactions and exemptions from these requirements are found in Subparts C and D of this part.

(5) The EEI is required to be filed in the AES prior to export for shipments by vessel going directly to the countries identified in U.S. Customs and Border Protection regulations 19 CFR 4.75(c) and by aircraft going directly or indirectly to those countries. (See U.S. Customs and Border Protection regulations 19 CFR 122.74(b)(2).)

(c) *Certification and filing requirements.* Filers of EEI shall be required to meet application, certification, and filing requirements before being approved to submit EEI. Steps leading toward approval for the AES or the *AESDirect* filing include the following processes: (See § 30.5 for specific application, certification, and

filing standards applicable to AES and *AESDirect* submissions.)

(1) Submission of an electronic AES Participant Application (APA) for AES filing or submission of an online registration for filing through <http://www.census.gov/aes>.

(2) Successful completion of certification testing for AES or for *AESDirect* filing.

(d) *Exclusions from filing EEI.* The following types of transactions are outside the scope of this part and shall be excluded from EEI filing:

(1) Goods shipped under CBP bond through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another where such goods do not enter the consumption channels of the United States.

(2) Goods shipped from the U.S. territories and goods shipped between the United States and these territories do not require EEI filing. However, goods transiting U.S. territories to foreign destinations require EEI filing.

(3) Electronic transmissions and intangible transfers. (See Subpart B of this part for export control requirements for these types of transactions.)

(4) Goods shipped to Guantanamo Bay Naval Base in Cuba from the United States, Puerto Rico, or the U.S. Virgin Islands and from Guantanamo Bay Naval Base to the United States, Puerto Rico, or the U.S. Virgin Islands. (See § 30.39 for filing requirements for shipments exported by the U.S. Armed Services.)

(e) *Penalties.* Failure of the USPPI, the authorized agent of either the USPPI or the FPPI, the exporting carrier, or any other person subject thereto to comply with any of the requirements of the regulations in this part renders such persons subject to the penalties provided for in Subpart H of this part.

§ 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

(a) *General requirements.* The filer of EEI for export transactions is either the USPPI, the authorized agent, or the authorized U.S. agent of the FPPI. All EEI submitted to the AES shall be complete, correct, and based on personal knowledge of the facts stated or on information furnished by the parties to the export transaction. The filer shall be physically located in the United States at the time of filing, have an EIN or SSN, or DUNS number and be certified to report in the AES. The filer is responsible for the truth, accuracy, and completeness of the EEI, except insofar as that party can demonstrate

that he or she reasonably relied on information furnished by other responsible persons participating in the transaction. All parties involved in export transactions, including U.S. authorized agents, should be aware that invoices and other commercial documents may not necessarily contain all the information needed to prepare the EEI. The parties shall ensure that all information needed for reporting to the AES, including correct export licensing information, is provided to the authorized agent for the purpose of correctly preparing the EEI.

(b) *Parties to the export transaction—*
(1) *Principal parties in interest.* Those persons in a transaction that receive the primary benefit, monetary or otherwise, are considered principal parties to the transaction. Generally, the principal parties in interest in a transaction are the seller and buyer. In most cases, the forwarding or other agent is not a principal party in interest.

(2) *USPPI.* For purposes of filing EEI, the USPPI is the person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the transaction. Generally, that person or entity is the U.S. seller, manufacturer, order party, or foreign entity purchasing or obtaining goods for export. The foreign entity shall be listed as the USPPI if it is in the United States when the items are purchased or obtained for export. The foreign entity shall then follow the provisions for filing the EEI specified in § 30.3 and § 30.6 pertaining to the USPPI.

(i) If a U.S. manufacturer sells goods directly to an entity in a foreign area, the U.S. manufacturer shall be listed as the USPPI in the EEI.

(ii) If a U.S. manufacturer sells goods, as a domestic sale, to a U.S. buyer (wholesaler/distributor) and that U.S. buyer sells the goods for export to a FPPI, the U.S. buyer (wholesaler/distributor) shall be listed as the USPPI in the EEI.

(iii) If a U.S. order party directly arranges for the sale and export of goods to a foreign entity, the U.S. order party shall be listed as the USPPI in the EEI.

(iv) If a customs broker is listed as the importer of record when entering goods into the United States for immediate consumption or warehousing entry, the customs broker may be listed as the USPPI in the EEI if the goods are subsequently exported without change or enhancement.

(v) If a foreign person is listed as the importer of record when entering goods into the United States for immediate consumption or warehousing entry, the customs broker who entered the goods, may be listed as the USPPI in the EEI

if the goods are subsequently exported without change or enhancement.

(3) *Authorized agent.* The agent shall be authorized by the USPPI or, in the case of a routed export transaction, the agent shall be authorized by the FPPI to prepare and file the EEI. In a routed export transaction, the authorized agent can be the “exporter” for export control purposes as defined in 15 CFR 772.1 of the U.S. Department of Commerce EAR. However, the authorized agent shall not be shown as the USPPI in the EEI unless the agent acts as a USPPI in the export transaction as defined in paragraphs (b)(2)(iii), (iv), and (v) of this section.

(c) *General responsibilities of parties in export transactions—*(1) *USPPI responsibilities.*

(i) The USPPI can prepare and file the EEI itself, or it can authorize an agent to prepare and file the EEI on its behalf. If the USPPI prepares the EEI itself, the USPPI is responsible for the accuracy and timely transmission of all the export information reported to the AES.

(ii) When the USPPI authorizes an agent to file the EEI on its behalf, the USPPI is responsible for:

(A) Providing the authorized agent with accurate and timely export information necessary to file the EEI.

(B) Providing the authorized agent with a power of attorney or written authorization to file the EEI (see paragraph (f) of this section for written authorization requirements for agents).

(C) Retaining documentation to support the information provided to the authorized agent for filing the EEI, as specified in § 30.10.

(2) *Authorized agent responsibilities.* The agent, when authorized by a USPPI to prepare and file the EEI for an export transaction, is responsible for performing the following activities:

(i) Accurate preparation and timely filing of the EEI based on information received from the USPPI and other parties involved in the transaction.

(ii) Obtaining a power of attorney or written authorization to file the EEI.

(iii) Retaining documentation to support the information reported to the AES, as specified in § 30.10.

(iv) Upon request, providing the USPPI with a copy of the export information filed in a mutually agreed upon format.

(d) *Filer responsibilities.*

Responsibilities of USPPIs and authorized agents filing EEI are as follows:

(1) Filing complete and accurate information (see § 30.4 for a delineation of filing responsibilities of USPPIs and authorized agents).

(2) Filing information in a timely manner in accordance with the

provisions and requirements contained in this part.

(3) Responding to fatal errors, warning, verify and reminder messages, and compliance alerts generated by the AES in accordance with provisions and requirements contained in this part.

(4) Providing the exporting carrier with the required proof of filing citations or exemption legends in accordance with provisions contained in this part.

(5) Promptly filing corrections or cancellations to EEI in accordance with provisions contained in § 30.9.

(6) Retaining all necessary and proper documentation related to EEI transactions in accordance with provisions contained in this part (see § 30.10 for specific requirements for retaining and producing documentation for export shipments).

(e) *Responsibilities of parties in a routed export transaction.* The Census Bureau recognizes “routed export transactions” as a subset of export transactions. A routed export transaction is a transaction in which the FPPI authorizes a U.S. agent to facilitate the export of items from the United States and to prepare and file EEI.

(1) *USPPI responsibilities.* In a routed export transaction, the FPPI may authorize or agree to allow the USPPI to prepare and file the EEI. If the FPPI agrees to allow the USPPI to file the EEI, the FPPI must provide a written authorization to the USPPI assuming the responsibility for filing. The USPPI may authorize an agent to file the EEI on its behalf. If the USPPI or its agent prepares and files the EEI, it shall retain documentation to support the EEI filed. If the FPPI agrees to allow the USPPI to file EEI, the filing of the export transaction shall be treated as a routed export transaction. If the FPPI authorizes an agent to prepare and file the EEI, the USPPI shall retain documentation to support the information provided to the agent for preparing the EEI as specified in § 30.10 and provide the agent with the following information to assist in preparing the EEI:

(i) Name and address of the USPPI.

(ii) USPPI's EIN or SSN.

(iii) State of origin (State).

(iv) FTZ if applicable.

(v) Commercial description of commodities.

(vi) Origin of goods indicator: Domestic (D) or Foreign (F).

(vii) Schedule B or HTSUSA, Classification Commodity Code.

(viii) Quantities/units of measure.

(ix) Value.

(x) Export Control Classification Number (ECCN) or sufficient technical information to determine the ECCN.

(xi) All licensing information necessary to file the EEI for commodities where the Department of State, the Department of Commerce, or other U.S. government agency issues a license for the commodities being exported, or the merchandise is being exported under a license exemption or license exception.

(xii) Any information that it knows will affect the determination of license authorization (see Subpart B of this part for additional information on licensing requirements).

Note to Paragraph (e)(1) of this section: For items in paragraph (e) (1) (ix), (x), (xi) and (xii) of this section, where the FPPI has assumed responsibility for determining and obtaining license authority see requirements set forth in 15 CFR 758.3 of the EAR.

(2) *Authorized agent responsibilities.* In a routed export transaction, if an authorized agent is preparing and filing the EEI on behalf of the FPPI, the authorized agent must obtain a power of attorney or written authorization from the FPPI and prepare and file the EEI based on information obtained from the USPPI or other parties involved in the transaction. The authorized agent shall be responsible for filing the EEI accurately and timely in accordance with the FTR. Upon request, the authorized agent will provide the USPPI with a copy of the power of attorney or written authorization from the FPPI. The authorized agent shall also retain documentation to support the EEI reported through the AES. The agents shall upon request, provide the USPPI with the data elements in paragraphs (e)(1)(i) through (xii) of this section as submitted through the AES. The authorized agent shall provide the following export information through the AES:

- (i) Date of export.
- (ii) Transportation Reference Number.
- (iii) Ultimate consignee.
- (iv) Intermediate consignee, if applicable.
- (v) Authorized agent name and address.
- (vi) EIN, SSN, or DUNS number of the authorized agent.
- (vii) Country of ultimate destination.
- (viii) Method of transportation.
- (ix) Carrier identification and conveyance name.
- (x) Port of export.
- (xi) Foreign port of unloading.
- (xii) Shipping weight.
- (xiii) ECCN.
- (xiv) License or license exemption information.

Note to Paragraph (e)(2) of this section: For items in paragraphs (e)(2)(xiii) and (xiv) of this section, where the FPPI has assumed

responsibility for determining and obtaining license authority, see requirements set forth in 15 CFR 758.3 of the EAR.

(f) *Authorizing an agent.* In a power of attorney or other written authorization, authority is conferred upon an agent to perform certain specified acts or kinds of acts on behalf of a principal (see 15 CFR 758.1(h) of the EAR). In cases where an authorized agent is filing EEI to the AES, the agent shall obtain a power of attorney or written authorization from a principal party in interest to file the information on its behalf. A power of attorney or written authorization should specify the responsibilities of the parties with particularity and should state that the agent has authority to act on behalf of a principal party in interest as its true and lawful agent for purposes of creating and filing EEI in accordance with the laws and regulations of the United States. In routed export transactions the USPPI is not required to provide an agent of the FPPI with a power of attorney or written authorization.

Note to § 30.3: The EAR defines the “exporter” as the person in the United States who has the authority of a principal party in interest to determine and control the sending of items out of the United States (see 15 CFR 772 of the EAR). For statistical purposes “exporter” is not defined in the FTR. Instead, however, the USPPI is defined in the FTR.

For purposes of licensing responsibility under the EAR, the U.S. agent of the FPPI may be the “exporter” or applicant on the license in certain routed export transactions (see 15 CFR 758.3 of the EAR). Therefore, due to the differences in export reporting requirements among Federal agencies, conformity of documentation is not required in the FTR.

§ 30.4 Electronic Export Information filing procedures, deadlines, and certification statements.

Two electronic filing options (predeparture and postdeparture) for transmitting EEI are available to the USPPI or authorized agent. The electronic postdeparture filing takes into account that complete information concerning export shipments may not always be available prior to exportation and accommodates these circumstances by providing, when authorized, for filing of EEI after departure. For example, for exports of seasonal and agricultural commodities, only estimated quantities, values, and consignees may be known prior to exportation. The procedures for obtaining certification as an AES filer and for applying for authorization to file

on a postdeparture basis are described in § 30.5.

(a) *EEI transmitted predeparture.* The EEI shall always be transmitted prior to departure for the following types of shipments:

- (1) Used self-propelled vehicles as defined in 19 CFR 192.1 of U.S. Customs and Border Protection regulations.
- (2) Essential and precursor chemicals requiring a permit from the DEA;
- (3) Shipments defined as “sensitive” by Executive Order;
- (4) Shipments where a U.S. government agency requires predeparture filing;
- (5) Shipments defined as “routed export transactions” (see § 30.3(e));
- (6) Shipments to countries where complete outbound manifests are required prior to clearing vessels or aircraft for export (see U.S. Customs and Border Protection regulations 19 CFR 4.75(c) and 122.74(b)(2) for a listing of these countries);
- (7) Items identified on the USML of the ITAR (22 CFR 121);
- (8) Exports that require a license from the BIS, unless the BIS has approved postdeparture filing privileges for the USPPI;
- (9) Shipments of rough diamonds classified under HS subheadings 7102.10, 7102.21, and 7102.31 and exported (reexported) in accordance with the Kimberley Process; and
- (10) Shipments for which the USPPI has not been approved for postdeparture filing.

(b) *Filing deadlines for EEI transmitted predeparture.* The USPPI or the authorized agent shall file the required EEI and have received the AES ITN no later than the time period specified as follows:

(1) For USML shipments, refer to the ITAR (22 CFR 120 through 130) for specific requirements concerning predeparture filing time frames. In addition, if a filer is unable to acquire an ITN because the AES is not operating, the filer shall not export until the AES is operating and an ITN is acquired.

(2) For non-USML shipments, file the EEI and provide the ITN as follows:

(i) For vessel cargo, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier twenty-four hours prior to loading cargo on the vessel at the U.S. port where the cargo is laden.

(ii) For air cargo, including cargo being transported by Air Express Couriers, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or

exemption legend to the exporting carrier no later than two (2) hours prior to the scheduled departure time of the aircraft.

(iii) For truck cargo, including cargo departing by Express Consignment Couriers, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than one (1) hour prior to the arrival of the truck at the United States border to go foreign.

(iv) For rail cargo, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two (2) hours prior to the time the train arrives at the U.S. border to go foreign.

(v) For mail and cargo shipped by other methods, except pipeline, the USPPI or the authorized agent shall file the EEI required by § 30.6 and provide the filing citation or exemption legend to the exporting carrier no later than two (2) hours prior to exportation. (See § 30.46 for filing deadlines for shipments sent by pipeline.)

(vi) For all other modes, the USPPI or the authorized agent shall file the required EEI no later than two (2) hours prior to exportation.

(3) For non-USML shipments when the AES is unavailable, use the following instructions:

(i) If the participant's AES is unavailable, the filer must delay the export of the goods or find an alternative filing method;

(ii) If AES or AESDirect is unavailable, the goods may be exported and the filer must:

(A) Provide the appropriate downtime filing citation as described in § 30.7(b) and Appendix D; and

(B) Report the EEI at the first opportunity AES is available.

(c) *EEI transmitted postdeparture.* Postdeparture filing is only available for approved USPPIs and provides for the electronic filing of the data elements required by § 30.6 no later than ten calendar days from the date of exportation. For USPPIs approved for postdeparture filing, all shipments (other than those for which predeparture filing is specifically required), by all methods of transportation, may be exported with the filing of EEI made postdeparture. Certified AES authorized agents or service centers may transmit information postdeparture on behalf of USPPIs approved for postdeparture filing, or the approved USPPI may transmit the data postdeparture itself. However, authorized agents or service

centers will not be approved for postdeparture filing.

(d) *Proof of filing citation and exemption and exclusion legends.* The USPPI or the authorized agent shall provide the exporting carrier with the proof of filing citation and exemption and exclusion legends as described in § 30.7.

§ 30.5 Electronic Export Information filing application and certification processes and standards.

Prior to filing EEI, the USPPI or the authorized agent must be certified to file through the AES. A service center shall be certified to transmit electronically to the AES. The USPPI, authorized agent, or service center may use a software package designed by a certified vendor to file EEI through the AES. Once an authorized agent has successfully completed the certification process, any USPPI using that agent does not have to be certified. The certified authorized agent shall have a properly executed power of attorney or written authorization from the USPPI or FPPI, and be physically located in the United States to file EEI through the AES. The USPPI or authorized agent that utilizes a certified software vendor or service center shall complete certification testing. Service centers may only transmit export information; they may not prepare and file export information unless they have authorization from the USPPI in the form of a power of attorney or written authorization, thus making them authorized agents. The USPPI seeking approval for postdeparture filing privileges shall be approved before they or their authorized agent may file on a postdeparture basis.

(a) *AES application process*—(1) *AES Participation Application.* The USPPI or authorized agent who chooses to file through the AES and seek approval for postdeparture filing privileges, must submit a complete on-line LOI at <http://www.census.gov/aes>.

(2) *AESDirect registration.* The USPPI or authorized agent who chooses to file through AESDirect shall also complete the online AESDirect registration form at <http://www.aesdirect.gov>. After submitting the registration, an AESDirect filing account is created for the filing company. The person designated as the account administrator is responsible for activating the account and completing the certification process as discussed in paragraph (b)(2) of this section.

