



9111-14

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 4, 10, 18, 113, 122, 123, 141, 191, and 192

[CBP Dec. 17-06]

Electronic Information for Cargo Exported from the United States; Technical Amendments

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends U.S. Customs and Border Protection regulations regarding the requirements to provide data for certain exported cargo to conform to current requirements. Various CBP regulations regarding exported cargo refer to outdated regulations or requirements of the U.S. Census Bureau, including the requirement to submit a paper Shipper's Export Declaration (SED). The U.S. Census Bureau's Foreign Trade Regulations (FTR) have been amended to eliminate the SED and to require that the information that was previously provided on the paper SED be filed electronically through the Automated Export System. This rule amends the CBP regulations to incorporate the current requirements. The rule also makes related conforming changes as well as non-substantive editorial and nomenclature changes.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Background and Purpose

U.S. Customs and Border Protection (CBP) periodically reviews its regulations to ensure that they are up to date. As explained below, various provisions of the CBP regulations contain references to certain U.S. Census Bureau (Census Bureau) requirements and regulations which are out of date. CBP is updating the regulations so that they conform to current requirements.

In 2008, 2013, and 2016, the Census Bureau issued amendments to the Foreign Trade Regulations (FTR) codified at 15 CFR part 30 that require exporters to use the Automated Export System (AES) to file export commodity and transportation information, known as Electronic Export Information (EEI), directly with CBP and the Census Bureau.¹ The amendments concurrently eliminated the use of the Shipper's Export Declaration (SED), the

¹ In 2002, Congress passed the Foreign Relations Authorization Act (the "FRAA"), Public Law 107-228, 116 Stat. 1350 (September 30, 2002). Section 1404 of the FRAA mandates that the Census Bureau, with the concurrence of the Secretary of State and the Secretary of Treasury, publish regulations implementing the requirement to file export information through AES for all shipments where an SED was required. On June 2, 2008, the Census Bureau published a final rule in the **Federal Register** (73 FR 31548) ("the 2008 Census Bureau rule") creating the FTR, which required export information for which an SED was previously required to be filed to be from then on filed through AES for most exports. That final rule did not require the use of AES to report export data for used self-propelled vehicles and temporary exports. On March 14, 2013, the Census Bureau published a final rule in the **Federal Register** (78 FR 16366) ("the 2013 Census Bureau rule") that expanded the requirement for exporters to use AES to include shipments of used self-propelled vehicles and temporary exports. On November 13, 2013, the Census Bureau published a notice in the **Federal Register** (78 FR 67928) delaying the effective date of this final rule until April 5, 2014. On April 19, 2017, the Census Bureau published a final rule in the **Federal Register** (82 FR 18383) amending the FTR to reflect new export reporting requirements, which, among other things, redesignated Appendix D as Appendix B.

paper form previously used by exporters to report export information.² The amendments also revised some terminology and clarified some requirements. Because various CBP regulations refer to AES as a voluntary program, and refer to the SED and other outdated provisions and terminology in the FTR, it is necessary to amend the CBP regulations so that they are consistent with current requirements.

It should be noted that the Department of Homeland Security (DHS), through CBP, collects certain export information under its own authority pursuant to section 343(a) of the Trade Act of 2002, Public Law 107-210, 116 Stat. 981 (August 6, 2002), as amended, which mandates that the Secretary of Homeland Security collect information pertaining to cargo before the cargo is either brought into or sent from the United States by any mode of commercial transportation (sea, air, rail or truck). See 19 U.S.C. 2071 note. The cargo information required is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security pursuant to those laws enforced and administered by CBP.³ The advance reporting requirements pertaining to exported cargo are set forth in 19 CFR part 192. These part 192 regulations make various references to the SED and other outdated Census Bureau requirements.

II. Explanation of Amendments

CBP has determined that it is necessary to update parts 4, 10, 18, 113, 122, 123, 141, 191 and 192 of the CBP regulations (19 CFR parts 4, 10, 18, 113, 122, 123, 141, 191 and 192) to conform them to the Census Bureau's FTR. Accordingly, this rule amends the CBP

² On June 29, 2008, CBP published a general notice in the **Federal Register** (73 FR 32466) to inform the public that CBP would enforce compliance with the regulations pertaining to the mandatory, pre-departure electronic filing of export information through AES starting on September 30, 2008.

