

footnote number 1 to paragraph 740.13(d)(1) to add a reference to AES immediately following the reference to SEDs. Paragraphs 740.15(c)(1)(iv), 740.15(c)(2)(iv), 744.7(b)(1)(iv), and 744.7(b)(2)(iv) are amended to add references to AES immediately following the references to the SED and to amend the statement that the SED must be filed with the carrier to a statement that the SED or AES must be filed in accordance with the FTSR. Paragraph 740.13(d)(1) deals with certain "mass market" software that is eligible for License Exception TSU. Paragraph 740.15(c) is a provision of License Exception AVS dealing with shipments to U.S. or Canadian vessels, planes, and airline installations or agents. Paragraph 744.7(b) provides an exception for U.S. and Canadian carriers to restrictions on certain exports to and for the use of certain foreign vessels or aircraft.

This rule amends paragraphs 750.7(b), 752.7(b) and 752.15(a) to add references to AES in places where references to SEDs appear. Additionally, paragraph 752.15(a) is amended to state that SEDs or AES records must be submitted in accordance with the requirements of the FTSR as well as section 758.1 of the EAR (previously this paragraph did not mention the FTSR) and to eliminate references to the now non-existent Bureau of Census Monthly Reporting System.

This rule amends paragraphs 754.2(h)(2), 754.2(i)(3), 754.2(j)(2), 754.4(d)(3)(ii), and 754.4(c)(4) to add references to AES to the previously existing references to SEDs and amends paragraph 754.2(j)(2) to correct the mailing address listed therein. Section 754.2 deals with exports of crude oil. Paragraphs (h)(2) and (i)(3) provide language that must be on the SED or AES record when certain license exceptions are used. Paragraph (j)(2) provides that the exporter must submit a copy of the SED or AES record directly to BIS. This requirement is in addition to the requirements of the FTSR. Section 754.4 deals with exports of unprocessed Western Red Cedar. Paragraph (c)(4) describes language that must be on the SED or AES record when license exception WRC is used. Paragraph (d)(3)(i) requires exporters to retain a copy of the SED or AES record.

This rule amends paragraph 758.1(b)(2) to require an SED or AES submission for exports requiring a license under the EAR, not just those authorized by such a license. This change conforms the EAR requirement to that of the FTSR found at 15 CFR 30.55(h)(2)(ii). This rule also makes conforming changes to paragraphs

758.1(b)(1) and (b)(3). This rule amends paragraph 758.1(e) to add the parenthetical "U.S. principal party in interest" immediately following the word "exporter." This change clarifies the latter term and conforms the EAR to the FTSR (15 CFR 30.4).

This rule amends the introductory paragraph to section 758.2 to remove all references to AES "Option 3"; to replace the word "four" with the word "three" and the word "three" with the word "two" when referring to filing options because the Census July 17, 2003 rule removed Option 3, leaving a total of three options, numbered 1, 2, and 4, two of which are electronic. This rule also amends some citations to the FTSR as needed to reflect changes made by the Census July 17, 2003 rule and replaces the phrase "U.S. Customs Service" with "Bureau of Customs and Border Protection."

This rule amends the fourth sentence of paragraph 758.2(a) to make clear that the agency 30 day time limit for reviewing Option 4 Letters of Intent runs from the date of referral of the Letter of Intent to the agency by the Census Bureau and that any agency objections must be received by the Census Bureau within the 30 days or the agency will be deemed not to object. These changes conform EAR paragraph 758.2(a) to the corresponding requirements of the FTSR (15 CFR 30.62(b)(1)).

This rule amends paragraph 758.2(c)(3) to replace the listing of the countries that have been designated as terrorist supporting by the Secretary of State with the phrase "Country Group E:1." This change conforms this paragraph with the usage elsewhere in the EAR.

This rule amends paragraphs 758.7(b)(1)(i), 758.7(b)(6), section 758.9, paragraphs 770.2(e)(2)(ii), 770.2(f), and section 772.1 (definition of NLR) to add references to AES wherever references to SED appear. This rule also amends section 758.9 to replace the phrase "U.S. Customs Service" with "Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement". Paragraphs 758.7(b)(1)(i) and (b)(6) deal with authority to inspect items about to be exported and with detention and seizure of shipments, respectively. Section 758.9 makes clear that part 758 of the EAR does not relieve anyone from compliance with other laws. Paragraphs 770.2(e)(ii) and 770.2(f) address documentation requirements when shipping numerical control systems and parts, accessories; and equipment exported as scrap, respectively. Section 772.1 contains

definitions of terms found elsewhere in the EAR.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (3 CFR 2001 Comp., p. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003), continues the Regulations in effect under the International Emergency Economic Powers Act.

#### Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a current, valid OMB control number. In accordance with the PRA, 44 U.S.C. Chapter 35, OMB approved on April 26, 2002, with control number 0607-0512, the collection of all information associated with the AES and SED. The Census Bureau has estimated that each electronic SED will take approximately 3 minutes to complete and that each paper SED will take approximately 11 minutes to complete. This rule does not change the number of transactions for which such filing is necessary nor does it change the amount of information that will have to be filed for any transaction. This rule also involves a collection of information by BIS that bears OMB control number 0694-0027. The burden hour estimated associated with the collection that this rule involves (submitting a copy of the Shipper's Export Declaration or Automated Export System record to BIS when exporting certain crude oil), is nine annual burden hours. BIS believes that this rule will not change the number of burden hours.

3. This rule does not contain policies with Federalism implications as this term is defined in Executive Order 13132.

4. We find good cause to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment (5 USC 553(b)(B)) because they are unnecessary as the changes made by this rule simply make certain provisions of the Export Administration Regulations conform to other rules that have been lawfully promulgated. No other law requires that a notice of final rulemaking and an opportunity for public comment be given for this rule. Because a notice of final rulemaking and an opportunity for public comment are