(b) *Certification process*—(1) *AES certification process.* The USPPI or authorized agent shall perform an initial two-part communication test to ascertain whether its system is capable

of both transmitting data to, and receiving data from, the AES. The USPPI or authorized agent shall demonstrate specific system application capabilities. The capability to correctly handle these system applications is the prerequisite to certification for participation in the AES. The USPPI or authorized agent shall successfully transmit the AES certification test. CBP's and/or Census Bureau's client representatives provide assistance during certification testing. These representatives make the sole determination as to whether or not the USPPI or authorized agent qualifies for certification. Upon successful completion of certification testing, the USPPI's or authorized agent's status is moved from testing mode to operational status. The AES filers may be required to repeat the certification testing process at any time. The Census Bureau will provide the AES filer with a certification notice after the USPPI or authorized agent has been approved for operational status. The certification notice will include:

(i) The date that filers may begin transmitting data;

(ii) Reporting instructions; and

(iii) Examples of the required AES proof of filing citations, postdeparture filing citations, AES downtime filing citation, and exemption legends.

(2) *AESDirect certification process.* To become certified for AESDirect, filers shall demonstrate knowledge of this part and the ability to successfully transmit EEI. Upon successful completion of the certification testing, notification by e-mail will be sent to the account administrator when an account is fully activated for filing via AESDirect. Certified filers should print and retain the page congratulating the filer on passing the test.

(c) *Postdeparture filing approval process.* The USPPI may apply for postdeparture filing privileges by submitting a postdeparture filing application at <http://www.census.gov/aes>. An authorized agent may not apply on behalf of a USPPI. The Census Bureau will distribute the LOI to CBP and the other federal government partnership agencies participating in the AES postdeparture filing review process. Failure to meet the standards of the Census Bureau, CBP or any of the partnership agencies is reason for denial of the AES applicant for postdeparture filing privileges. Each partnership agency will develop its own internal postdeparture filing acceptance standards, and each agency will notify the Census Bureau of the USPPI's success or failure to meet that agency's

acceptance standards. Any partnership agency may require additional information from USPPIs that are applying for postdeparture filing. The Census Bureau will notify the USPPI of the decision to either deny or approve their application for postdeparture filing privileges within thirty (30) calendar days of receipt of the postdeparture filing application by the Census Bureau, or if a decision cannot be reached at that time, the USPPI will be notified of an extension for a final decision as soon as possible after the thirty (30) calendar days.

(1) *Grounds for denial of postdeparture filing status.* The Census Bureau may deny a USPPI's application for postdeparture filing privileges for any of the following reasons:

(i) There is no history of filing for the USPPI through the AES.

(ii) The USPPI's volume of EEI reported through the AES does not warrant participation in postdeparture filing.

(iii) The USPPI or its authorized agent has failed to submit EEI through the AES in a timely and accurate manner.

(iv) The USPPI has a history of noncompliance with the Census Bureau export regulations contained in this part.

(v) The USPPI has been indicted, convicted, or is currently under investigation for a felony involving a violation of federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the USPPI is in violation of Census Bureau export regulations contained in this part.

(vi) The USPPI has made or caused to be made in the LOI a false or misleading statement or omission with respect to any material fact.

(vii) The USPPI would pose a significant threat to national security interests such that its participation in postdeparture filing should be denied.

(viii) The USPPI has multiple violations of either the EAR (15 CFR 730 through 774) or the ITAR (22 CFR 120 through 130) within the last three (3) years.

(2) *Notice of denial.* A USPPI denied postdeparture filing privileges by other agencies shall contact those agencies regarding the specific reason(s) for nonselection and for their appeal procedures. A USPPI denied postdeparture filing status by the Census Bureau will be provided with a specific reason for nonselection and a Census Bureau point of contact in an electronic notification letter. A USPPI may appeal the Census Bureau's nonselection decision by following the appeal procedure and reapplication

procedure provided in paragraph (c)(5) of this section.

(3) *Revocation of postdeparture filing privileges—(i) Revocation by the Census Bureau.* The Census Bureau may revoke postdeparture filing privileges of an approved USPPI for the following reasons:

(A) The USPPI's volume of EEI reported in the AES does not warrant continued participation in postdeparture filing;

(B) The USPPI or its authorized agent has failed to submit EEI through the AES in a timely and accurate manner;

(C) The USPPI has made or caused to be made in the LOI a false or misleading statement or omission with respect to material fact;

(D) The USPPI submitting the LOI has been indicted, convicted, or is currently under investigation for a felony involving a violation of federal export laws or regulations and the Census Bureau has evidence of probable cause supporting such violation, or the AES applicant is in violation of export rules and regulations contained in this part;

(E) The USPPI has failed to comply with existing export regulations or has failed to pay any outstanding penalties assessed in connection with such noncompliance; or

(F) The USPPI would pose a significant threat to national security interests such that its continued participation in postdeparture filing should be terminated.

(ii) *Revocation by other agencies.* Any of the other agencies may revoke a USPPI's postdeparture filing privileges with respect to transactions subject to the jurisdiction of that agency. When doing so, the agency shall notify both the Census Bureau and the USPPI whose authorization is being revoked.

(4) *Notice of revocation.* Approved postdeparture filing USPPIs whose postdeparture filing privileges have been revoked by other agencies shall contact those agencies for their specific revocation and appeal procedures. When the Census Bureau makes a determination to revoke an approved USPPI's postdeparture filing privileges, the USPPI will be notified electronically of the reason(s) for the decision. In most cases, the revocation shall become effective when the USPPI has either exhausted all appeal procedures, or thirty (30) calendar days after receipt of the notice of revocation, if no appeal is filed. However, in cases judged to affect national security, revocations shall become effective immediately upon notification.

(5) *Appeal procedure.* Any USPPI whose request for postdeparture filing privileges has been denied by the

Census Bureau or whose postdeparture filing privileges have been revoked by the Census Bureau may appeal the decision by filing an appeal within thirty (30) calendar days of receipt of the notice of decision. Appeals should be addressed to the Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233-6700. The Census Bureau will issue a written decision to the USPPI within thirty (30) calendar days from the date of receipt of the appeal by the Census Bureau. If a written decision is not issued within thirty (30) calendar days, the Census Bureau will forward to the USPPI a notice of extension within that time period. The USPPI will be provided with the reasons for the extension of this time period and an expected date of decision. The USPPIs who have had their postdeparture filing status denied or revoked may not reapply for this privilege for one year following written notification of the denial or revocation.

(d) *Electronic Export Information filing standards.* The data elements required for filing EEI are contained in § 30.6. When filing EEI, the USPPI or authorized agent shall comply with the data transmission procedures determined by CBP and the Census Bureau and shall agree to stay in complete compliance with all export rules and regulations in this part. Failure of the USPPI or the authorized agent of either the USPPI or FPPI to comply with these requirements constitutes a violation of the regulations in this part, and renders such principal party or the authorized agent subject to the penalties provided for in Subpart H of this part. 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 export rules and regulations. This includes complying with the following security requirements:

(1) *AESDirect* user names, administrator codes, and passwords are to be kept secure by the account administrator and not disclosed to any unauthorized user or any persons outside the registered company.

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

(3) Antivirus software shall 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, but not less than every thirty (30) days, to ensure the elimination of any virus contamination. If the registered company's computer system is infected with a virus, the company shall contact the Census Bureau's Foreign Trade Division Computer Security Officer and 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.

(e) *Monitoring the filing of EEI*. The USPPI's or the authorized agent's AES filings will be monitored and reviewed for quality, timeliness, and coverage. The Census Bureau will provide performance reports to USPPIs and authorized agents who file EEI. The Census Bureau will take appropriate action to correct specific situations where the USPPI or authorized agent fails to maintain acceptable levels of data quality, timeliness, or coverage.

(f) *Support*. The Census Bureau provides online services that allow the USPPI and the authorized agent to seek assistance pertaining to AES and this part. For AES assistance, filers may send an e-mail to ASKAES@census.gov and for FTR assistance, filers may send an e-mail to FTDREGS@census.gov. *AESDirect* is supported by a help desk available twelve (12) hours a day from 7 a.m. to 7 p.m. EST, seven (7) days a week. Filers can obtain contact information from the Web site <http://www.aesdirect.gov>.

§ 30.6 Electronic Export Information data elements.

The information specified in this section is required for shipments transmitted to the AES. The data elements identified as "mandatory" shall be reported for each transaction. The data elements identified as "conditional" shall be reported if they are required for or apply to the specific shipment. The data elements identified as "optional" may be reported at the discretion of the USPPI or the authorized agent.

(a) *Mandatory data elements are as follows*:

(1) *USPPI and USPPI identification*. The name, address, identification, and contact information of the USPPI shall be reported to the AES as follows:

(i) *Name of the USPPI*. In all export transactions, the name listed in the USPPI field in the EEI shall be the USPPI in the transaction. (See § 30.1 for the definition of the USPPI and § 30.3 for details on the USPPI's reporting responsibilities.)

(ii) *Address of the USPPI*. In all EEI filings, the USPPI shall report the address or location (no post office box number) from which the goods actually begin the journey to the port of export. For example, the EEI covering goods 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. For shipments with multiple origins, report the address from which the commodity with the greatest value begins its export journey. If such information is not known, report the address in state in which the commodities are consolidated for export.

(iii) *USPPI identification number*. The USPPI's EIN or SSN. The USPPI shall report its own IRS EIN in the USPPI field of the EEI. If the USPPI has only one EIN report that EIN. If the USPPI has more than one EIN, report an EIN that the USPPI also uses to report employee wages and withholdings, not an EIN used to report only company earnings or receipts. If, and only if, no IRS EIN has been assigned to the USPPI, the USPPI's own SSN shall be reported to the AES. Use of another company's EIN or another individual's SSN is prohibited. The appropriate Party Type code shall be reported through the AES. When a foreign entity is in the United States when the items are purchased or obtained for export, the foreign entity is the USPPI for filing purposes. In such situations, when the foreign entity does not have an EIN or SSN, it shall report in the EEI a DUNS number, border crossing number, passport number, or any number assigned by CBP.

(iv) *Contact information*. Show contact name and telephone number.

(2) *Date of export*. The date of export is the date when goods are scheduled to leave the port of export on the exporting carrier that is taking the goods out of the United States.

(3) *Ultimate consignee*. The ultimate consignee is the person, party, or designee that is located abroad and actually receives the export shipment. The name and address of the ultimate consignee, whether by sale in the

United States or abroad or by consignment, shall be reported in the EEI. The ultimate consignee as known at the time of export shall be reported. For shipments requiring an export license, the ultimate consignee shall be the person so designated on the export license or authorized to be the ultimate consignee under the applicable license exemption in conformance with the EAR or ITAR, as applicable. For goods sold en route, report the appropriate "To be Sold En Route" indicator in the EEI, and report corrected information as soon as it is known (see § 30.9 for procedures on correcting AES information).

(4) *U.S. state of origin*. The U.S. state of origin is the 2-character postal code for the state in which the goods begin their journey to the port of export. For example, a shipment covering goods 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 Georgia as the state of origin. The U.S. state of origin may be different from the U.S. state where the goods were produced, mined, or grown. For shipments of multi-state origin, reported as a single shipment, report the U.S. state of the commodity with the greatest value. If such information is not known, report the state in which the commodities are consolidated for export.

(5) *Country of ultimate destination*. The country of ultimate destination is the country in which the goods are to be consumed or further processed or manufactured. The country of ultimate destination is the code issued by the ISO.

(i) *Shipments under an export license or license exemption*. For shipments under an export license or license exemption issued by the Department of State, DDTC, or the Department of Commerce, BIS, the country of ultimate destination shall conform to the country of ultimate destination as shown on the license. In the case of a Department of State license, the country of ultimate destination is the country specified with respect to the end user. For goods licensed by other government agencies refer to their specific requirements concerning providing country of destination information.

(ii) *Shipments not moving under an export license*. The country of ultimate destination is the country known to the USPPI at the time of exportation. The country to which the goods are being shipped is not the country of ultimate destination if the USPPI has knowledge at the time the goods leave the United States that they are intended for reexport or transshipment in their

present form to another known country. For goods shipped to Canada, Mexico, Panama, Hong Kong, Belgium, United Arab Emirates, The Netherlands, or Singapore, for example, special care should be exercised before reporting these countries as the ultimate destination, since these are countries through which goods from the United States are frequently transshipped. If the USPPI does not know the ultimate destination of the goods, the country of destination to be shown is the last country, as known to the USPPI at the time of shipment from the United States, to which the goods are to be shipped in their present form. (For instructions as to the reporting of country of destination for vessels sold or transferred from the United States to foreign ownership, see § 30.26.)

(iii) For goods to be sold en route, report the country of the first port of call and then report corrected information as soon as it is known.

(6) *Method of transportation.* The method of transportation is the means by which the goods are exported from the United States.

(i) *Conveyances exported under their own power.* The mode of transportation for aircraft, vessels, or locomotives (railroad stock) transferring ownership or title and moving out of the United States under its own power is the mode of transportation by which the conveyance moves out of the United States.

(ii) *Exports through Canada, Mexico, or other foreign countries for transshipment to another destination.* For transshipments through Canada, Mexico, or another foreign country, the mode of transportation is the mode of the carrier transporting the goods out of the United States.

(7) *Conveyance name/carrier name.* The conveyance name/carrier name is the name of the conveyance/carrier transporting the goods out of the United States as known at the time of exportation. For exports by sea, the conveyance name is the vessel name. For exports by air, rail, or truck, the carrier name is that which corresponds to the carrier identification as specified in paragraph (a)(8) of this section. Terms, such as airplane, train, rail, truck, vessel, barge, or international footbridge are not acceptable. For shipments by other methods of transportation, including mail, fixed methods (pipeline), the conveyance/carrier name is not required.

(8) *Carrier identification.* The carrier identification specifies the carrier that transports the goods out of the United States. The carrier transporting the goods to the port of export and the

carrier transporting the goods out of the United States may be different. For transshipments through Canada, Mexico, or another foreign country, the carrier identification is that of the carrier that transports the goods out of the United States. The carrier identification is the Standard Carrier Alpha Code (SCAC) for vessel, rail, and truck shipments or the International Air Transport Association (IATA) code for air shipments. For other valid method of transportation, including mail, fixed modes (pipeline), and passenger, hand carried the carrier identification is not required. The National Motor Freight Traffic Association (NMFTA) issues and maintains the SCAC. (See <http://www.nmfta.org>.) The IATA issues and maintains the IATA codes. (See <http://www.census.gov/trade> for a list of IATA codes.)

(9) *Port of export.* The port of export is the seaport or airport where the goods are loaded on the exporting carrier that is taking the goods out of the United States, or the port where exports by overland transportation cross the U.S. border into a foreign country. The port of export shall be reported in terms of Schedule D, "Classification of CBP Districts and Ports." Use port code 8000 for shipments by mail.

(i) *Vessel and air exports involving several ports of exportation.* For goods loaded aboard a carrier in a port of lading, where the carrier stops at several ports before clearing to the foreign country, the port of export is the first port where the goods were loaded on the exporting carrier. For goods off-loaded from the original conveyance to another conveyance (even if the aircraft or vessel belongs to the same carrier) at any of the ports, the port where the goods were loaded on the last conveyance before going foreign is the port of export.

(ii) *Exports through Canada, Mexico, or other foreign countries for transshipment to another destination.* For transshipments through Canada, Mexico, or another foreign country to a third country, the port of export is the location where the goods are loaded on the carrier that is taking the goods out of the United States.

(10) *Related party indicator.* Used to indicate when a transaction involving trade between a USPPI and an ultimate consignee where either party owns directly or indirectly 10 percent or more of the other party.

(11) *Domestic or foreign indicator.* Indicates if the goods exported are of domestic or foreign origin. Report foreign goods separately from goods of domestic production even if the

commodity classification number is the same.

(i) *Domestic.* Exports of domestic goods include: Those commodities that are grown, produced, or manufactured (including commodities incorporating foreign components) in the United States, including goods exported from U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands; and those articles of foreign origin that have been enhanced in value or changed from the form in which they were originally imported by further manufacture or processing in the United States, including goods exported from U.S. FTZs, Puerto Rico, or the U.S. Virgin Islands.

(ii) *Foreign.* Exports of foreign goods include those commodities that are grown, produced, or manufactured in foreign countries that entered the United States including goods admitted to U.S. FTZs as imports and that, at the time of exportation, have undergone no change in form or condition or enhancement in value by further manufacture in the United States, in U.S. FTZs, in Puerto Rico, or in the U.S. Virgin Islands.

(12) *Commodity classification number.* Report the 10-digit commodity classification number as provided in Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States* in the EEI. The 10-digit commodity classification number provided in the Harmonized Tariff Schedule of the United States (HTSUSA) may be reported in lieu of the Schedule B commodity classification number except as noted in the headnotes of the HTSUSA. The HTSUSA is a global classification system used to describe most world trade in goods. Furnishing the correct Schedule B or HTSUSA number does not relieve the USPPI or the authorized agent of furnishing a complete and accurate commodity description. When reporting the Schedule B number or HTSUSA number, the decimals shall be omitted. (See <http://www.census.gov/trade> for a list of Schedule B classification numbers.)

(13) *Commodity description.* Report the description of the goods shipped in English in sufficient detail to permit verification of the Schedule B or HTSUSA number. Clearly and fully state the name of the commodity in terms that can be identified or associated with the language used in Schedule B or HTSUSA (usually the commercial name of the commodity), and any and all characteristics of the commodity that distinguish it from commodities of the same name covered by other Schedule B or HTSUSA

classifications. If the shipment requires a license, the description reported in the EEI shall conform with that shown on the license. If the shipment qualifies for a license exemption, the description shall be sufficient to ensure compliance with that license exemption. However, where the description on the license does not state all of the characteristics of the commodity that are needed to completely verify the commodity classification number, as described in this paragraph, report the missing characteristics, as well as the description shown on the license, in the commodity description field of the EEI.