³ On December 5, 2003, CBP published a final rule in the **Federal Register** (68 FR 68140) that amended the CBP regulations to require the submission of electronic information pertaining to cargo before the arrival or departure of that cargo from the United States by any mode of commercial transportation pursuant to section 343(a) of the Trade Act of 2002, as amended by the Maritime Security Act (19 U.S.C. 2071 note). See 19 CFR 4.7, 4.7a (vessel); 122.48a (air); 123.91 (rail); 123.92 (truck); 192.14 (exported cargo).

regulations by incorporating current requirements for the filing of EEI in AES, deleting references to the SED, updating outdated terminology and by making other conforming changes. These changes are discussed in more detail below.

A. 19 CFR part 4

Sections 4.61, 4.63, 4.75, 4.76, 4.81, 4.84 and 4.87 of the CBP regulations (19 CFR 4.61, 4.63, 4.75, 4.76, 4.81, 4.84 and 4.87) set forth various requirements pertaining to the exportation of cargo from the United States by vessel. These sections refer to the terms “shipper’s export declarations”, “export declarations”, “paper SEDs”, and “cargo information”. Pursuant to the Census Bureau’s FTR, SEDs are no longer accepted and exporters must file their export information as EEI through AES. Accordingly, CBP is replacing references to these terms with “Electronic Export Information (EEI)” or “EEI”, as appropriate.

Under the FTR, when an export transaction is exempt or excluded from the requirement to file EEI, or when the EEI has not yet been filed in AES, the exporter must report to CBP the EEI exemption or exclusion legend that indicates the basis for not filing EEI, or must report the EEI filing citation (known as the “proof of filing citation” in the Census Bureau’s FTR) to indicate that the EEI has been accepted or the post departure filing citation to indicate that EEI will be filed in AES. Therefore, where appropriate, CBP is replacing the references to the “shipper’s export declarations” with “EEI filing citations, exclusions, and/or exemption legends”.

Section 4.63 concerns the outward cargo declaration for vessels. Paragraph (b) provides that if EEI is not required for a shipment, a notation must be made on the outward cargo declaration describing the basis for the exemption. The Census Bureau’s FTR,

however, requires notations for both exemptions and exclusions. See 15 CFR 30.7, 30.45. Therefore, CBP is making a conforming change to § 4.63 to also require a notation describing the basis for an exclusion from filing EEI, if applicable. In addition, the last sentence of paragraph (b) provides that shipments that are exempt from the requirement to file EEI based on value or destination are not required to make reference to the applicable section in the Census Bureau's regulations on its outward cargo declaration. The Census Bureau's FTR, however, requires an annotation of the appropriate exemption legend on such documents, regardless of the type of exemption. See 15 CFR 30.45. Accordingly, CBP is making a conforming revision to § 4.63 by removing the last sentence of paragraph (b).

Section 4.76 sets forth procedures and responsibilities of carriers filing outbound vessel manifest information via the AES. As a result of the elimination of the SED and the new requirement to file EEI electronically, certain procedural language in § 4.76 must be updated. In paragraph (b), the second to last sentence provides that where paper SEDs have been submitted by exporters prior to departure, participant carriers will be responsible for submitting those SEDs to Customs within four (4) business days after the departure of the vessel from each port, unless a different time required is specified by § 4.75 or § 4.84. Because EEI has replaced paper SEDs, exporters are now required to submit to CBP a vessel manifest annotated with proof of EEI filing (as demonstrated by an Internal Transaction Number (ITN) issued by AES upon filing) rather than a paper SED. Therefore, CBP is revising this sentence to read: When the exporter submits Electronic Export Information (EEI) prior to departure, carriers will be responsible for annotating the manifest with the Internal Transaction Number (ITN) without change and submitting the manifest to CBP within four (4) business days after the departure of the vessel from each port unless a

different time requirement is specified in § 4.75 or § 4.84. Additionally, CBP is removing the last sentence of § 4.76(b) regarding an alternative procedure for the filing of the paper SED. This procedure is no longer applicable in an environment where paper SEDs are not accepted.

