

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

[Docket Number 010622161–3092–03]

RIN 0607–AA34

**Automated Export System Mandatory Filing for Items on the Commerce Control List (CCL) and the United States Munitions List (USML) That Currently Require a Shipper's Export Declaration (SED)****AGENCY:** Bureau of the Census, Commerce.**ACTION:** Final rule.

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

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

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

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

**SUPPLEMENTARY INFORMATION:****Background**

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

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

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

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

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

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

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