(14) *Primary unit of measure.* The unit of measure shall correspond to the primary quantity as prescribed in the Schedule B or HTSUSA. If neither Schedule B nor HTSUSA specifies a unit of measure for the item, an "X" is required in the unit of measure field.

(15) *Primary quantity.* The quantity is the total number of units that correspond to the first unit of measure specified in the Schedule B or HTSUSA. Where the unit of measure is in terms of weight (grams, kilograms, metric tons, etc.), the quantity reflects the net weight, not including the weight of barrels, boxes, or other bulky coverings, and not including salt or pickle in the case of salted or pickled fish or meats. For a few commodities where "content grams" or "content kilograms" or some similar weight unit is specified in Schedule B or HTSUSA, the quantity may be less than the net weight. The quantity is reported as a whole unit only, without commas or decimals. If the quantity contains a fraction of a whole unit, round fractions of one-half unit or more up and fractions of less than one-half unit down to the nearest whole unit. (For example, where the unit for a given commodity is in terms of "tons," a net quantity of 8.4 tons would be reported as 8 for the quantity. If the quantity is less than one unit, the quantity is 1.)

(16) *Shipping weight.* The shipping weight is the weight in kilograms, which includes the weight of the commodity, as well as the weight of normal packaging, such as boxes, crates, barrels, etc. The shipping weight is required for exports by air, vessel, rail, and truck, and required for exports of household goods transported by all methods. For exports (except household goods) by mail, fixed transport (pipeline), or other valid methods, the shipping weight is not required and shall be reported as zero. For containerized cargo in lift vans, cargo vans, or similar substantial outer containers, the weight of such containers is not included in the

shipping weight. If the shipping weight is not available for each Schedule B or HTSUSA item included in one or more containers, the approximate shipping weight for each item is estimated and reported. The total of these estimated weights equals the actual shipping weight of the entire container or containers.

(17) *Value.* In general, the value to be reported in the EEI shall be the value of the goods at the U.S. port of export. The value shall be the selling price as defined in this paragraph (or the cost if the goods are not sold), including inland or domestic freight, insurance, and other charges to the U.S. seaport, airport, or land border port of export. Cost of goods is the sum of expenses incurred in the USPPI acquisition or production of the goods. Report the value to the nearest dollar; omit cents. Fractions of a dollar less than 50 cents should be ignored, and fractions of 50 cents or more should be rounded up to the next dollar.

(i) *Selling price.* The selling price for goods exported pursuant to sale, and the value to be reported in the EEI, is the USPPI's price to the FPPI (the foreign buyer). Deduct from the selling price any unconditional discounts, but do not deduct discounts that are conditional upon a particular act or performance on the part of the foreign buyer. For goods shipped on consignment without a sale actually having been made at the time of export, the selling price to be reported in the EEI is the market value at the time of export at the U.S. port.

(ii) *Adjustments.* When necessary, make the following adjustments to obtain the value.

(A) Where goods are sold at a point other than the port of export, freight, insurance, and other charges required in moving the goods from their U.S. point of origin to the exporting carrier at the port of export or border crossing point shall be added to the selling price (as defined in paragraph (a)(17)(i) of this section) for purposes of reporting the value in the EEI.

(B) Where the actual amount of freight, insurance, and other domestic costs is not available, an estimate of the domestic costs shall be made and added to the cost of the goods or selling price to derive the value to be reported in the EEI. Add the estimated domestic costs to the cost or selling price of the goods to obtain the value to be reported in the EEI.

(C) Where goods are sold at a "delivered" price to the foreign destination, the cost of loading the goods on the exporting carrier, if any, and freight, insurance, and other costs beyond the port of export shall be subtracted from the selling price for

purposes of reporting value in the EEI. If the actual amount of such costs is not available, an estimate of the costs should be subtracted from the selling price.

(D) Costs added to or subtracted from the selling price in accordance with the instructions in this paragraph (a)(17)(ii) should not be shown separately in the EEI, but the value reported should be the value after making such adjustments, where required, to arrive at the value of the goods at the U.S. port of export.

(iii) *Exclusions.* Exclude the following from the selling price of goods exported.

(A) Commissions to be paid by the USPPI to its agent abroad or commissions to be deducted from the selling price by the USPPI's agent abroad.

(B) The cost of loading goods on the exporting carrier at the port of export.

(C) Freight, insurance, and any other charges or transportation costs beyond the port of export.

(D) Any duties, taxes, or other assessments imposed by foreign countries.

(iv) For definitions of the value to be reported in the EEI for special types of transactions where goods are not being exported pursuant to commercial sales, or where subsidies, government financing or participation, or other unusual conditions are involved, see Subpart C of this part.

(18) *Export information code.* A code that identifies the type of export shipment or condition of the exported items (e.g., goods donated for relief or charity, impelled shipments, shipments under the Foreign Military Sales program, household goods, and all other shipments). (For the list of the codes see Appendix B.)

(19) *Shipment reference number.* A unique identification number assigned by the filer that allows for the identification of the shipment in the filer's system. The number must be unique for five years.

(20) *Line number.* A number that identifies the specific commodity line item within a shipment.

(21) *Hazardous material indicator.* An indicator that identifies whether the shipment is hazardous as defined by the Department of Transportation.

(22) *Inbond code.* The code indicating whether the shipment is being transported under bond.

(23) *License code/license exemption code.* The code that identifies the commodity as having a federal government agency requirement for a license, permit, license exception or exemption or that no license is required.

(24) *Routed export transaction indicator.* An indicator that identifies that the shipment is a routed export transaction as defined in § 30.3.

(25) *Shipment filing action request indicator.* An indicator that allows the filer to add, change, replace, or cancel an export shipment transaction.

(26) *Line item filing action request indicator.* An indicator that allows the filer to add, change, or delete a commodity line within an export shipment transaction.

(27) *Filing option indicator.* An indicator of whether the filer is reporting export information predeparture or postdeparture. See § 30.4 for more information on EEI filing options.

(b) *Conditional data elements are as follows:*

(1) *Authorized agent and authorized agent identification.* If an authorized agent is used to prepare and file the EEI, the following information shall be provided to the AES.

(i) *Authorized agent's identification number.* Report the authorized agent's own EIN, SSN, or DUNS in the EEI for the first shipment and for each subsequent shipment. Use of another company's or individual's EIN or other identification number is prohibited. The party ID type (E=EIN, S=SSN, etc.) shall be identified.

(ii) *Name of the authorized agent.* Report the name of the authorized agent. The authorized agent is that person or entity in the United States that is authorized by the USPPPI or the FPPI to prepare and file the EEI or the person or entity, if any, named on the export license. (See § 30.3 for details on the specific reporting responsibilities of authorized agents and Subpart B of this part for export control licensing requirements for authorized agents.)

(iii) *Address of the authorized agent.* Report the address or location (no post office box number) of the authorized agent. The authorized agent's address shall be reported with the initial shipment. Subsequent shipments may be identified by the agent's identification number.

(iv) *Contact information.* Report the contact name and telephone number.

(2) *Intermediate consignee.* The name and address of the intermediate consignee (if any) shall be reported. The intermediate consignee acts in a foreign country as an agent for the principal party in interest or the ultimate consignee for the purpose of effecting delivery of the export shipment to the ultimate consignee. The intermediate consignee is the person named as such on the export license or authorized to

act as such under the applicable general license and in conformity with the EAR.

(3) *FTZ identifier.* If goods are removed from the FTZ and not entered for consumption, report the FTZ identifier. This is the unique identifier assigned by the Foreign Trade Zone Board that identifies the FTZ, subzone or site from which goods are withdrawn for export.

(4) *Foreign port of unloading.* The foreign port of unloading is the foreign port in the country where the goods are removed from the exporting carrier. The foreign port does not have to be located in the country of destination. For exports by sea to foreign countries, not including Puerto Rico, the foreign port of unloading is the code in terms of Schedule K, *Classification of Foreign Ports by Geographic Trade Area and Country.* For exports by sea or air between the United States and Puerto Rico, the foreign port of unloading is the code in terms of Schedule D, *Classification of CBP Districts and Ports.* The foreign port of unloading is not required for exports by other modes of transportation, including rail, truck, mail, fixed (pipeline), or air (unless between the U.S. and Puerto Rico).

(5) *Export license number/CFR citation/KPC number.* License number, permit number, citation, or authorization number assigned by the Department of Commerce, BIS; Department of State, DDTC; Department of the Treasury, OFAC; Department of Justice, DEA; Nuclear Regulatory Commission; or any other federal government agency.

(6) *Export Control Classification Number (ECCN).* The number used to identify items on the CCL, Supplement No. 1 to Part 774 of the EAR. The ECCN consists of a set of digits and a letter. Items that are not classified under an ECCN are designated "EAR99".

(7) *Secondary unit of measure.* The unit of measure that corresponds to the secondary quantity as prescribed in the Schedule B or HTSUSA. If neither Schedule B nor HTSUSA specifies a secondary unit of measure for the item, the unit of measure is not required.

(8) *Secondary quantity.* The total number of units that correspond to the secondary unit of measure, if any, specified in the Schedule B or HTSUSA. See the definition of primary quantity for specific instructions on reporting the quantity as a weight and whole unit, rounding fractions.

(9) *Vehicle Identification Number (VIN)/Product ID.* The identification number found on the reported used vehicle. For used self-propelled vehicles that do not have a VIN, the Product ID is reported. "Used" vehicle refers to any

self-propelled vehicle where the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser. See U.S. Customs and Border Protection regulations 19 CFR 192.1 for more information on exports of used vehicles.

(10) *Vehicle ID qualifier.* The qualifier that identifies the type of used vehicle number reported. The valid codes are V for VIN and P for Product ID.

(11) *Vehicle title number.* The number issued by the Motor Vehicle Administration.

(12) *Vehicle title state code.* The 2-character postal code for the state or territory that issued the vehicle title.

(13) *Entry number.* The entry number must be reported for goods that are entered in lieu of being transported under bond for which the importer of record is a foreign entity or, for reexports of goods withdrawn from a FTZ for which a NAFTA deferred duty claim (entry type 08) could have been made, but that the importer elected to enter for consumption under CBP entry type 06. For goods imported into the United States for export to a third country of ultimate destination, where the importer of record on the entry is a foreign entity, the USPPPI will be the authorized agent designated by the foreign importer for service of process. The USPPPI, in this circumstance, is required to report the import entry number.

(14) *Transportation reference number (TRN).* The TRN is as follows:

(i) *Vessel shipments.* Report the booking number for vessel shipments. The booking number is the reservation number assigned by the carrier to hold space on the vessel for cargo being exported. The TRN is required for all vessel shipments.

(ii) *Air shipments.* Report the master air waybill number for air shipments. The air waybill number is the reservation number assigned by the carrier to hold space on the aircraft for cargo being exported. The TRN is optional for air shipments.

(iii) *Rail shipments.* Report the bill of lading (BL) number for rail shipments. The BL number is the reservation number assigned by the carrier to hold space on the rail car for cargo being exported. The TRN is optional for rail shipments.

(iv) *Truck shipments.* Report the freight or pro bill number for 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 multimodal shipments. The TRN is optional for truck shipments.

(15) *Department of State Requirements.*

(i) *DDTC registration number.* The number assigned by the DDTC to persons who are required to register per Part 122 of the ITAR (22 CFR 120 through 130), and have an authorization (license or exemption) from DDTC to export the article.

(ii) *DDTC Significant Military Equipment (SME) indicator.* A term used to designate articles on the USML (22 CFR 121) 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 120 through 130 for a definition of SME and § 121.1 for items designated as SME articles.

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

(iv) *DDTC USML category code.* The USML category of the article being exported (22 CFR 121).

(v) *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.

(vi) *DDTC quantity.* This quantity is for the article being shipped. The quantity is the total number of units that corresponds to the DDTC UOM code.

(vii) *DDTC exemption number.* The exemption number is the specific citation from the ITAR (22 CFR 120 through 130) that exempts the shipment from the requirements for a license or other written authorization from DDTC.

(viii) *DDTC export license line number.* The line number of the State Department export license that corresponds to the article being exported.

(16) *Kimberley Process Certificate (KPC) number.* The unique identifying number on the KPC issued by the United States KPC authority that must accompany any export shipment of rough diamonds. Rough diamonds are classified under 6-digit HS subheadings 7102.10, 7102.21, and 7102.31. Enter the KPC number in the license number field excluding the 2-digit U.S. ISO country code.

(c) *Optional data elements:*

(1) *Seal number.* The security seal number placed on the equipment or container.

(2) *Equipment number.* Report the identification number for the shipping equipment, such as container or igloo

number (Unit Load Device (ULD)), truck license number, or rail car number.

§ 30.7 Annotating the bill of lading, air waybill, or other commercial loading documents with proof of filing citations, and exemption legends.

(a) Items identified on the USML shall meet the predeparture reporting requirements identified in the ITAR (22 CFR 120 through 130) for the U.S. State Department requirements concerning the time and place of filing. For USML shipments, the proof of filing citations shall include the statement in "AES," followed by the returned confirmation number provided by the AES when the transmission is accepted, referred to as the ITN.

(b) For shipments other than USML, the USPPPI or the authorized agent is responsible for annotating the proper proof of filing citation or exemption legend on the first page of the bill of lading, air waybill, export shipping instructions or other commercial loading documents. The USPPPI or the authorized agent must provide the proof of filing citation or exemption legend to the exporting carrier. The carrier must annotate the proof of filing citation, exemption or exclusion legends on the carrier's outbound manifest when required. The carrier is responsible for presenting the appropriate proof of filing citation or exemption legend to CBP Port Director at the port of export as stated in Subpart E of this part. Such presentation shall be without material change or amendment of the proof of filing citation, postdeparture filing citation, AES downtime filing citation, or exemption legend as provided to the carrier by the USPPPI or the authorized agent. The proof of filing citation will identify that the export information has been accepted as transmitted. The postdeparture filing citation, AES downtime filing citation, or exemption legend will identify that no filing is required prior to export. The proof of filing citations, postdeparture filing citations, or exemption legends shall appear on the bill of lading, air waybill or other commercial loading documentation and shall be clearly visible. The AES filing citation, exemption or exclusion legends are provided for in Appendix D. The exporting carrier shall annotate the manifest or other carrier documentation with the AES filing citations, exemption or exclusions legends.

(c) Exports of rough diamonds classified under HS subheadings 7102.10, 7102.21, and 7102.31, in accordance with the Clean Diamond Trade Act, will require the proof of filing citation, as stated in paragraph (b)

of this section, and report the proof of filing citation on the KPC.

§ 30.8 Time and place for presenting proof of filing citations, and exemption and exclusions legends.

The following conditions govern the time and place to present proof of filing citations, postdeparture filing citations, AES downtime filing citation, exemption or exclusion legends. The USPPPI or the authorized agent is required to deliver the proof of filing citations, postdeparture filing citations, AES downtime filing citation, exemption or exclusion legends required in § 30.4(e) to the exporting carrier. See Appendix D of this part for the properly formatted proof of filing citations, exemption or exclusion legends. Failure of the USPPPI or the authorized agent of either the USPPPI or FPPI to comply with these requirements constitutes a violation of the regulations in this part and renders such principal party or the authorized agent subject to the penalties provided for in Subpart H of this part.

(a) *Postal exports.* The proof of filing citations, postdeparture filing citations, AES downtime filing citation, and/or exemption and exclusions legends for items being sent by mail, as required in § 30.2, shall be presented to the postmaster with the packages at the time of mailing. The postmaster is required to deliver the proof of filing citations and/or exemption legends prior to export.

(b) *Pipeline exports.* The proof of filing citations or exemption and exclusion legends for items being sent by pipeline shall be presented to the operator of a pipeline no later than four calendar days after the close of the month.

(c) *Exports by other methods of transportation.* For exports sent other than by mail or pipeline, the USPPPI or the authorized agent is required to deliver the proof of filing citations, and/or exemption and exclusion legends to the exporting carrier in accord with the time periods set forth in § 30.4(b).

§ 30.9 Transmitting and correcting Electronic Export Information.

(a) The USPPPI or the authorized filing agent is responsible for electronically transmitting accurate EEI as known at the time of filing in the AES and transmitting any changes to that information as soon as they are known. Corrections, cancellations, or amendments to that information shall be electronically identified and transmitted to the AES for all required fields as soon as possible. The provisions of this paragraph relating to the reporting of corrections, cancellations, or

amendments to EEI, shall not be construed as a relaxation of the requirements of the rules and regulations pertaining to the preparation and filing of EEI. Failure to correct the EEI is a violation of the provisions of this part.

(b) For shipments where the USPPI or the authorized agent has received an error message from AES, the corrections shall take place as required. Fatal error messages are sent to filers when EEI is not accepted in the AES. These errors must be corrected and EEI resubmitted prior to export for shipments filed predeparture and as soon as possible for shipments filed postdeparture but not later than ten calendar days after departure. Failure to respond to fatal error messages or otherwise transmit corrections to the AES constitutes a violation of the regulations in this part and renders such principal party or authorized agent subject to the penalties provided for in Subpart H of this part. For EEI that generates a warning message, the correction shall be made within four (4) calendar days of receipt of the original transmission. For EEI that generates a verify message, the correction, when warranted, shall be made within four calendar days of receipt of the message. A compliance alert indicates that the shipment was not reported in accordance with regulation. The USPPI or the authorized agent is required to review filing practices and take whatever corrective actions are required to conform with export reporting requirements.