CBP is also amending various sections throughout part 4 to update outdated terminology. These sections are amended by replacing outdated references to “Customs” or “Customs Service” with “CBP”. These amendments are consistent with the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) in 2003 and the subsequent renaming of the agency as U.S. Customs and Border Protection (CBP) by DHS on March 31, 2007. See 72 FR 20131 (April 23, 2007); 75 FR 12445 (March 16, 2010); see also U.S. Customs and Border Protection Authorization Act, Pub. L. 114-125, 130 Stat. 199 (19 U.S.C. 4301 note), enacted February 24, 2016.

CBP is also updating § 4.76(b) which refers to the “AES Trade Interface Requirements (AESTIR) handbook”. The AESTIR handbook is no longer published by CBP. The performance requirements and operational standards required to file EEI are collectively referred to as the AES Trade Interface Requirements and is available on CBP’s website. Therefore, CBP is removing the word “handbook”. Also in § 4.76(b), CBP is updating CBP’s website address.

CBP is amending various sections throughout part 4 that refer to the “Census Regulations”, “Bureau of Census Regulations”, “regulations of the Bureau of the Census”, or “Bureau of Trade Census Foreign Trade Statistics (FTSR)”. The 2008 Census Bureau rule mandating the use of AES for all shipments requiring an SED also renamed the regulations

under title 15 of the CFR, part 30. They are now referred to as the “Foreign Trade Regulations (FTR)”. Accordingly, CBP is replacing references to “Census Regulations”, “Bureau of Census Regulations”, “regulations of the Bureau of the Census”, or “Bureau of Trade Census Foreign Trade Statistics (FTSR)” with “Census Bureau’s Foreign Trade Regulations”.

CBP is amending various sections in part 4 to correct certain outdated citations to the United States Code (U.S.C.) and the CFR. Section 4.61(c) is amended to correct “46 U.S.C. App. 97” to “46 U.S.C. 60106”, “46 U.S.C. App. 98” to “46 U.S.C. 60109”, and “Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100)” to “Payment of all legal fees that have accrued on the vessel (46 U.S.C. 60107)”. Section 4.75(a) is amended to correct “46 U.S.C. 91” to “46 U.S.C. 60105.”⁴ Section 4.61(e) is amended to correct a typographical error. Specifically, the citation in “22 U.S.C. 454a” is changed to “22 U.S.C. 454(a)”. Sections 4.63, 4.75 and 4.76 contain outdated references to 15 CFR part 30 as a result of the Census Bureau’s reorganization of the FTR and are amended to cite to the correct provisions in 15 CFR part 30.

CBP is also making certain minor changes in part 4 for clarity and for consistency, including replacing the references to “Form 1302-A” with “Form 1302A” for consistency with CBP’s current usage on its forms and replacing the term “port” with “port of lading”. “Port of lading” is the nomenclature used for the sea port where the cargo is loaded on a vessel. Using this term rather than simply “port” clarifies that these regulations are referring to the “port of lading” rather than the “port of discharge,” where the cargo would be

⁴ Section 9 of the Merchant Marine Laws Codification, 109 Pub. L. 304, 120 Stat. 1485 (Oct. 6, 2006) redesignated these sections. The revisions incorporate the redesignations.

unloaded. For stylistic reasons, CBP is also replacing references to “shall” with “must” or “will”, as appropriate.

B. 19 CFR part 10

Section 10.41b of the CBP regulations (19 CFR 10.41b) concerns the requirements for clearance of serially numbered substantial holders or outer containers. Paragraph (g)(2) provides that nothing in the procedure described by § 10.41b will be deemed to affect the requirements of the Department of Commerce on exportation with respect to the filing of “Shipper’s Export Declaration,” Form 7525V”. CBP is replacing this reference with “Electronic Export Information (EEI)” to conform to the revised FTR.

