

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

#### **Changes to the Proposed Rule as a Result of Public Comments**

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

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

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

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

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

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

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

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

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

#### **Program Requirements**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Rulemaking Requirements**

##### *Regulatory Flexibility Act*

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