§ 30.10 Retention of export information and the authority to require production of documents.

(a) *Retention of export information.* All parties to the export transaction (owners and operators of export carriers, USPPIs, FPPIs and/or authorized agents) shall retain documents pertaining to the export shipment for five years from the date of export. If the Department of State or other regulatory agency has recordkeeping requirements for exports that exceed the retention period specified in this part, then those requirements prevail. The USPPI or the authorized agent of the USPPI or FPPI may request a copy of the electronic record or submission from the Census Bureau as provided for in Subpart G of this part. The Census Bureau's retention and maintenance of AES records does not relieve filers from requirements in § 30.10.

(1) AES filers shall retain a copy of the electronic certification notice from the Census Bureau showing the filer's approved operational status. The electronic certification notice shall be

retained for as long as the filer submits EEI through the AES.

(2) AESDirect filers shall retain a copy of the electronic certification notice obtained during the AESDirect certification. The electronic certification notice shall be retained for as long as the filer submits EEI through AESDirect.

(b) *Authority to require production of documents.* For purposes of verifying the completeness and accuracy of information reported as required under § 30.6, and for other purposes under the regulations in this part, all parties to the export transaction (owners and operators of the exporting carriers, USPPIs, FPPIs, and/or authorized agents) shall provide upon request to the Census Bureau, CBP, ICE, BIS and other participating agencies EEI, shipping documents, invoices, orders, packing lists, and correspondence as well as any other relevant information bearing upon a specific export transaction at anytime within the five year time period.

Note to § 30.10: Section 1252(b)(2) of Public Law 106-113, Proliferation Prevention Enhancement Act of 1999, required the Department of Commerce to print 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 will maintain a data base of EEI filed in AES to ensure that requirements of Public Law 106-113 are met and that all filers can obtain a validated record of their submissions.

§§ 30.11–30.14 [Reserved]

Subpart B—Export Control and Licensing Requirements

§ 30.15 Introduction.

(a) For export shipments to foreign countries, the EEI is used both for statistical and for export control purposes. All parties to an export transaction must comply with all relevant export control regulations, as well as the requirements of the statistical regulations of this part. For convenience, references to provisions of the EAR, ITAR, CBP, and OFAC regulations that affect the statistical reporting requirements of this part have been incorporated into this part. For regulations and information concerning other agencies that exercise export control and licensing authority for particular types of commodity shipments, a USPPI, its authorized agent, or other party to the transaction shall consult the appropriate agency regulations.

(b) In addition to the reporting requirements set forth in § 30.6, further information may be required for export control purposes by the regulations of

CBP, BIS, State Department, or the U.S. Postal Service under particular circumstances.

(c) This part requires the retention of documents or records pertaining to a shipment for five years from the date of export. All records concerning license exceptions or license exemptions shall be retained in the format (including electronic or hard copy) required by the controlling agency's regulations. For information on recordkeeping retention requirements exceeding the requirements of this part, refer to the regulations of the agency exercising export control authority for the specific shipment.

(d) In accordance with the provisions of Subpart G of this part, information from the EEI is used solely for official purposes, as authorized by the Secretary of Commerce, and any unauthorized use is not permitted.

§ 30.16 Export Administration Regulations.

The EAR issued by the U.S. Department of Commerce, BIS, also contain some additional reporting requirements pertaining to EEI (see 15 CFR 730-774).

(a) The EAR requires that export information be filed for shipments from U.S. Possessions to foreign countries or areas. (see 15 CFR 758.1(b) and 772.1, definition of the United States.)

(b) Requirements to place certain export control information in the EEI are found in the EAR.

§ 30.17 Customs and Border Protection regulations.

Refer to the DHS's CBP regulations, 19 CFR 192, for information referencing the advanced electronic submission of cargo information on exports for screening and targeting purposes pursuant to the Trade Act of 2002. The regulations also prohibit postdeparture filing of export information for certain shipments, and contain other regulatory provisions affecting the reporting of EEI. CBP's regulations can be obtained from the U.S. Government Printing Office's Web site at www.gpoaccess.gov.

§ 30.18 Department of State regulations.

(a) The USPPI or the authorized agent shall file export information, when required, for items on the USML of the ITAR (22 CFR 121). Information for items identified on the USML, including those exported under an export license exemption, shall be filed prior to export.

(b) Refer to the ITAR 22 CFR 120-130 for requirements regarding information required for electronically reporting export information for USML shipments and filing time requirements.

(c) Department of State regulations can be found at <http://www.state.gov>.

§ 30.19 Other Federal agency regulations.

Other Federal agencies have requirements regarding the reporting of certain types of export transactions. The USPPIs and/or authorized agents are responsible for adhering to these requirements.

§§ 30.20–30.24 [Reserved]**Subpart C—Special Provisions and Specific-Type Transactions****§ 30.25 Values for certain types of transactions.**

Special procedures govern the values to be reported for shipments of the following unusual types:

(a) *Subsidized exports of agricultural products.* Where provision is made for the payment to the USPPI for the exportation of agricultural commodities under a program of the Department of Agriculture, the value required to be reported for EEI is the selling price paid by the foreign buyer minus the subsidy.

(b) *General Services Administration (GSA) exports of excess personal property.* For exports of GSA excess personal property, the value to be shown in the EEI will be “fair market value,” plus charges when applicable, at which the property was transferred to GSA by the holding agency. These charges include packing, rehabilitation, inland freight, or drayage. The estimated “fair market value” may be zero, or it may be a percentage of the original or estimated acquisition costs. (Bill of lading, air waybill, and other commercial loading documents for such shipments will bear the notation “Excess Personal Property, GSA Regulations 1–III, 303.03.”)

§ 30.26 Reporting of vessels, aircraft, cargo vans, and other carriers and containers.

(a) Vessels, locomotives, aircraft, rail cars, trucks, other vehicles, trailers, pallets, cargo vans, lift vans, or similar shipping containers are not considered “shipped” in terms of the regulations in this part, when they are moving, either loaded or empty, without transfer of ownership or title, in their capacity as carriers of goods or as instruments of such carriers, and EEI is not required.

(b) However, EEI shall be filed for such items, when moving as goods pursuant to sale or other transfer from ownership in the United States to ownership abroad. If a vessel, car, aircraft, locomotive, rail car, vehicle, or container, whether in service or newly built or manufactured, is sold or transferred to foreign ownership while in the Customs territory of the United States or at a port in such area, EEI shall be reported in accordance with the

general requirements of the regulations in this part, identifying the port through or from which the vessel, aircraft, locomotive, rail car, car, vehicle, or container first leaves the United States after sale or transfer. If the vessel, aircraft, locomotive, rail car, car, vehicle, or shipping container is outside the Customs territory of the United States at the time of sale or transfer to foreign ownership, EEI shall be reported identifying the last port of clearance or departure from the United States prior to sale or transfer. The country of destination to be shown in the EEI for vessels sold foreign is the country of new ownership. The country for which the vessel clears, or the country of registry of the vessel, should not be reported as the country of destination in the EEI unless such country is the country of new ownership.

§ 30.27 Return of exported cargo to the United States prior to reaching its final destination.

When goods reported as exported from the United States are not exported or are returned without having been entered into a foreign destination, the filer shall cancel the EEI.

§ 30.28 “Split shipments” by air.

When a shipment by air covered by a single EEI submission is divided by the exporting carrier at the port of export where the manifest is filed, and part of the shipment is exported on one aircraft and part on another aircraft of the same carrier, the following procedures shall apply:

(a) The carrier shall deliver the manifest to CBP Port Director with the manifest covering the flight on which the first part of the split shipment is exported and shall make no changes to the EEI. However, the manifest shall show in the “number of packages” column the actual portion of the declared total quantity being carried and shall carry a notation to indicate “Split Shipment.” All manifests with the notation “Split Shipment” will have identical ITNs.

(b) On each subsequent manifest covering a flight on which any part of a split shipment is exported, a prominent notation “SPLIT SHIPMENT” shall be made on the manifest for identification. On the last shipment, the notation shall read “SPLIT SHIPMENT, FINAL.” Each subsequent manifest covering a part of a split shipment shall also show in the “number of packages” column only the goods carried on that particular flight and a reference to the total amount originally declared for export (for example, 5 of 11, or 5/11). Immediately

following the line showing the portion of the split shipment carried on that flight, a notation will be made showing the air waybill number shown in the original EEI and the portions of the originally declared total carried on each previous flight, together with the number and date of each such previous flight (for example, air waybill 123; 1 of 2, flight 36A, June 6 SPLIT SHIPMENT; 2 of 2, flight 40X, June 6 SPLIT SHIPMENT, FINAL).

(c) Since the complete EEI was filed for the entire shipment initially, additional electronic reporting will not be required for these subsequent shipments.

§ 30.29 Reporting of repairs and replacements.

These guidelines will govern the reporting of the following:

(a) The return of goods previously imported for repair and alteration only and other returns to the foreign shipper of temporary imported goods (declared as such on importation) shall have Schedule B or HTSUSA classification commodity number 9801.10.0000. The value reported in the EEI shall include parts and labor. The value of the original product shall not be included.

(b) Goods that are covered under warranty.

(1) Goods that are reexported after repair under warranty shall follow the procedures in paragraph (a) of this section. It is recommended that the bill of lading, air waybill, or other loading documents include the statement, “This product was repaired under warranty.”

(2) Goods that are replaced under warranty at no charge to the customer shall include the statement, “Product replaced under warranty, value for EEI purposes” on the bill of lading, air waybill, or other commercial-loading documents. Place the notation below the proof of filing citation or exemption legend on the commercial document. Report the value of the replacement parts only.

§§ 30.30–30.34 [Reserved]**Subpart D—Exemptions From the Requirements for the Filing of Electronic Export Information****§ 30.35 Procedure for shipments exempt from filing requirements.**

Where an exemption from the filing requirement is provided in this subpart of this part, a legend describing the basis for the exemption shall be made on the first page of the bill of lading, air waybill, or other commercial loading document for carrier use, or on the carrier’s outbound manifest. The exemption legend shall reference the

number of the section or provision in this part where the particular exemption is provided (see Appendix D of this part).

§ 30.36 Exemption for shipments destined to Canada.

(a) Except as noted in § 30.2(a)(1)(iv), and in paragraph (b) of this section, shipments originating in the United States where the country of ultimate destination is Canada are exempt from the EEI reporting requirements of this part.

(b) This exemption does not apply to the following types of export shipments:

(1) Sent for storage in Canada, but ultimately destined for third countries.

(2) Exports moving from the United States through Canada to a third destination shall be reported in the same manner as for all other exports. The USPPPI or authorized agent shall follow the instructions as contained in this part for preparing and filing the EEI.

(3) Requiring a Department of State, DDTC, export license under the ITAR (22 CFR 120–130).

(4) Requiring a Department of Commerce, BIS, export license under the EAR (15 CFR 730–774).

(5) Subject to the ITAR, but exempt from license requirements.

(6) Classified as rough diamonds under the 6-digit HS subheadings (7102.10, 7102.21, or 7102.31).

§ 30.37 Miscellaneous exemptions.

Filing EEI is not required for the following kinds of shipments. However, the Census Bureau has the authority to periodically require the reporting of shipments that are normally exempt from filing.

(a) Except as noted in § 30.2(a)(1)(iv), exports of commodities where the value of the commodities shipped from one USPPPI to one consignee on a single exporting carrier, classified under an individual Schedule B or HTSUSA commodity classification code, is \$2,500 or less. This exemption applies to individual Schedule B or HTSUSA commodity classification codes regardless of the total shipment value. In instances where a shipment contains a mixture of individual Schedule B or HTSUSA commodity codes valued \$2,500 or less and individual Schedule B or HTSUSA commodity classification codes valued over \$2,500, only those commodity classification codes valued over \$2,500 need to be reported. If the filer reports multiple items of the same Schedule B or HTSUSA code, this exemption only applies if the total value of exports for the Schedule B or HTSUSA code is \$2,500 or less.

(b) Tools of trade and their containers that are usual and reasonable kinds and

quantities of commodities and software intended for use by individual USPPPIs or by employees or representatives of the exporting company in furthering the enterprises and undertakings of the USPPPI abroad. Commodities and software eligible for this exemption are those that do not require an export license or that are exported as tools of the trade under a license exception of the EAR (15 CFR 740.9), and are subject to the following provisions:

(1) Are owned by the individual USPPPI or exporting company.

(2) Accompany the individual USPPPI, employee, or representative of the exporting company.

(3) Are necessary and appropriate and intended for the personal and/or business use of the individual USPPPI, employee, or representative of the company or business.

(4) Are not for sale.

(5) Are returned to the United States no later than one (1) year from the date of export.

(6) Are not shipped under a bill of lading or an air waybill.

(c) Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico.

(d) Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.

(e) Shipments transported inbond through the United States and exported from another U.S. port or transhipped and exported directly from the port of arrival. (When goods are shipped through the United States for export to a third country of ultimate destination, but are first entered for consumption or for warehousing in the United States, the EEI shall be filed when the goods are exported from the United States.) Shipments transported inbond through the United States by vessel are subject to the filing requirements of the U.S. Army Corps of Engineers. Shipments transported inbond through the United States which require an export license are subject to the filing requirements of the licensing Federal agency.

(f) Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license are exempt from filing requirements.

However, EEI is required for mass-market software. For purposes of this part, mass-market software is defined as software that is generally available to the public by being sold at retail selling points, or directly from the software developer or supplier, by means of over-the-counter transactions, mail-order transactions, telephone transactions, or electronic mail-order transactions, and

designed for installation by the user without further substantial technical support by the developer or supplier.

(g) Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.40(d).

(h) Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations (see 15 CFR 740.12 of the EAR).

(i) Diplomatic pouches and their contents.

(j) Human remains and accompanying appropriate receptacles and flowers.

(k) Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate. This excludes highly technical plans, correspondence, etc. that could be licensed.

(l) Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

(m) Carriers' stores, not shipped under a bill of lading or an air waybill (including goods carried in ships aboard carriers for sale to passengers), supplies, and equipment for departing vessels, planes, or other carriers, including usual and reasonable kinds and quantities of bunker fuel, deck engine and steward department stores, provisions and supplies, medicinal and surgical supplies, food stores, slop chest articles, and saloon stores or supplies for use or consumption on board and not intended for unloading in a foreign country, and including usual and reasonable kinds and quantities of equipment and spare parts for permanent use on the carrier when necessary for proper operation of such carrier and not intended for unloading in a foreign country. Hay, straw, feed, and other appurtenances necessary to the care and feeding of livestock while en route to a foreign destination are considered part of carriers' stores of carrying vessels, trains, planes, etc.

(n) Dunnage, not shipped under a bill of lading or an air waybill, of usual and reasonable kinds and quantities necessary and appropriate to stow or secure cargo on the outgoing or any immediate return voyage of an exporting carrier, when exported solely for use as dunnage and not intended for unloading in a foreign country.

(o) Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores; and provisions and supplies for use on aircraft by a U.S. airline to its own installations, aircraft, and agents abroad, under EAR License

Exception AVS for aircraft and vessels (see 15 CFR 740.15(c)).

(p) Filing EEI is not required for the following types of commodities when they are not shipped as cargo under a bill of lading or an air waybill and do not require an export license, but the USPPI shall be prepared to make an oral declaration to CBP Port Director, when required: baggage and personal effects, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

(q) Temporary exports, except those that require licensing, whether shipped or hand carried, (e.g., carnet) that are exported from and returned to the United States in less than one year (12 months) from the date of export.

(r) Goods previously imported under a Temporary Import Bond for return in the same condition as when imported including: goods for testing, experimentation, or demonstration; goods imported for exhibition; samples and models imported for review or for taking orders; goods imported for participation in races or contests, and animals imported for breeding or exhibition and goods imported for use by representatives of foreign governments or international organizations or by members of the armed forces of a foreign country. Goods that were imported under bond for processing and reexportation are not covered by this exemption.

(s) Issued banknotes and securities, and coins in circulation exported as evidence of financial claims. The EEI must be filed for unissued bank notes and securities and coins not in circulation (such as banknotes printed in the United States and exported in fulfillment of the printing contract, or as parts of collections), which should be reported at their commercial or current value.

(t) Documents used in international transactions, documents moving out of the United States to facilitate international transactions including airline tickets, internal revenue stamps, liquor stamps, and advertising literature. Exports of such documents in fulfillment of a contract for their production, however, are not exempt and must be reported at the transaction value for their production.

§ 30.38 Exemption from the requirements for reporting complete commodity information.

The following type of shipments will require limited reporting of EEI when goods are shipped under a bill of lading or an air waybill. In such cases, Schedule B or HTSUSA commodity

classification codes and domestic/foreign indicator shall not be required.

(a) Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.

(b) Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.

(c) Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, trailers, motorcycles, bicycles, tricycles, baby carriages, strollers, and their containers provided that the above-indicated baggage, personal effects, and vehicular property: (See U.S. Customs and Border Protection regulations 19 CFR 192 for separate CBP requirements for the exportation of used self-propelled vehicles.)

(1) Shall include only such articles as are owned by such person or members of his/her immediate family;

(2) Shall be in his/her possession at the time of or prior to his/her departure from the United States for the foreign country;

(3) Are necessary and appropriate for the use of such person or his/her immediate family;

(4) Are intended for his/her use or the use of his/her immediate family; and

(5) Are not intended for sale.