C. 19 CFR part 18

Sections 18.42 and 18.43 of the CBP regulations (19 CFR 18.42 and 18.43) set forth exportation requirements for merchandise exported under cover of a TIR (Transport International Routier) carnet. Section 18.42 covers the requirements for direct exportation and section 18.43 covers the requirements for indirect exportation. In these sections, CBP is replacing references to “export declarations” with “Electronic Export Information (EEI)” to conform to the revised FTR. CBP is also replacing references to “Bureau of the Census” with “Census Bureau” for consistency with other CBP regulations. For stylistic reasons, CBP is also replacing references to “shall” with “must” or “will”, as appropriate.

D. 19 CFR part 113

Section 113.64 of the CBP regulations (19 CFR 113.64) sets forth international carrier bond conditions. Paragraph (i) relates to the agreement by carriers to deliver export documents to CBP and provides for the payment of liquidated damages if the agreement is not adhered to. The specified liquidated damage amounts reflect the amounts in the former

Census Bureau regulation, § 30.24(a), later redesignated § 30.47(b). These amounts were increased by the 2008 Census Bureau rule. CBP is changing the specified liquidated damages amounts to conform to the Census Bureau's FTR.

E. 19 CFR part 122

Sections 122.71, 122.72, 122.73, 122.74, 122.75, 122.76, and 122.79 of the CBP regulations (19 CFR 122.71, 122.72, 122.73, 122.74, 122.75, 122.76, and 122.79) set forth departure clearance requirements for aircraft, as well as electronic manifest requirements for passengers, crew members, and non-crew members onboard commercial aircraft departing from the United States. Section 122.143 of the CBP regulations (19 CFR 122.143) concerns flights from the U.S. to the U.S. Virgin Islands. In these sections, CBP is replacing references to "shipper's export declarations" or variations thereof with "Electronic Export Information (EEI)" or "EEI", as appropriate. In certain cases, however, CBP is replacing the references to the "shipper's export declarations" or variations thereof with "Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends" or variations thereof, when the context of the reference indicates that the exporter may file with CBP the EEI exemption or exclusion legend when an export transaction is exempt or excluded from the requirement or when EEI has not yet been filed in AES.

Section 122.74 sets forth the conditions under which an aircraft bound for a foreign location may receive permission by CBP to depart before a complete manifest or all required EEI have been filed. In addition to the revisions described in the paragraph above, CBP is amending this section to eliminate the hanging text following paragraph (b)(2). CBP is revising paragraph (b) to move the hanging text to the introductory paragraph of paragraph (b) to improve clarity.

Section 122.75 sets forth the requirements for a complete air cargo manifest. Paragraph (a)(2) specifies the procedures applicable to direct departures of shipments requiring a shipper's export declaration. CBP is amending this paragraph so that it conforms to the Census Bureau's FTR requirements. Specifically, CBP is revising the language in paragraph (a)(2) to allow the "EEI filing citation" to be listed on the air cargo manifest in the column for air waybill numbers instead of "the number of each declaration". CBP is also revising paragraph (a)(2) to require the statement "Electronic Information Annotated" to appear on the manifest instead of "Cargo as per Export Declarations Attached".

CBP is also making other non-substantive changes to sections in part 122. In various sections throughout part 122, CBP is replacing outdated references to "Customs" with "CBP". In § 122.143(b), CBP is replacing a reference to "Bureau of the Census" with "Census Bureau" for consistency and a reference to "Bureau of the Census regulations" with "Census Bureau's Foreign Trade Regulations" or variations thereof to conform with the revised Census Bureau's FTR. In § 122.143(b)(2), CBP is updating an outdated citation to the FTR. CBP is also making certain minor changes in part 122 for clarity and/or for consistency, including replacing references to "U.S." to "United States" when not used as a modifier to conform to the U.S. Government Printing Office's Style Manual. For stylistic reasons, CBP is also replacing references to "shall" with "must" or "will", as appropriate.

F. 19 CFR part 123

Section 123.28 of the CBP regulations (19 CFR 123.28) concerns merchandise remaining in or exported to Canada or Mexico. In paragraph (a), CBP is replacing an outdated reference to "U.S. Customs" with "CBP". In paragraph (b), CBP is replacing a reference to "shipper's export declaration" with "Electronic Export Information (EEI) filing

citation, exclusions, and/or exemption legends” to conform to the revised FTR. For stylistic reasons, CBP is also replacing references to “shall” with “must” or “will”, as appropriate.