§ 30.39 Special exemptions for shipments to the U.S. Armed Services.

Filing of EEI is not required for any and all commodities, whether shipped commercially or through government channels, consigned to the U.S. Armed Services for their exclusive use, including shipments to armed services exchange systems. This exemption does not apply to articles that are on the USML and thus controlled by the ITAR and shipments that are not consigned to the U.S. Armed Services, regardless of whether they may be for their ultimate and exclusive use.

§ 30.40 Special exemptions for certain shipments to U.S. government agencies and employees.

Filing EEI is not required for the following types of shipments to U.S. government agencies and employees:

(a) Office furniture, office equipment, and office supplies shipped to and for the exclusive use of U.S. government offices.

(b) Household goods and personal property shipped to and for the exclusive and personal use of U.S. government employees.

(c) Food, medicines, and related items and other commissary supplies shipped

to U.S. government offices or employees for the exclusive use of such employees, or to U.S. government employee cooperatives or other associations for subsequent sale or other distribution to such employees.

(d) Books, maps, charts, pamphlets, and similar articles shipped by U.S. government offices to U.S. or foreign libraries, government establishments, or similar institutions.

§§ 30.41–30.44 [Reserved]

Subpart E—General Carrier and Manifest Requirements

§ 30.45 General statement of requirements for the filing of carrier manifests with proof of filing citations for the electronic submission of export information or exemption legends when Electronic Export Information filing is not required.

(a) *Requirement for filing carrier manifest.* Carriers transporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands to foreign countries; from the United States or Puerto Rico to the U.S. Virgin Islands; or between the United States and Puerto Rico; shall not be granted clearance and shall not depart until complete manifests or other required documentation (for ocean, air, and rail carriers) have been delivered to CBP Port Director in accordance with all applicable requirements under CBP regulations. CBP may require any of the following: bill of lading, air waybill, export shipping instructions, manifest, train consist, or other commercial loading document. The required document shall contain the appropriate AES proof of filing citations, covering all cargo for which the EEI is required, or exemption legends, covering cargo for which EEI need not be filed by the regulations of this part. Such annotation shall be without material change or amendment of proof of filing citations or exemption and exclusion legends as provided to the carrier by the USPPI or its authorized agent.

(1) *Vessels.* Vessels transporting goods as specified (except vessels exempted by paragraph (a)(4) of this section) shall file a complete manifest. Manifests may be filed via paper or electronically through the AES Vessel Transportation Module as provided in CBP Regulations, 19 CFR 4.63 and 4.76.

(i) *Bunker fuel.* The manifest (including vessels taking bunker fuel to be laden aboard vessels on the high seas) clearing for foreign countries shall show the 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 (1000 kgs or 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 goods shall file a complete manifest as required in CBP Regulations 19 CFR 122.72–122.76. The manifest shall be filed with CBP Port Director at the port where the goods are laden. For shipments from the United States to Puerto Rico, the manifests shall be filed with CBP Port Director at the port where the goods are unladed in Puerto Rico.

(3) *Rail carriers.* Rail carriers transporting goods shall file a car manifest or train consist with CBP Port Director at the border port of export in accordance with 19 CFR 123.

(4) *Carriers not required to file manifests.* Carriers exempted from filing manifests under applicable CBP regulations are required, upon request, to present to CBP Port Director, the proof of filing citation or exemption and exclusion legends for each shipment.

(5) *Penalties.* Failure of the carrier to file a manifest as required constitutes a violation of the regulations in this part and renders such carrier subject to the penalties provided for in Subpart H of this part.

(b) *Partially exported shipments.* Except as provided in paragraph (c) of this section, when a carrier identifies, prior to filing the manifest, that a portion of the goods covered by a single EEI transaction has not been exported on the intended carrier, it shall be noted on the manifest submitted to CBP. The carrier shall notify the USPPPI or the authorized agent of changes to the commodity data, and the USPPPI or the authorized agent shall electronically transmit the corrections, cancellations, or amendments as soon as they are known in accordance with § 30.9. Failure by the carrier to correct the manifest constitutes a violation of the provisions of the regulations in this part and renders the carrier subject to the penalties provided for in Subpart H of this part.

(c) *“Split shipments” by air.* When a shipment by air covered by a single EEI transmission is exported in more than one aircraft of the carrier, the “split shipment” procedure provided in § 30.28 shall be followed by the carrier in delivering manifests with the proof of filing citation or exemption legend to CBP Port Director.

(d) *Attachment of commercial documents.* The manifest shall carry a notation that values stated are as

presented on the bills of lading, cargo lists, export shipping documents or other commercial documents. The bills of lading, cargo lists, export shipping documents or other commercial documents shall be securely attached to the manifest in such a manner as to constitute one document. The manifest shall reference the statement “Cargo as per bills of lading attached” or “Cargo as per commercial forms attached.” Also required on the face of each bill of lading shall be the information required by the manifest for cargo covered by that document.

(e) *Exempt items.* For any item for which EEI is not required by the regulations in this part, a notation on the manifest shall be made by the carrier as to the basis for the exemption. In cases where a manifest is not required and EEI is not required, an oral declaration to CBP Port Director shall be made as to the basis for the exemption.

(f) *Proof of filing citations and exemption legends.*

(1) Ocean and air exporting carriers shall not accept paper SEDs under any circumstances nor load cargo that does not have all proof of filing citations, exemption or exclusion legends as provided for in Appendix D.

(2) Ocean and air exporting carriers are subject to the penalties provided for in Subpart H of this part if the exporting carrier;

(i) Accepts paper SEDs for cargo or,

(ii) Loads cargo without all proof of filing citations, exemption or exclusion legends as provided for in Appendix D.

(3) Truck exporting carriers shall not accept paper SEDs under any circumstances nor cross the border into a foreign country without a proof of filing citations, exemption or exclusion legends for cargo being exported as provided for in Appendix D. Truck exporting carriers accepting paper SEDs for cargo being exported into foreign countries, or carrying cargo into foreign countries without a proof of filing citation, exemption or exclusion legends in their possession are subject to the penalties provided for in Subpart H of this part.

(4) Rail exporting carriers shall not accept paper SEDs under any circumstance nor cross the border into a foreign country without a proof of filing citations, exemption or exclusion legends for cargo being exported as provided in Appendix D. Rail exporting carriers accepting paper SEDs for cargo being exported into foreign countries, or carrying cargo into foreign countries without required proof of filing citations, exemption or exclusion legends in their possession are subject

to the penalties provided for in Subpart H of this part.

§ 30.46 Requirements for the filing of export information by pipeline carriers.

The operator of a pipeline may transport goods to a foreign country without the prior filing of the proof of filing citations, exemption or exclusion legends, on the condition that within four calendar days following the end of each calendar month the operator will deliver to CBP Port Director the proof of filing citations, exemption or exclusion legends covering all exports through the pipeline to each consignee during the month.

§ 30.47 Clearance or departure of carriers under bond on incomplete manifest.

(a) For purposes of the regulations in this part, except when carriers are transporting merchandise from the United States to Puerto Rico, clearance (where clearance is required) or permission to depart (where clearance is not required) may be granted to any carrier by CBP Port Director prior to filing of a complete manifest as required under the regulations of this part or prior to filing by the carrier of all filing U.S. Customs and Border Protection regulations citations, exclusion, and/or exemption legends, provided there is a bond as specified in 19 CFR 4.75, 4.76, and 122.74. The conditions of the bond shall be that a complete manifest, where a manifest is required by the regulations in this part and all required filing citations, exclusion, and/or exemption legends shall be filed by the carrier no later than the fourth business day after clearance (where clearance is required) or departure (where clearance is not required) of the carrier except as otherwise specifically provided in paragraph (a)(1), (2), and (3) of this section.

(1) For manifests submitted electronically through AES, the condition of the bond shall be that the manifest and all required filing citations, exclusion, and/or exemption legends shall be completed not later than the tenth business day after departure from each port.

(2) For rail carriers to Canada, the conditions of the bond shall be that manifest and all filing citations, exclusion, and/or exemption legends shall be filed not later than the fifteenth business day after departure.

(3) For carriers under bond on incomplete manifest, the carrier must file prior to departure a list of filing citations, exclusion, and/or exemption legends for export shipments aboard the conveyance. The list of filing citations, exclusion and/or exemption legends

shall be presented to a CBP Export Control Officer at the port of exit prior to departure.

(b) In the event that any required manifest and all required filing citations, exclusion and/or exemption legends are not filed by the carrier within the period provided by the bond, then a penalty of \$1,100 shall be exacted for each day's delinquency beyond the prescribed period, but not more than \$10,000 per violation.

(c) Remission or mitigation of the penalties for manifest violations provided herein may be granted by CBP as the Administering Authority. Prior disclosure of a manifest violation of this section shall be made in writing to CBP Port Director in the port of export as the Administering Authority.

§§ 30.48–30.49 [Reserved]

Subpart F—Import Requirements

§ 30.50 General requirements for filing import entries.

Electronic entry summary filing through the ABI, paper import entry summaries (CBP-7501), or paper record of vessel foreign repair or equipment purchase (CBP-226) shall be completed by the importer or its licensed import broker and filed directly with CBP in accordance with 19 CFR. Information on all mail and informal entries required for statistical and CBP purposes shall be reported, including value not subject to duty. Upon request, the importer or import broker shall provide the Census Bureau with information or documentation necessary to verify the accuracy of the reported information, or to resolve problems regarding the reported import transaction received by the Census Bureau.

(a) Import information for statistical purposes shall be filed for goods shipped as follows:

- (1) Entering the United States from foreign countries.
- (2) Admitted to U.S. FTZs.
- (3) From the U.S. Virgin Islands.
- (4) From other nonforeign areas (except Puerto Rico).

(b) Sources for collecting import statistics include the following:

- (1) CBP's ABI Program (see 19 CFR Subpart A, Part 143).
- (2) CBP-7501 paper entry summaries required for individual transactions (see 19 CFR Subpart B, Part 142).
- (3) CBP-226, Record of Vessel Foreign Repair or Equipment Purchase (see 19 CFR 4.7 and 4.14).
- (4) CBP-214, Application for Foreign Trade Zone Admission and/or Status Designation (Statistical copy).
- (5) Automated Foreign Trade Zone Reporting Program (AFTZRP).

§ 30.51 Statistical information required for import entries.

The information required for statistical purposes is, in most cases, also required by CBP regulations for other purposes. Refer to CBP Web site at <http://www.cbp.gov> to download "Instructions for Preparation of CBP-7501," for completing the paper entry summary documentation (CBP-7501). Refer to the Customs and Trade Automated Interface Requirements for instructions on submitting an ABI electronic record, or instructions for completing CBP-226 for declaring any equipment, repair parts, materials purchased, or expense for repairs incurred outside of the United States.

§ 30.52 Foreign Trade Zones.

Foreign goods admitted into FTZs shall be reported as a general import. When goods are withdrawn from a FTZ for export to a foreign country, the export shall be reported in accordance with § 30.2. When goods are withdrawn for domestic consumption or entry into a bonded warehouse, the withdrawal shall be reported on CBP-7501 or through the ABI in accordance with CBP regulations. (This section emphasizes the reporting requirements contained in CBP regulations 19 CFR 146, "Foreign Trade Zones.") When foreign goods are admitted into a FTZ, the zone operator is required to file CBP-214, "Application for Foreign Trade Zone Admission and/or Status Designation." Refer to CBP Web site for instructions on completing CBP-214. Per 19 CFR 146.32(a), the applicant for admission shall present CBP-214 to the Port Director and shall include the statistical (pink) copy, CBP-214(A), for transmittal to the Census Bureau, unless the applicant makes arrangements for the electronic transmission of statistical information to the Census Bureau through the AFTZRP. Companies operating in FTZs interested in reporting CBP-214 statistical information electronically on a monthly basis shall apply directly to the Census Bureau. Monthly electronic reports shall be filed with the Census Bureau no later than the tenth (10) calendar day of the month following the report month. Participation in the Census Bureau program does not relieve companies of the responsibility to file CBP-214 with CBP. The following data items are required to be filed, in the AFTZRP, for statistical purposes. (Use the instructions and definitions provided in 19 CFR 146 for completing these fields.):

- (a) HTSUSA Classification Code.
- (b) Country of Origin.
- (c) Country Sub-code.
- (d) U.S. Port of Entry.

- (e) U.S. Port of Unlading.
- (f) Transaction Type.
- (g) Statistical Month.
- (h) Method of Transportation.
- (i) Company Authorization Symbol.
- (j) Carrier Code.
- (k) Foreign Port of Lading.
- (l) Date of Exportation.
- (m) Date of Importation.
- (n) Special Program Indicator Field.
- (o) Unit of Quantity.
- (p) CBP (dutyable) Value.
- (q) Gross (shipping) Weight.
- (r) Charges.
- (s) U.S. Value.
- (t) FTZ/Subzone Number.
- (u) Zone Admission Number.
- (v) Vessel Name.
- (w) Serial Number.
- (x) Trade Identification.
- (y) Admission Date.

§ 30.53 Import of goods returned for repair.

Import entries covering U.S. goods imported temporarily for repair or alteration and reexport are required to show the following statement: "Imported for Repair and Reexport" on CBP-7501 or in the ABI entry. Whenever goods are returned to the United States after undergoing either repair, alteration, or assembly under HTS heading 9802, the country of origin shall be shown as the country in which the repair, alteration, or assembly is performed. When the goods are for reexport and meet all of the requirements for filing the EEI, file according to the instructions provided in § 30.2, except for the following data items:

(a) *Value*. Report the value of the repairs, including parts and labor. Do not report the value of the original product. If goods are repaired under warranty, at no charge to the customer, report the cost to repair as if the customer were being charged.

(b) *Schedule B Classification Code*. Report Schedule B commodity classification code 9801.10.0000 for goods reexported after repair.

§ 30.54 Special provisions for imports from Canada.

(a) When certain softwood lumber products described under HTSUSA subheadings 4407.1001, 4409.1010, 4409.1090, and 4409.1020 are imported from Canada, import entry records are required to show a valid Canadian region of manufacture code. The Canadian region of manufacture is determined on a first mill basis (the point at which the item was first manufactured into a covered lumber product). Canadian region of manufacture is the first region where the

subject goods underwent a change in tariff classification to the tariff classes cited in this paragraph. The Canadian region code should be transmitted in the electronic ABI summaries. The Canadian region of manufacture code should replace the region of origin code on CBP-7501, entry summary form. These requirements apply only for imports of certain softwood lumber products for which the region of origin is Canada.

(b) All other imports from Canada, including certain softwood lumber products not covered in paragraph (a) of this section, will require the twoletter designation of the Canadian region of origin to be reported on U.S. entry summary records. This information is required only for U.S. imports that under applicable CBP rules of origin are determined to originate in Canada. For nonmanufactured goods determined to be of Canadian origin, the region of origin is defined as the region where the exported goods were originally grown, mined, or otherwise produced. For goods of Canadian origin that are manufactured or assembled in Canada, with the exception of the certain softwood lumber products described in paragraph (a) of this section, the region of origin is that in which the final manufacture or assembly is performed prior to exporting that good to the United States. In cases where the region in which the goods were manufactured, assembled, grown, mined, or otherwise produced is unknown, the region in which the Canadian vendor is located can be reported. For those reporting on paper forms the region of origin code replaces the region of origin code on the CBP-7501, entry summary form.

(c) All electronic ABI entry summaries for imports originating in Canada also require the Canadian region of origin code to be transmitted for each entry summary line item.

(d) The region of origin code replaces the region of origin code only for imports that have been determined, under applicable CBP rules, to originate in Canada. Valid Canadian region/territory codes are:

XA—Alberta
 XB—New Brunswick
 XD—British Columbia Coastal
 XE—British Columbia Interior
 XM—Manitoba
 XN—Nova Scotia
 XO—Ontario
 XP—Prince Edward Island
 XQ—Quebec
 XS—Saskatchewan
 XT—Northwest Territories
 XV—Nunavut
 XW—Newfoundland

XY—Yukon

§ 30.55 Confidential information, import entries, and withdrawals.

The contents of the statistical copies of import entries and withdrawals on file with the Census Bureau are treated as confidential and will not be released without authorization by CBP, in accordance with 19 CFR 103.5 relating to the copies on file in CBP offices. The importer or import broker must provide the Census Bureau with information or documentation necessary to verify the accuracy or resolve problems regarding the reported import transaction.

(a) The basic responsibility for obtaining and providing the information required by the general statistical headnotes of the HTSUSA rests with the person filing the import entry. This is provided for in section 484(a) of the Tariff Act, 19 CFR 141.61(e) of CBP regulations, and § 30.50 of this subpart. CBP Regulations 19 CFR 141.61(a) specify that the entry summary data clearly set forth all information required.

(b) 19 CFR 141.61(e) of CBP regulations provides that penalty procedures relating to erroneous statistical information shall not be invoked against any person who attempts to comply with the statistical requirements of the General Statistical Notes of the HTSUSA. However, in those instances where there is evidence that statistical suffixes are misstated to avoid quota action, or a misstatement of facts is made to avoid import controls or restrictions related to specific commodities, the importer or its licensed broker should be aware that the appropriate actions will be taken under 19 U.S.C. 1592, as amended.

§§ 30.56–30.59 [Reserved]

Subpart G—General Administrative Provisions

§ 30.60 Confidentiality of Electronic Export Information.

(a) *Confidential status.* The EEI collected pursuant to this Part is confidential, to be used solely for official purposes as authorized by the Secretary of Commerce. The collection of EEI by the Department of Commerce has been approved by the Office of Management and Budget (OMB). The information collected is used by the Census Bureau for statistical purposes only and by the BIS for export control purposes. In addition, EEI is used by other federal government agencies, such as the Department of State, CBP, and ICE for export control and other federal government agencies such as the Bureau of Economic Analysis, Bureau of Labor

Statistics, and Bureau of Transportation Statistics for statistical purposes. Except as provided for in paragraph (e) of this section, information collected pursuant to this Part shall not be disclosed to anyone by any officer, employee, contractor, agent of the federal government or other parties with access to the EEI other than to the USPPPI, or the authorized agent of the USPPPI or the transporting carrier. Such disclosure shall be limited to that information provided by each party pursuant to this Part.

(b) *Supplying EEI for official purposes.*

(1) The EEI may be supplied to federal agencies for official purposes, defined to include, but not limited to:

(i) Verification and investigation of export shipments, including penalty assessments, for export control and compliance purposes;

(ii) Providing proof of export; and

(iii) Statistical purposes;

(iv) Circumstances to be determined in the national interest pursuant to 13 U.S.C., § 301(g) and paragraph (e) of this section.

(2) The EEI may be supplied to the USPPPI, or authorized agents of USPPPI and carriers for compliance and audit purposes. Such disclosure shall be limited to that information provided to the AES by each party.

(c) *Supplying EEI for nonofficial purposes.* The official report of the EEI submitted to the United States Government shall not be disclosed by the USPPPI, or the authorized agent, or representative of the USPPPI for “nonofficial purposes,” either in whole or in part, or in any form including but not limited to electronic transmission, paper printout, or certified reproduction. “Nonofficial purposes” are defined to include but not limited to use of the official EEI:

(1) In support of claims by the USPPPI or its authorized agent for exemption from Federal or state taxation;

(2) By the U.S. Internal Revenue Service for purposes not related to export control or compliance;

(3) By state and local government agencies, and nongovernmental entities or individuals for any purpose; and

(4) By foreign governments for any purposes.

(d) *Copying of information to manifests.* Because the ocean manifest can be made public under provision of CBP regulations, no information from the EEI, except the ITN, filing citation, exemptions or exclusion legends, shall be copied to the outward manifest of ocean carriers.

(e) *Determination by the Secretary of Commerce.* Under 13 U.S.C. 301(g), the

EEL is exempt from public disclosure unless the Secretary or delegate determines that such exemption would be contrary to the national interest. The Secretary or his or her delegate may make such information available, if he or she determines it is in the national interest, taking such safeguards and precautions to limit dissemination as deemed appropriate under the circumstances. In recommendations or decisions regarding such actions, it shall be presumed to be contrary to the national interest to provide EEL for purposes set forth in paragraph (c) of this section. In determining whether, under a particular set of circumstances, it is contrary to the national interest to apply the exemption, the maintenance of confidentiality and national security shall be considered as important elements of national interest. The unauthorized disclosure of confidential EEL granted under National Interest Determination renders such persons subject to the civil penalties provided for in Subpart H of this part.

(f) *Penalties.* Disclosure of confidential EEL by any officer, employee, contractor, or agent of the federal government, except as provided for in paragraphs (a) and (e) of this section renders such persons subject to the civil penalties provided for in Subpart H of this part.

§ 30.61 Statistical classification schedules.

The following statistical classification schedules are referenced in this part. These schedules, may be accessed through the Census Bureau's Web site at <http://www.census.gov/trade>.

(a) *Schedule B—Statistical Classification for Domestic and Foreign Commodities Exported from the United States*, shows the detailed commodity classification requirements and 10-digit statistical reporting numbers to be used in preparing EEL, as required by these regulations.

(b) *Harmonized Tariff Schedules of the United States Annotated for Statistical Reporting*, shows the 10-digit statistical reporting number to be used in preparing import entries and withdrawal forms.

(c) *Schedule C—Classification of Country and Territory Designations for U.S. Foreign Trade Statistics*.

(d) *Schedule D—Classification of CBP Districts and Ports*.

(e) *Schedule K—Classification of Foreign Ports by Geographic Trade Area and Country*.

(f) *International Air Transport Association (IATA)—Code of the carrier for air shipments*. These are the air carrier codes to be used in reporting EEL,

as required by the regulations in this part.

(g) *Standard Carrier Alpha Code (SCAC)—Classification of the carrier for vessel, rail and truck shipments*, showing the carrier codes necessary to prepare EEL, as required by the regulations in this part.

§ 30.62 Emergency exceptions.

The Census Bureau and CBP may jointly authorize the postponement of or exception to the requirements of the regulations in this Part as warranted by the circumstances in individual cases of emergency where strict enforcement of the regulations would create a hardship. In cases where export control requirements also are involved, the concurrence of the regulatory agency and CBP also will be obtained.

§ 30.63 Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This subpart will comply with the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3507(f), which requires that agencies display a current control number assigned by the Director of OMB for each agency information collection requirement.

(b) *Display.*

15 CFR section where identified and described	Current OMB control No.
§ § 30.1 through 30.99	0607-0152

§ § 30.64–30.69 [Reserved]

Subpart H—Penalties

§ 30.70 Violation of the Clean Diamond Trade Act.

Public Law 108-19, the Clean Diamond Trade Act (the Act), section 8(c), authorizes CBP and ICE, as appropriate, to enforce the laws and regulations governing exports of rough diamonds, including those with respect to the validation of the Kimberley Process Certificate by the exporting authority. The Treasury Department's OFAC also has enforcement authority pursuant to section 5(a) of the Act, Executive Order 13312, and Rough Diamonds Control Regulations (31 CFR 592). CBP, ICE, and the OFAC, pursuant to section 5(a) of the Act, are further authorized to enforce provisions of section 8(a) of the Act, that provide for the following civil and criminal penalties:

(a) *Civil penalties.* A civil penalty not to exceed \$10,000 may be imposed on any person who violates, or attempts to violate, any order or regulation issued under the Act.

(b) *Criminal penalties.* For the willful violation or attempted violation of any license, order, or regulation issued under the Act, a fine not to exceed \$50,000, shall be imposed upon conviction or:

(1) If a natural person, imprisoned for not more than ten years, or both;

(2) If an officer, director, or agent of any corporation, who willfully participates in such violation, imprisoned for not more than ten years, or both.

§ 30.71 False or fraudulent reporting on or misuse of the Automated Export System.

(a) *Criminal penalties—(1) Failure to file; submission of false or misleading information.* Any person, including USPPIs, authorized agents or carriers, who knowingly fails to file or knowingly submits, directly or indirectly, to the U.S. Government, false or misleading export information through the AES, shall be subject to a fine not to exceed \$10,000 or imprisonment for not more than five years, or both, for each violation.

(2) *Furtherance of illegal activities.* Any person, including USPPIs, authorized agents or carriers, who knowingly reports, directly or indirectly, to the U.S. Government any information through or otherwise uses the AES to further any illegal activity shall be subject to a fine not to exceed \$10,000 or imprisonment for not more than five years, or both, for each violation.

(3) *Forfeiture penalties.* Any person who is convicted under this subpart shall, in addition to any other penalty, be subject to forfeiting to the United States:

(i) Any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation.

(ii) Any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation.

(iii) Any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of this violation.

(4) *Exemption.* The criminal fines provided for in this subpart are exempt from the provisions of 18 U.S.C. 3571.

(b) *Civil penalties—(1) Failure to file or delayed filing violations.* A civil penalty not to exceed \$1,100 for each day of delinquency beyond the applicable period prescribed in § 30.4, but not more than \$10,000 per violation, may be imposed for failure to

information or reports in connection with the exportation or transportation of cargo.

(2) *Filing false/misleading information, furtherance of illegal activities and penalties for other violations.* A civil penalty not to exceed \$10,000 per violation may be imposed for each violation of provisions of this part other than any violation encompassed by paragraph (b)(1) of this section. Such penalty may be in addition to any other penalty imposed by law.

(3) *Forfeiture penalties.* In addition to any other civil penalties specified in this section, any property involved in a violation may be subject to forfeiture under applicable law.

Note to Paragraph (b): The Civil Monetary Penalties; Adjustment for Inflation Final Rule effective December 14, 2004, adjusted the penalty in Title 13, Chapter 9, Section 304, United States Code from \$1,000 to \$10,000 to \$1,100 to \$10,000.

§ 30.72 Civil penalty procedures.

(a) *General.* Whenever a civil penalty is sought for a violation of this part, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with 5 U.S.C. 556 and 557.

(b) *Applicable law for delegated function.* If, pursuant to 13 U.S.C. 306, the Secretary delegates functions addressed in this part to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of action and compromise of claims shall apply.

(c) *Commencement of civil actions.* If any person fails to pay a civil penalty imposed under this subpart, the Secretary may request the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than five years after the date the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) *Remission and mitigation.* Any penalties imposed under § 30.71(b)(1) and (b)(2) may be remitted or mitigated, if:

(1) The penalties were incurred without willful negligence or fraud; or

(2) Other circumstances exist that justify a remission or mitigation.

(e) *Deposit of payments in General Fund of the Treasury.* Any amount paid in satisfaction of a civil penalty imposed under this subpart shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts, other than a payment to remit a forfeiture which shall be deposited into the Treasury Forfeiture fund.

§ 30.73 Enforcement.

(a) *Department of Commerce.* The BIS's OEE may conduct investigations pursuant to this part. In conducting investigations, BIS may, to the extent necessary or appropriate to the enforcement of this part, exercise such authorities as are conferred upon BIS by other laws of the United States, subject, as appropriate, to policies and procedures approved by the Attorney General.

(b) *Department of Homeland Security (DHS).* ICE and CBP may enforce the provisions of this part and ICE, as assisted by CBP may conduct investigations under this part.

§ 30.74 Voluntary self-disclosure.

(a) *General policy.* The Census Bureau strongly encourages disclosure of any violation or suspected violation of the FTR. Voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought. The Secretary of Commerce has delegated all enforcement authority under 13 U.S.C. Chapter 9, to the BIS and the DHS.

(b) Limitations.

(1) The provisions of this section apply only when information is provided to the Census Bureau for its review in determining whether to seek administrative action for violations of the FTR.

(2) The provisions of this section apply only when information is received by the Census Bureau for review prior to the time that the Census Bureau, or any other agency of the United States Government, has learned the same or substantially similar information from another source and has commenced an investigation or inquiry in connection with that information.

(3) While voluntary self-disclosure is a mitigating factor in determining what corrective actions will be required by the Census Bureau and/or whether the violation will be referred to the BIS to determine what administrative sanctions, if any, will be sought, it is a factor that is considered together with all other factors in a case. The weight given to voluntary self-disclosure is

within the discretion of the Census Bureau and the BIS, and the mitigating effect of voluntary self-disclosure may be outweighed by aggravating factors. Voluntary self-disclosure does not prevent transactions from being referred to the Department of Justice (DOJ) for criminal prosecution. In such a case, the BIS or the DHS would notify the DOJ of the voluntary self-disclosure, but the consideration of that factor is within the discretion of the DOJ.

(4) Any person, including USPPIs, authorized agents, or carriers, will not be deemed to have made a voluntary self-disclosure under this section unless the individual making the disclosure did so with the full knowledge and authorization of senior management.

(5) The provisions of this section do not, nor should they be relied on to, create, confer, or grant any rights, benefits, privileges, or protection enforceable at law or in equity by any person, business, or entity in any civil, criminal, administrative, or other matter.

(c) *Information to be provided—(1) General.* Any person disclosing information that constitutes a voluntary self-disclosure should, in the manner outlined below, if a violation is suspected or a violation is discovered, conduct a thorough review of all export transactions for the past five years where violations of the FTR are suspected and notify the Census Bureau as soon as possible.

(2) Initial notification.

(i) The initial notification must be in writing and be sent to the address in paragraph (c)(5) of this section. The notification must include the name of the person making the disclosure and a brief description of the suspected violations. The notification should describe the general nature, circumstances, and extent of the violations. If the person making the disclosure subsequently completes the narrative account required by paragraph (c)(3) of this section, the disclosure will be deemed to have been made on the date of the initial notification for purposes of paragraph (b)(2) of this section.

(ii) Disclosure of suspected violations that involve export of items controlled, licensed, or otherwise subject to the jurisdiction by a department or agency of the federal government should be made to the appropriate federal department or agency.

(3) *Narrative account.* After the initial notification, a thorough review should be conducted of all export transactions where possible violations of the FTR are suspected. The Census Bureau recommends that the review cover a

period of five years prior to the date of the initial notification. If the review goes back less than five years, there is a risk that violations may not be discovered that later could become the subject of an investigation. Any violations not voluntarily disclosed do not receive consideration under this section. However, the failure to make such disclosures will not be treated as a separate violation unless some other section of the FTR or other provision of law requires disclosure. Upon completion of the review, the Census Bureau should be furnished with a narrative account that sufficiently describes the suspected violations so that their nature and gravity can be assessed. The narrative account should also describe the nature of the review conducted and measures that may have been taken to minimize the likelihood that violations will occur in the future. The narrative account should include:

(i) The kind of violation involved, for example, failure to file EEL, failure to correct fatal errors, failure to file timely corrections;

(ii) Describe all data required to be reported under the FTR that was either not reported or reported incorrectly;

(iii) An explanation of when and how the violations occurred;

(iv) The complete identities and addresses of all individuals and organizations, whether foreign or domestic, involved in the activities giving rise to the violations; and

(v) A description of any mitigating circumstances.

(4) *Electronic Export Information.* Report all data required under the FTR that was not reported. Report corrections for all data reported incorrectly. All reporting of unreported data or corrections to previously reported data shall be made through the AES.

(5) *Where to make voluntary self-disclosures.* With the exception of voluntary disclosures of manifest violations under § 30.47 (c), the information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to: Chief, Foreign Trade Division, U.S. Census Bureau, Room

6K032, Washington, DC 20233-6700, by phone 1-800-549-0595, by fax (301) 763-8835, or by e-mail FTDRegs@census.gov.

(d) *Action by the Census Bureau.* After the Census Bureau has been provided with the required narrative, it will promptly notify CBP, ICE, and the OEE of the voluntary disclosure, acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever additional action, including further investigation, it deems appropriate. As quickly as the facts and circumstances of a given case permit, the Census Bureau may take any of the following actions:

(1) Inform the person or company making the voluntary self-disclosure of the action to be taken.

(2) Issue a warning letter or letter setting forth corrective measures required.

(3) Refer the matter, if necessary, to the OEE for the appropriate action.

§§ 30.75-30.99 [Reserved]

BILLING CODE 3510-07-P

Appendix A to Part 30—Sample for Power of Attorney and Written Authorization
SAMPLE FORMAT: Power of Attorney

POWER OF ATTORNEY
U.S. PRINCIPAL PARTY IN INTEREST/AUTHORIZED AGENT

Know all men by these presents, that _____, the
 _____ (Name of U.S. Principal Party in Interest (USPPI))
 USPPI organized and doing business under the laws of the State or Country of
 _____ and having an office and place of business
 at _____ hereby
 _____ (Address of USPPI)
 authorizes _____, (Authorized Agent)
 _____ (Name of Authorized Agent)
 of _____
 _____ (Address of Authorized Agent)

to act for and on its behalf as a true and lawful agent and attorney of the U.S. Principal Party in Interest (USPPI) for, and in the name, place, and stead of the USPPI, from this date, in the United States either in writing, electronically, or by other authorized means to: act as authorized agent for export control, U.S. Census Bureau (Census Bureau) reporting, and U.S. Customs and Border Protection (CBP) purposes. Also, to prepare and transmit any Electronic Export Information (EEI) or other documents or records required to be filed by the Census Bureau, CBP, the Bureau of Industry and Security, or any other U.S. Government agency, and perform any other act that may be required by law or regulation in connection with the exportation or transportation of any goods shipped or consigned by or to the USPPI, and to receive or ship any goods on behalf of the USPPI.

The USPPI hereby certifies that all statements and information contained in the documentation provided to the authorized agent and relating to exportation will be true and correct. Furthermore, the USPPI understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

This power of attorney is to remain in full force and effect until revocation in writing is duly given by the U.S. Principal Party in Interest and received by the Authorized Agent.

IN WITNESS WHEREOF, _____ caused these
 _____ (Full Name of USPPI/USPPI Company)
 presents to be sealed and signed:

Witness: _____ Signature: _____
 Capacity: _____
 Date: _____

Sample Written Authorization

SAMPLE FORMAT: Written Authorization**WRITTEN AUTHORIZATION TO PREPARE OR TRANSMIT ELECTRONIC EXPORT INFORMATION**

I, _____, authorize
 (Name of U.S. Principal Party in Interest)
 _____ to act as authorized agent for
 (Name of Authorized Agent)

export control, U.S. Customs, and Census Bureau purposes to transmit such export information electronically that may be required by law or regulation in connection with the exportation or transportation of any goods on behalf of said U.S. Principal Party in Interest. The U.S. Principal Party in Interest certifies that necessary and proper documentation to accurately transmit the information electronically is and will be provided to the said Authorized Agent. The U.S. Principal Party in Interest further understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any U.S. laws or regulations on exportation and agrees to be bound by all statements of said authorized agent based upon information or documentation provided by the U.S. Principal Party in Interest to said authorized agent.