G. 19 CFR part 141

Section 141.43 of the CBP regulations (19 CFR 141.43) concerns delegation to subagents. CBP is revising the phrase “executing shippers’ export declarations” to read “filing Electronic Export Information (EEI)” to conform to the revised FTR.

H. 19 CFR part 191

Section 191.51 of the CBP regulations (19 CFR 191.51) pertains to the completion of drawback claims. In paragraph (c)(3), CBP is replacing references to “Shipper’s Export Declaration(s) (SEDs)” and “SED” with “Electronic Export Information (EEI)” and “EEP”, respectively, to conform to the revised FTR. For stylistic reasons, CBP is also replacing references to “shall” with “must” or “will”, as appropriate. CBP is also making a few editorial changes.

I. 19 CFR part 192

Sections 192.0, 192.11, 192.12, 192.13, and 192.14 of the CBP regulations (19 CFR 192.0, 192.11, 192.12, 192.13, and 192.14) concern export control, including the filing of export information through AES.

Section 192.0 sets forth the scope of the regulations in part 192. CBP is amending this section to replace outdated references to “Customs” with “CBP”. CBP is also revising an outdated citation to the “Census Regulations at part 30, subpart E (15 CFR part 30, subpart E)” to read “Foreign Trade Regulations (FTR) of the Census Bureau, U.S. Department of Commerce, at part 30, subpart A (15 CFR part 30, subpart A)”.

Section 192.11 sets forth a description of AES. CBP is revising this section to conform to the definition of AES contained in the revised FTR, codified at 15 CFR 30.1(c). The changes generally reflect that AES is no longer a voluntary program, and that EEI must be filed through AES. CBP is also updating the citation to the Census Bureau regulations so that it references the proper section in the FTR that describes the procedures for obtaining certification as an AES filer and for applying for authorization to file on a post-departure basis.

Section 192.12 sets forth the criteria for the denial of applications requesting AES post-departure (Option 4) filing status and appeal procedures and § 192.13 sets forth the reasons why CBP may revoke a participant's AES post-departure filing and the revocation and appeal procedures. CBP is currently working on substantive revisions to these sections (which will include the appropriate technical amendments) and is therefore not amending these sections at this time.

Section 192.14 sets forth the procedures for filing EEI required in advance of departure. CBP is making revisions to this section to conform to the electronic filing requirements of EEI contained in the revised FTR. Throughout § 192.14, CBP is adding references to the "authorized filing agent of the Foreign Principal Party in Interest (FPPI)" (or "FPPI's authorized filing agent") where appropriate to clarify that this party, in addition to the U.S. Principal Party in Interest (USPPI) or its authorized agent, is authorized to file any required EEI under 15 CFR 30.2. CBP is also replacing all references to "cargo information" or variations thereof with "Electronic Export Information (EEI)" or "EEI", as appropriate.

In the heading for § 192.14(b), CBP is replacing “Presentation of data” with “Transmission of data” to reflect the electronic submission of export information. In paragraph (b)(1), regarding the time for transmission of the data, CBP is updating the heading and contents to conform to the FTR. The heading is changed from “Time for presenting data” to “Time for transmission of EEI” and the paragraph now conforms to the requirements of the Census Bureau’s FTR, specifying that the USPPI, the USPPI’s authorized agent, or the FPPI’s authorized filing agent must “have received the AES Internal Transaction Number (ITN)” for outbound cargo no later than the time specified in the subsequent paragraphs. In paragraphs (b)(1)(i) through (b)(1)(iv), which specify the relevant time frames for the USPPI or the authorized agent to transmit the data for vessel, air, truck and rail cargo, respectively, CBP is rewording these provisions to conform to the FTR by requiring the USPPI, the USPPI’s authorized agent, or the FPPI’s authorized filing agent to “provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier” no later than the time specified in that paragraph. In new paragraph (b)(1)(v), CBP is providing the applicable time frame for the transmission of EEI for shipments of used self-propelled vehicles to conform with § 30.4(b)(5) of the Census Bureau’s FTR (15 CFR 30.4). Finally, in new paragraph (b)(1)(vi), CBP is providing the public with a reference to the applicable sections of the Census Bureau’s FTR that provide time frames for the transmission of EEI for cargo shipped by pipeline.