Signature: _____
 (U.S. Principal Party in Interest)

Capacity: _____

Date: _____

BILLING CODE 3510-07-C**Appendix B to Part 30—AES Filing Codes****Part I—Method of Transportation Codes**

- 10 Vessel
- 11 Vessel Containerized
- 12 Vessel (Barge)
- 20 Rail
- 21 Rail Containerized
- 30 Truck
- 31 Truck Containerized
- 32 Auto
- 33 Pedestrian
- 34 Road, Other
- 40 Air
- 41 Air Containerized
- 50 Mail
- 60 Passenger, Hand Carried
- 70 Fixed Transport (Pipeline and Powerhouse)

Part II—Export Information Codes

- TP Temporary exports of domestic merchandise
- IP Shipments of merchandise imported under a Temporary Import Bond for further manufacturing or processing
- IR Shipments of merchandise imported under a Temporary Import Bond for repair
- CH Shipments of goods donated for charity
- FS Foreign Military Sales
- OS All other exports
- HV Shipments of personally owned vehicles
- HH Household and personal effects

- TE Temporary exports to be returned to the United States
- TL Merchandise leased for less than a year
- IS Shipments of merchandise imported under a Temporary Import Bond for return in the same condition
- CR Shipments moving under a carnet
- GP U.S. Government shipments
- MS Shipments consigned to the U.S. Armed Forces
- GS Shipments to U.S. Government agencies for their use
- UG Gift parcels under Bureau of Industry and Security License Exception GFT
- DD Other exemptions:
 - Currency
 - Airline tickets
 - Bank notes
 - Internal revenue stamps
 - State liquor stamps
 - Advertising literature
 - Shipments of temporary imports by foreign entities for their use
- RJ Inadmissible merchandise (For Manifest Use Only by AES Carriers)
- AE Shipment information filed through AES (See §§ 30.50 through 30.58 for information on filing exemptions.)

Part III—License Codes**Department of Commerce, Bureau of Industry and Security (BIS), Licenses**

- C30 Licenses issued by BIS authorizing an export, reexport, or other regulated activity.
- C31 SCL—Special Comprehensive License

- C32 NLR—No License Required (controlled for other than or in addition to Anti-Terrorism)
- C33 NLR—No License Required (All others, including Anti-Terrorism controls ONLY)
- C35 LVS—Limited Value Shipments
- C36 GBS—Shipments to B Countries
- C37 CIV—Civil End Users
- C38 TSR—Restricted Technology and Software
- C40 TMP—Temporary Imports, Exports, and Re-exports
- C41 RPL—Servicing and Replacement of Parts and Equipment
- C42 GOV—Government and International Organizations
- C43 GFT—Gift Parcels and Humanitarian Donations
- C44 TSU—Technology and Software—Unrestricted
- C45 BAG—Baggage
- C46 AVS—Aircraft and Vessels (AES not required)
- C47 APR—Additional Permissive Re-exports
- C48 KMI—Key Management Infrastructure
- C49 TAPS—Trans-Alaska Pipeline Authorization Act
- C50 ENC—Encryption Commodities and Software
- C51 AGR—License Exception Agricultural Commodities
- C53 APP—Adjusted Peak Performance (Computers)
- C54 SS—WRC—Western Red Cedar
- C55 SS—Sample—Crude Oil Samples
- C56 SS—SPR—Strategic Petroleum Reserves

C57 VEU—Validated End User Authorization

Nuclear Regulatory Commission (NRC) Codes

N01 NRC Form 250/250A—NRC Form 250/250A

N02 NRC General License—NRC 'General' Export License

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

SAG—Agreements

SCA—Canadian ITAR Exemption

S00—License Exemption Citation

S05—DSP-5—Permanent export of unclassified defense articles and services

S61—DSP-61—Temporary import of unclassified articles

S73—DSP-73—Temporary export of unclassified articles

S85—DSP-85—Temporary or permanent import or export of classified articles

S94—DSP-94—Foreign Military Sales

Department of Treasury, Office of Foreign Assets Control (OFAC) Codes

T10—OFAC Specific License

T11—OFAC General License

T12—Kimberley Process Certificate Number

Other License Types

OPA—Other Partnership Agency License

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

Part IV—In-Bond Codes

70 Not In Bond

36 Warehouse Withdrawal for Immediate Exportation

37 Warehouse Withdrawal for Transportation and Exportation

67 Immediate Exportation from a Foreign Trade Zone

68 Transportation and Exportation from a Foreign Trade Zone

Appendix C to Part 30—Summary of Exemptions and Exclusions from EEI Filing

A. EEI is not required for the following types of shipments:¹

1. Exemption for shipments destined to Canada (§ 30.36).

2. Valued \$2,500 or less per Schedule B/ HTSUSA classification for commodities shipped from one USPPI to one consignee on a single carrier (§ 30.37(a)).

3. Tools of the trade and their containers that are usual and reasonable kinds and quantities of commodities and software intended for use by individual USPPIs or by employees or representatives of the exporting

¹ Exemption from the requirements for reporting complete commodity information is covered in § 30.38; Special exemptions for shipments to the U.S. Armed Services and covered in § 30.39; and Special exemptions for certain shipments to U.S. Government agencies and employees are covered in § 30.40.

company in furthering the enterprises and undertakings of the USPPI abroad (§ 30.37(b)).

4. Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico (§ 30.37(c)).

5. Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States (§ 30.37(d)).

6. Shipments transported inbond through the United States for export to a third country and exported from another U.S. port or transshipped and exported directly from the port of arrival never having made entry into the United States. If entry for consumption or warehousing in the United States is made, then an EEI is required if the goods are then exported to a third country from the United States (§ 30.37(e)).

7. Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license. However, EEI is required for mass-market software (§ 30.37(f)).

8. Shipments to foreign libraries, government establishments, or similar institutions, as provided in FTR Subpart D § 30.40 (d). (§ 30.37(h)).

9. Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations (EAR 15 CFR 740.12); § 30.37(i)).

10. Diplomatic pouches and their contents (§ 30.37(j)).

11. Human remains and accompanying appropriate receptacles and flowers (§ 30.37(k)).

12. Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate. This excludes highly technical plans, correspondence, etc. that could be licensed (§ 30.37(l)).

13. Shipments of pets as baggage (§ 30.37(m)).

14. Carrier's stores, not shipped under a bill of lading or an air waybill, supplies and equipment, including usual and reasonable kinds and quantities of bunker fuel, deck engine and steward department stores, provisions and supplies, medicinal and surgical supplies, food stores, slop chest articles, and saloon stores or supplies for use or consumption on board and not intended for unloading in a foreign country. (See Table 5 if shipped under a bill of lading or an air waybill (§ 30.37(n)).

15. Dunnage not shipped under a bill of lading or an air waybill, of usual and reasonable kinds and quantities not intended for unloading in a foreign country (§ 30.37(o)).

16. Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores; and provisions and supplies for use on aircraft by a U.S. airline. (EAR license exception (AVS) for aircraft and vessels 15 CFR 740.15(c); § 30.37(p)).

17. Baggage and personal effects, accompanied or unaccompanied, of persons leaving the United States including members

of crews on vessels and aircraft, when they are not shipped as cargo under a bill of lading or an air waybill and do not require an export license (§ 30.37(q)).

18. Temporary exports, whether shipped or hand carried, (e.g., carnet) that are exported from or returned to the United States in less than one year (12 months) from date of export (§ 30.37(r)).

19. Goods previously imported under Temporary Import Bond for return in the same condition as when imported including: goods for testing, experimentation, or demonstration; goods imported for exhibition; samples and models imported for review or for taking orders; goods for imported for participation in races or contests; and animals imported for breeding or exhibition and imported for use by representatives of foreign government or international organizations or by members of the armed forces of a foreign country. Goods that were imported under bond for processing and re-exportation are not covered by this exemption (§ 30.37(s)).

20. Issued banknotes and securities and coins in circulation exported as evidence of financial claims. The EEI must be filed for unissued bank notes and securities and coins not in circulation (such as bank notes printed in the United States and exported in fulfillment of the printing contract or as part of collections), which should be reported at their commercial or current value (§ 30.37(t)).

21. Documents used in international transactions, documents moving out of the United States to facilitate international transactions including airline tickets, internal revenue stamps, liquor stamps, and advertising literature. Export of such documents in fulfillment of a contract for their production, however, are not exempt and must be reported at the transaction value for their production (§ 30.37(u)).

B. The following types of transactions are outside the scope of the FTR and shall be excluded from EEI filing:

1. Goods shipped under CBP bond through the United States, Puerto Rico, or the U.S. Virgin Islands from one foreign country or area to another where such goods do not enter the consumption channels of the United States.

2. Goods shipped from the U.S. territories of Guam Island, American Samoa, Wake Island, Midway Island, and Northern Mariana Islands to foreign countries or areas, and goods shipped between the U.S. and these territories (§ 30.2(d)(2)).

3. Electronic transmissions and intangible transfers. See FTR, Subpart B, for export control requirements for these types of transactions (§ 30.2(d)(3)).

4. Goods shipped to Guantanamo Bay Naval Base in Cuba from the United States, Puerto Rico, or the U.S. Virgin Islands and from Guantanamo Bay Naval Base to the United States, Puerto Rico, or the U.S. Virgin Islands. (See FTR Subpart D § 30.39 for filing requirements for shipments exported by the U.S. Armed Services.) (§ 30.2(d)(4)).

Appendix D to Part 30

AES FILING CITATION, EXEMPTION AND EXCLUSION LEGENDS

I. USML Proof of Filing Citation	AES ITN Example: AES X20060101987654.
II. AES Proof of Filing Citation subpart A § 30.7	AES ITN Example: AES X20060101987654.
III. AES Postdeparture Citation-USPPIUSPPI is filing the EEI	AESPOST USPPI EIN mm/dd/yyyy Example: AESPOST 12345678912 01/01/2006.
IV. Postdeparture Citation-Agent	AESPOST USPPI EIN—Filer ID mm/dd/yyyy Example: AESPOST 12345678912—987654321 01/01/2006.
V. AES Downtime Citation—Use only when AES or AESDirect is unavailable.	AESDOWN Filer ID mm/dd/yyyy Example: AESDOWN 123456789 01/01/2006.
VI. Standard Exclusions are found in 15 CFR 30, Subpart A, § 30.2(d)(1) through § 30.2(d)(4). The following types of transactions shall be excluded from EEI filing: (1) Goods Shipped from U.S. territories	NOEEI § 30.2(d)(site corresponding number).
(2) Goods Shipped to or from Guantanamo Bay Naval Base in Cuba and the United States.	
(3) Inbond Shipments through the United States, Puerto Rico, and the U.S. Virgin Islands.	
VII. Exemption for Shipments to Canada	NOEEI § 30.36.
VIII. Exemption for Low-Value Shipments	NOEEI § 30.37(a).
IX. Miscellaneous Exemption Statements are found in 15 CFR 30 Subpart D § 30.37(b) through § 30.37(u).	NOEEI § 30.37 (site corresponding alphabet).
X. Special Exemption for Shipments to the U.S. Armed Forces	NOEEI § 30.39
XI. Special Exemptions for Certain Shipments to U.S. Government Agencies and Employees (Exemption Statements are found in 15 CFR 30 Subpart D § 30.40(a) through § 30.40(d).	NOEEI § 30.40 (site corresponding alphabet).
XII. Split Shipments by Air “Split Shipments” should be referenced as such on the manifest in accordance with provisions contained in § 30.28, “Split Shipments by Air.” The notation should be easily identifiable on the manifest.	AES ITN SS Example: AES X20060101987654 SS.
It is preferable to include a reference to a split shipment in the exemption statements cited in the example, the notation SS should be included at the end of the appropriate exemption statement.	
Proof of filing citations by pipeline	NOEEI § 30.8(b).

Appendix E to Part 30—FTSR to FTR Concordance

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
Subpart A—General Requirements—USPPI			
30.1	General statement of requirement for Shipper’s Export Declarations (SEDs).	30.2	General requirements for filing Electronic Export Information (EEI).
30.1(a)	General requirements for filing SEDs .....	.....	General requirements for filing EEI.
30.1(b)	General requirements for reporting regarding method of transportation.	.....	NA.
30.1(c)	AES as an alternative to SED reporting .....	.....	NA.
30.1(d)	Electronic transmissions and intangible transfers	30.2(d)(3)	Exclusions from filing EEI.
30.2	Related export control requirements	30.15	Export control and licensing requirements introduction.
		30.16	EAR requirements for export information on shipments from U.S. Possessions to foreign destinations or areas.
		30.17	Customs and Border Protection Regulations.
30.3	Shipper’s Export Declaration forms .....	.....	NA.
30.4	Preparation and signature of Shipper’s Export Declarations (SED).	30.3	Electronic Export Information filer requirements, parties to export transactions, responsibilities of parties to export transactions.
30.4(a)	General requirements (SED)	30.3(a)	General Requirements.
30.4(b)	Responsibilities of parties in export transactions	30.3(b)	Parties to the export transaction.
		30.3(c)	General responsibilities of parties in export transactions.
		30.3(d)	Filer responsibilities.
30.4(c)	Responsibilities of parties in a routed export transactions.	30.3(e)	Responsibilities of parties in a routed export transaction.
30.4(d)	Information on the Shipper’s Export Declaration (SED) or Automated Export System (AES) record.	30.3(a)	General requirements.
30.4(e)	Authorizing a forwarding or other agent	30.3(f)	Authorizing an agent.
30.4(f)	Format requirements for SEDs .....	.....	NA.
30.5	Number and copies of Shipper’s Export Declaration required.	.....	NA.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.6	Requirements as to separate Shipper's Export Declarations.		NA.
30.7	Information required on Shipper's Export Declarations		NA.
30.8	Additional information required on shipper's Export Declaration for In-Transit Goods (ENG Form 7513).		NA.
30.9	Requirements for separation and alignment of items on shipper's Export Declarations.		NA.
30.10	Continuation sheets for Shipper's Export Declaration ...		NA.
30.11	Authority to require production of document	30.10(b)	Authority to require production of documents and retaining electronic data.
30.12	Time and place for presenting the SED, exemption legends or proof of filing citations.	30.4	Electronic export information filing procedures, deadlines, and certification statements.
		30.8	Time and place for presenting proof of filing citations, postdeparture filing citations, AES downtime citations, and exemption legends.
30.15	Procedure for presentation of declarations covering shipments from an interior point.		NA.
30.16	Corrections to Shipper's Export Declarations	30.9	Transmitting and correcting Electronic Export Information.

Subpart B—General Requirements—Exporting Carriers

30.20	General statement of requirement for the filing of manifests * * *.	30.45	General statement of requirements for the filing of carrier manifests with proof of filing.
30.20(a)	Carriers transporting merchandise from the United States, Puerto Rico, or U.S. territories to foreign countries.	30.45(a)	Requirements for filing carrier manifest.
30.20(b)	For carriers transporting merchandise from the United States to Puerto Rico.	30.45(a)	Requirements for filing carrier manifest.
30.20(c)	Except as otherwise specifically provided, declarations should not be filed at the place where the shipment originates.	30.45(a)	Requirements for filing carrier manifest.
30.20(d)	For purposes of these regulations, the port of exportation is defined as * * *.	30.1(c)	Definition used with EEI.
30.21	Requirements for the filing of Manifests	30.45	General statement of requirements for the filing of carrier manifests with proof of filing citations for the electronic submission of export information or exemption legends when EEI is not required.
30.21(a)	Vessel	30.45(a)(1)	Vessel.
30.21(b)	Aircraft	30.45(a)(2)	Aircraft.
30.21(c)	Rail Carrier	30.45(a)(3)	Rail Carrier.
30.21(d)	Carriers not required to file manifests	30.45(a)(4)	Carriers not required to file manifests.
30.22(a)	Requirements for the filing of SEDs or AES exemption legends and AES proof of filing citations by departing carriers.	30.8	Time and place for presenting proof of filing citation, exemption, and exclusion legends.
30.22(b)	The exporting carrier shall be responsible for the accuracy of the following items of information.		NA.
30.22(c)	Except as provided in paragraph (d) of this section, when a transportation company finds, prior to the filing of declarations and manifest as provided in paragraph (a) of this section, that due to circumstances beyond the control of the transportation company or to inadvertence, a portion of the merchandise covered by an individual Shipper's Export Declaration has not been exported on the intended carrier.		NA.
30.22(d)	When a shipment by air covered by a single Shipper's Export Declaration is divided by the transportation company and exported in more than one aircraft of the transportation.	30.45(c)	Split shipments by air.
30.22(e)	Exporting carriers are authorized to amend incorrect shipping weights reported on Shipper's Export Declarations.		NA.
30.23	Requirements for the filing of Shipper's Export Declarations by pipeline carriers.	30.46	Requirements for the filing of export information by pipeline carriers.
30.24	Clearance or departure of carriers under bond on incomplete manifest on Shipper's Export Declarations.	30.47	Clearance or departure of carriers under bond on incomplete manifests.

Subpart C—Special Provisions Applicable Under Particular Circumstances

30.30	Values for certain types of transactions	30.25	Values for certain types of transactions.
30.31	Identification of certain nonstatistical and other unusual transactions.	30.29	Reporting of repairs and replacements.
30.31(a)	Merchandise exported for repair only, and other temporary exports.	30.29(a)	The return of goods previously imported for repair * * *.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.31(b)	The return of merchandise previously imported for repair only.	30.29(b)	Goods that are covered under warranty and other temporary exports.
30.31(c)	Shipments of material in connection with construction, maintenance, and related work being done on projects for the U.S. Armed Forces.	.....	NA.
30.33	Vessels, planes, cargo vans, and other carriers and containers sold foreign.	30.26	Reporting of vessels, aircraft, cargo vans, and other carriers and containers.
30.34	Return of exported cargo to the United States prior to reaching its final destination.	30.27	Return of exported cargo to the United States prior to reaching its final destination.
30.37	Exceptions from the requirement for reporting complete commodity detail on the Shipper's Export Declaration.	30.38	Exemption from the requirements for reporting complete commodity information.
30.37(a)	Where it can be determined that particular types of U.S. Government shipments, or shipments for government projects, are of such nature that they should not be included in the export statistics.	30.39	Special exemptions for shipments to the U.S. Armed Services. (Note, this section does not specifically address construction materials nor related work being done on projects).
30.37(b)	Special exemptions to specific portions of the requirements of §30.7 with respect to the reporting of detailed information.	.....	NA.
30.39	Authorization for reporting statistical information other than by means of individual Shipper's Export Declarations filed for each shipment.	.....	NA.
30.40	Single declaration for multiple consignees .....	.....	NA.
30.41	"Split shipments" by air	30.28	"Split shipments" by air.

Subpart D—Exemptions From the Requirements for the Filing of Shipper's Export Declarations

30.50	Procedure for shipments exempt from the requirements for Shipper's Export Declarations.	30.35	Procedure for shipments exempt from filing requirements.
30.51	Government shipments not generally exempt	30.39	Special exemption for shipments to the U.S. Armed Services.
30.52	Special exemptions for shipments to the U.S. Armed Services.	30.39	Special exemptions for shipments to the U.S. Armed Services.
30.53	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.40	Special exemptions for certain shipments to U.S. Government agencies and employees.
30.53(e)	All commodities shipped to and for the exclusive use of the Panama Canal Zone or the Panama Canal Company.	.....	NA.
30.55	Miscellaneous exemptions	30.37	Miscellaneous exemptions.
30.55(a)	Diplomatic pouches and their contents	30.37(i)	Diplomatic pouches and their contents.
30.55(b)	Human remains and accompanying appropriate receptacles and flowers.	30.37(j)	Human remains and accompanying appropriate receptacles and flowers.
30.55(c)	Shipments from one point in the United States to another thereof by routes passing through Mexico.	30.37(c)	Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico.
30.55(d)	Shipments from one point in Mexico to another point thereof by routes through the United States.	30.37(d)	Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.
30.55(e)	Shipments, other than by vessel, or merchandise for which no validated export licenses are required, transported in-bond through the United States, and exported from another U.S. port, or transhipped and exported directly from the port of arrival.	30.37(e)	Shipments, transported in-bond through the United States, and exported from another U.S. port, or transhipped and exported directly from the port of arrival.
30.55(f)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in §30.53(d).	30.37(g)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in §30.40(d).
30.55(g)	Shipments of single gift parcels as authorized by the Bureau of Industry and Security under License Exception GFT, see 15 CFR 740.12 of the EAR.	30.37(h)	Shipments authorized by License Exception GFT for gift parcels, humanitarian donations.
30.55(h)	Except as noted in paragraph (h)(2) of this section, exports of commodities where the value of the commodities shipped from one exporter to one consignee on a single exporting carrier, classified under an individual Schedule B number, is \$2,500 or less.	30.37(a)	Except as noted in §30.2(a)(e)(iv), exports of commodities where the value of the commodities shipped USPPI to one consignee on a single exporting carrier, classified under an individual Schedule B or HTSUSA commodity classification code, is \$2,500 or less.
30.55(i)	Shipments of interplant correspondence, executed invoices, and other documents and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.	30.37(k)	Shipments of interplant correspondence, executed invoices, and other documents and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.
30.55(j)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.	30.37(l)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.55(k)	Shipments for use in connection with NASA tracking systems under Office of Export Administration Project License DL-5355-S.	.....	NA.
30.55(l)	Shipments of aircraft parts and equipment, and food, saloon, slop chest, and related stores, provisions, and supplies for use on aircraft by a U.S. airline to its own installations, aircraft, and agent aboard, under Department of Commerce, Office of Export Administration General License, RCS.	.....	NA.
30.55(m)	Shipments for use in connection with NOAA operations under the Office of Export Administration General License G-NOAA.	.....	NA.
30.55(n)	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license.	30.37(f)	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license.
30.55(o)	Intangible exports of software and technology, such as downloaded software and technical data, including technology and software that requires an export license and mass market software exported electronically.	30.2(d)(3)	Intangible exports of software and technology, such as downloaded software and technical data, including technology and software that requires an export license and mass market software exported electronically.
30.56	Conditional Exemptions	30.37	Miscellaneous exemptions.
30.56(a)	Baggage and personal effects * * *	30.38	Exemption from the requirements for reporting complete commodity information.
30.56(b)	Tools of trade * * *	30.37(b)	Tools of trade * * *.
30.56(c)	Carriers' stores * * *	30.37(m)	Carriers' stores * * *.
30.56(d)	Dunnage * * *	30.37(n)	Dunnage * * *.
30.57	Information on export declarations for shipments of types of goods covered by § 30.56 not conditionally exempt.	.....	NA.
30.58	Exemption for shipments from the United States to Canada.	30.36	Exemption for shipments destined to Canada.

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

30.60	General requirements for filing export and manifest data electronically using the Automated Export System (AES).	30.2	General requirements for filing Electronic Export Information.
30.60(a)	Participation .....	.....	NA.
30.60(b)	Letter of Intent	30.5(a)(1)	Postdeparture filing application.
30.60(c)	General filing and transmission requirements	30.4	NA.
30.60(d)	General responsibilities of exporters, filing agents, and sea carriers—.	30.3	Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.
30.61	Electronic filing options	30.4	Electronic Export Information filing procedure, deadlines, and certification statement.
30.62	AES Certification, qualifications, and standards	30.5	EEL filing application and certification processes and standards.
30.63	Information required to be reported electronically through AES (data elements).	30.6	Electronic Export Information data elements.
30.64	Transmitting and correcting AES information	30.9	Transmitting and correcting Electronic Export Information.
30.65	Annotating the proper exemption legends or proof of filing citations for shipments transmitted electronically.	30.7	Annotating the bill of lading, air waybill, and other commercial loading documents with the proper proof of filing citations, approved postdeparture filing citations, downtime filing citation, or exemption legends.
30.66	Recordkeeping and requirements	30.5(f)	Support.
30.66	Support, documentation, and recordkeeping requirements.	30.10	Retention of export information and the authority to require production of documents.

Subpart F—General Requirements—Importers

30.70	Statistical information required on import entries	30.50	General requirements for filing import entries.
30.80	Imports from Canada	30.51	Statistical information required for import entries.
30.81	Imports of merchandise into Guam	30.54	Special provisions for imports from Canada.
30.82	Identification of U.S. merchandise returned for repair and reexport.	30.53	NA.
30.83	Statistical copy of mail and informal entries .....	.....	Import of goods returned for repair.
.....	.....	.....	NA.

Subpart H—General Administrative Provisions

30.90	Confidential information, import entries, and withdrawals.	30.55	Confidentiality information, import entries, and withdrawals.
30.91	Confidential information, Shipper's Export Declarations	30.60	Confidentiality of Electronic Export Information.

FTSR	FTSR regulatory topic	FTR	FTR regulatory topic
30.92	Statistical classification schedules	30.61	Statistical classification schedules.
30.93	Emergency exceptions	30.62	Emergency exceptions.
30.94	Instructions to CBP		NA.
30.95	Penalties for violations		Subpart H.
30.95(a)	Exports (reexports) of rough diamonds	30.70	Violation of the Clean Diamond Trade Act.
30.95(b)	Exports of other than rough diamonds	30.71	False or fraudulent reporting.
30.99	OMB control numbers assigned pursuant to the Paperwork Reduction Act.	30.63	Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.

Appendix F to Part 30—FTR to FTSR Concordance

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
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Subpart A—General Requirements

30.1	Purpose and definitions	NA	NA.
30.2	General requirements for filing Electronic Export Information.	30.1	General statement of requirement for Shipper's Export Declarations.
30.2(a)	Filing Requirements		Filing Requirements.
30.2(b)	General requirements.		NA.
30.2(c)	Certification and filing requirements		NA.
30.2(d)	(d) Exclusions from filing EEI		NA.
30.2(e)	(e) Penalties		NA.
30.3	Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.	30.4	Preparation and signature of Shipper's Export Declaration.
30.4	Electronic Export Information filing procedures, deadlines, and certification statements.	30.61	Electronic filing options.
30.4(a)	EEI transmitted predeparture	30.61(a)	EEI transmitted predeparture.
30.4(b)	Filing deadlines for EEI transmitted predeparture		NA.
30.4(c)	EEI transmitted postdeparture	30.61(b)	EEI transmitted post departure.
30.4(d)	Proof of filing citation or exemption legend	30.12(d)	Exports file via AES.
30.5	Electronic Export Information filing application and certification processes and standards.	30.62	AES Certification, qualifications, and standards.
30.5(a)	AES application process	30.60(b)	AES Participant Application.
30.5(b)	Certification process	30.66	Recordkeeping and requirements.
30.5(c)	Postdeparture filing approval process.		
30.5(d)	Electronic Export Information filing standards.		
30.5(e)	Monitoring the filing of Electronic Export Information.		
30.5(f)	Support.		
30.6	Electronic Export Information data elements	30.63	Information required to be reported electronically through AES (data elements).
30.7	Annotating the bill of lading * * *	30.65	Annotating the proper exemption legends or proof of filing citations * * *.
30.8	Time and place for presenting proof of filing citations, postdeparture filing citations, downtime filing citation, or exemption legends.	30.12	Time and place for presenting the SED, exemption legends, or proof of filing citations.
30.9	Transmitting and correcting Electronic Export Information.	30.64	Transmitting and correcting AES information.
30.10(a)	Retention of Export information	30.16	Corrections to Shipper's Export Declarations.
30.10(b)	Authority to require production of documents	30.66	Support, documentation and recordkeeping, and documentation requirements.
		30.11	Authority to require production of documents.

Subpart B—Export Control and Licensing Requirements

30.15	Introduction	30.2	Related export control requirements.
30.16	Export Administration Regulations	30.2	Related export control requirements.
30.17	Customs and Border Protection Regulations	30.2	Related export control requirements.
30.18	Department of State Regulations	30.2	Related export control requirements.
30.19	Other Federal agency regulations	30.2	Related export control requirements.

Subpart C—Special Provisions and Specific-Type Transactions

30.25	Values for certain types of transactions	30.30	Values for certain types of transactions.
30.26	Reporting of vessels, aircraft, cargo vans, and other carriers and containers.	30.33	Vessels, planes, cargo vans, and other carriers and containers sold foreign.
30.27	Return of exported cargo to the United States prior to reaching its final destination.	30.34	Return of exported cargo to the United States prior to reaching its final destination.
30.28	"Split shipments" by air	30.41	"Split shipments" by air.

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.29	Reporting of repairs and replacements	30.31	Identification of certain nonstatistical and other unusual transactions.

Subpart D—Exemptions From the Requirements for the Filing of Electronic Export Information

30.35	Procedure for shipments exempt from filing requirements.	30.50	Procedure for shipments exempt from the requirements for SEDs.
30.36	Exemption for shipments destined to Canada	30.58	Exemption for shipments from the United states to Canada.
30.37	Miscellaneous exemptions	30.55	Miscellaneous exemptions.
30.37(a)	Except as noted in § 30.2(a)(1)(iv), exports of commodities where the value * * * is \$2,500 or less.	30.55	Conditional exemptions.
30.37(b)	Tools of trade * * *	30.56(b)	Except as noted in paragraph h(2) of this section, exports of commodities where the value * * * is \$2,500 or less.
30.37(c)	Shipments from one point in the United States to another point in the United States by routes passing through Canada or Mexico	30.55(c)	Tools of trade * * * .
30.37(d)	Shipments from one point in Canada or Mexico to another point thereof by routes through the United States	30.58(a)	Shipments from one point in the United States to another thereof by routes passing through Mexico.
30.37(e)	Shipments transported inbound through the United States * * * .	30.55(d)	* * * this exemption also applies to shipments from one point in the United States or Canada to another point thereof * * * .
30.37(f)	Exports of technology and software as defined in 15 CFR of the EAR that do not require an export license * * * .	30.58(a)	Shipments from one point in Canada or Mexico to another point in the same country by routes through the United States.
30.37(g)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.40(d).	30.55(e)	* * * this exemption also applies to shipments from one point in the United States or Canada to another point thereof * * * .
30.37(h)	Shipments as authorized under License Exception GFT for gift parcels and humanitarian donations.	30.55(n)	Shipments, other than by vessel, or merchandise for which no validated licenses required, transported inbound through the United States * * * .
30.37(i)	Diplomatic pouches and their contents .....	.....	Exports of technology and software as defined in 15 CFR 772 of the EAR that do not require an export license * * * .
30.37(j)	Human remains and accompanying appropriate receptacles and flowers.	30.55(g)	Shipments to foreign libraries, government establishments, or similar institutions, as provided in § 30.53(d).
30.37(k)	Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.	30.55(a)	Shipments of single gift parcels as authorized by the Bureau of Industry and Security under license exception GFT.
30.37(l)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.	30.55(b)	Diplomatic pouches and their contents.
30.37(m)	Carriers' stores * * *	30.55(i)	Human remains and accompanying appropriate receptacles and flowers.
		30.55(j)	Shipments of interplant correspondence, executed invoices and other documents, and other shipments of company business records from a U.S. firm to its subsidiary or affiliate.
		30.56(c)	Shipments of pets as baggage, accompanied or unaccompanied, of persons leaving the United States, including members of crews on vessels and aircraft.
			Carriers' stores * * * .

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.37(n)	Dunnage * * *	30.56(d)	Dunnage * * *
30.37(o)	Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores, * * *	30.55(l)	Shipments of aircraft parts and equipment; food, saloon, slop chest, and related stores, * * *
30.37(p)	Baggage and personal effects not shipped as cargo under a bill of lading or an air waybill and not requiring an export license * * *	30.56(a)	Baggage and personal effects not shipped as cargo under a bill of lading or an air waybill and not requiring an export license * * *
30.37(q)	Temporary exports, whether shipped or hand carried (e.g. carnet), which are exported from or returned to the United States in less than one year (21 months) from the date of export	30.31(a)	* * * and other temporary exports.
30.37(r)	Goods previously imported under a Temporary Import Bond for return in the same condition as when imported * * *	30.37(a)(2) ..	Temporary exports by or to U.S. Government agencies.
30.37(s)	Issued bank notes and securities and coins in circulation exported as evidence of financial claims.	30.31(b)	* * * and other returns to the foreign shipper of other temporarily imported merchandise.
30.37(t)	Documents used in international transactions * * *	.....	NA.
30.38	Exemption from the requirements for reporting complete commodity information.	.....	NA.
30.38(a)	Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.	30.56	Conditional exemptions.
30.38(b)	Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.	30.56(a)(1) ..	Usual and reasonable kinds and quantities of wearing apparel, articles of personal adornment, toilet articles, medicinal supplies, food, souvenirs, games, and similar personal effects and their containers.
30.38(c)	Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, * * *	30.56(a)(2) ..	Usual and reasonable kinds and quantities of furniture, household effects, household furnishings, and their containers.
30.39	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.56(a)(3) ..	Usual and reasonable kinds and quantities of vehicles, such as passenger cars, station wagons, trucks, * * *
30.40	Special exemptions for certain shipments to U.S. Government agencies and employees.	30.53	Special exemptions for certain shipments to U.S. Government agencies and employees
		30.53	Special exemptions for certain shipments to U.S. Government agencies and employees

Subpart E—General Carrier and Manifest Requirements

30.45	General statement of requirements for the filing of carrier manifests with proof of filing citations	30.20	General statement of requirements for the filing of manifests * * *
30.46	Requirements for the filing of export information by pipeline carriers.	30.21	Requirements for the filing of manifests.
30.47	Clearance or departure of carriers under bond on incomplete manifests.	30.22	Requirements for filing of Shipper's Export Declarations by departing carriers.
		30.23	Requirement for the filing of Shipper's Export declarations by pipeline carriers.
		30.24	Clearance or departure of carriers under bond on incomplete manifest * * *

Subpart F—Import Requirements

30.50	General requirements for filing import entries	30.70	Statistical information required on import entries.
30.53	Import of goods returned for repair	30.82	Identification of U.S. merchandise returned for repair and reexport.
30.54	Special provisions for imports from Canada	30.80	Imports from Canada.
30.55	Confidential information, import entries, and withdrawals.	30.90	Confidential information import entries, and withdrawals.

Subpart G—General Administrative Provisions

30.60	Confidentiality of Electronic Export Information	30.91	Confidential information, Shipper's Export Declaration.
30.61	Statistical classification schedules	30.92	Statistical classification schedules.

FTR	FTR regulatory topic	FTSR	FTSR regulatory topic
30.62	Emergency exceptions	30.93	Emergency exceptions.
30.63	Office of Management and Budget control numbers assigned pursuant to the Paperwork Reduction Act.	30.99	OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Subpart H—Penalties

30.70	Violation of the Clean Diamond Trade Act	30.95(a)	Penalties for violations for export (reexport) of rough diamonds.
30.71	False or fraudulent reporting on or misuse of the Automated Export System.	30.95(b)	Penalties for violations of exports other than diamonds.
30.71(a)	Criminal penalties.		
30.71(b)	Civil penalties.		
30.72	Civil penalty procedures		NA.
30.73	Enforcement		NA.
30.73(a)	Department of Commerce.		
30.73(b)	Department of Homeland Security.		
30.74	Voluntary self-disclosure		NA.
30.75–30.99	[Reserved].		

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Steve H. Murdock,

Director, Bureau of the Census.

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