In paragraph (b)(2) of § 192.14, CBP is making certain revisions for clarity and to remove outdated language. Among other things, CBP is removing the sentence that references “[p]aragraph (e)” because paragraph (e) of § 192.14 was removed in a prior amendment to the regulation. In paragraph (b)(3), CBP is renaming the heading “System

verification of data acceptance” to “System verification of data acceptance or rejection” to better describe the content of the paragraph, replacing certain outdated language, and revising the description of the ITN.

In paragraph (c) of § 192.14, CBP is changing the heading “Information required” to “EEI required” to clarify that all the information listed in paragraph (c) is required EEI.

In paragraph (c)(1) of § 192.14, CBP is changing the heading “Currently collected commodity data” to “Commodity data” to be more concise. CBP is removing the first two sentences of this paragraph because the reference to the SED is outdated and these sentences are redundant and unnecessary. CBP is replacing the phrase “export cargo data elements” with “commodity data elements” for consistency with the heading. CBP is also updating citations to the revised FTR.

In paragraph (c)(2) of § 192.14, under the heading “Transportation data”, CBP is revising outdated language to clarify that these data elements must be reported electronically through the approved system and can be found in § 30.6 of the Census Bureau’s FTR.

In paragraph (c)(3) of § 192.14, CBP is replacing the phrase “outbound carrier” with “exporting carrier” for clarity. CBP is also revising the sentence requiring the exporter to furnish proof to the exporting carrier of an “electronic filing citation (the ITN), low-risk exporter citation (currently, the Option 4 filing citation), or exemption statement” to read “EEI filing citation (the ITN), post-departure citation, AES downtime filing citation (when allowed), exclusion, and/or exemption legends (see paragraph (d) of this section)”. This revision is necessary to include a greater range of EEI filing citation, exclusion and/or exemption legends that may be furnished to the exporting carrier and that are acceptable to CBP under Appendix B to the Census Bureau’s FTR (15 CFR part 30, Appendix B). The

last sentence of paragraph (c)(3) is revised similarly to include the citations and legends referenced above and also to update the reference to the revised FTR.

In paragraphs (c)(4), (c)(5) and (d) of § 192.14, CBP is revising certain language and terminology for consistency and clarity. Among other changes, CBP is replacing the phrase “exemption statement” with “exemption legend”; “Bureau of Census” with “Census Bureau”; and “departed” with “been exported” in reference to high risk cargo that has been transported from the United States. CBP also added relevant citations to the sections in the Census Bureau’s FTR providing exemptions from reporting requirements for export cargo.

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), CBP has determined for good cause that it would be unnecessary and contrary to the public interest to delay publication of this rule in final form pending an opportunity for public comment because the technical amendments set forth in this document merely conform the CBP regulations to existing law and regulations. In addition, pursuant to 5 U.S.C. 553(d)(3), CBP has determined that there is good cause for this final rule to become effective immediately upon publication for the same reasons.

B. Executive Orders 12866, 13563, and 13771

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of

harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

This final rule is a technical amendment and as previously discussed, it amends outdated CBP regulations to incorporate the current requirements. The final rule also makes related conforming changes as well as non-substantive editorial and nomenclature changes. CBP does not believe this rule imposes additional costs on industry or government.

C. Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

IV. Signing Authority

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

List of Subjects

19 CFR Part 4

Customs duties and inspection, Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 10

Bonds, Caribbean Basin initiative, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 18

Common carriers, Customs duties and inspection, Exports, Freight, Penalties, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 141

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 191

Alcohol and alcoholic beverages, Claims, Customs duties and inspection, Exports, Foreign trade zones, Guantanamo Bay Naval Station, Cuba, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 192

Aircraft, Exports, Motor vehicles, Penalties, Reporting and recordkeeping requirements, Vessels.

Amendments to the CBP Regulations

For the reasons set forth above, parts 4, 10, 18, 113, 122, 123, 141, 191, and 192 of the CBP regulations (19 CFR parts 4, 10, 18, 113, 122, 123, 141, 191, and 192) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citation for §§ 4.75 and 4.84 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

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Section 4.75 also issued under 46 U.S.C. 60105;

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Section 4.84 also issued under 46 U.S.C. 12118;

* * * * *

§ 4.61 [Amended]

2. Amend § 4.61 as follows:

- a. In paragraph (a), remove all references to “Customs” and add in their place “CBP”.
 - b. In paragraph (b), remove all references to “Customs” and add in their place “CBP”.
 - c. In paragraph (c)(2), remove the words “shippers export declarations” and add in their place “Electronic Export Information (EEI)”.
 - d. In paragraph (c)(6), remove the citation “46 U.S.C. App. 97” and add in its place “46 U.S.C. 60106”.
 - e. In paragraph (c)(12), remove the citation “46 U.S.C. App. 98” and add in its place “46 U.S.C. 60109”.
 - f. In paragraph (c)(18), remove the words “Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100)” and add in their place “Payment of all legal fees that have accrued on the vessel (46 U.S.C. 60107)”.
 - g. In paragraph (e), remove “22 U.S.C. 454a” and add in its place “22 U.S.C. 454(a)”.
3. Amend § 4.63 as follows:
- a. The section heading is revised.
 - b. In paragraph (a) introductory text, remove the word “Customs” and add in its place “CBP”; and remove the word “shall” and add in its place “will”.

c. In paragraph (a)(1), remove all references to “Customs” and add in their place “CBP”; and remove the words “export declarations” and add in their place “EEI”; and remove the reference to “1302-A” and add in its place “1302A”.

d. Revise paragraph (b).

e. In paragraph (c) introductory text, remove the word “shall” and add in its place “must”; remove all references to “Customs” and add in their place “CBP”; and remove all references to “1302-A” and add in their place “1302A”.

f. In paragraph (d), remove all references to “Customs” and add in their place “CBP”; and remove all references to “1302-A” and add in their place “1302A”.

g. In paragraph (e), remove the first reference to “Customs” and add in its place “CBP”; remove the reference to “1302-A” and add in its place “1302A”; remove the word “shall” and add in its place “must”; and remove the second reference to “Customs” and add in its place “customs”.

h. In paragraph (f), remove all references to “Customs” and add in their place “CBP”; remove the word “shall” and add in its place “will”; and remove the reference to “1302-A” and add in its place “1302A”.

The revisions read as follows:

§ 4.63 Outward cargo declaration; Electronic Export Information (EEI).

* * * * *

(b) Except as hereafter stated, the Internal Transaction Number (ITN) of the Electronic Export Information (EEI) covering each shipment for which EEI is required must be shown on the Cargo Declaration Outward With Commercial Forms, CBP Form 1302A, in the marginal column headed “B/L No.” If EEI is not required for a shipment, a notation must

be made on the Cargo Declaration Outward With Commercial Forms (CBP Form 1302A) describing the basis for the exemption or exclusion using the reference number found in the Census Bureau's Foreign Trade Regulations (see 15 CFR part 30, Appendix B) where the particular exemption or exclusion is provided.

* * * * *

4. Amend § 4.75 as follows:
 - a. The section heading, paragraphs (a) and (b) are revised.
 - b. In paragraph (c), revise the introductory text preceding the list of countries.

The revisions read as follows:

§ 4.75 Incomplete manifest; incomplete or missing Electronic Export Information (EEI); bond.

(a) Pro forma manifest. Except as provided for in § 4.75(c), if a master desiring to clear his vessel for a foreign port does not have available for filing with the CBP port director a complete Cargo Declaration Outward with Commercial Forms, CBP Form 1302A (see § 4.63) in accordance with 46 U.S.C. 60105, or all required EEI filing citations, exclusions, and/or exemption legends (see 15 CFR 30.47), the CBP port director may accept in lieu thereof an incomplete manifest (referred to as a pro forma manifest) on the Vessel Entrance or Clearance Statement, CBP Form 1300, if there is on file in his office a bond on CBP Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, executed by the vessel owner or other person as attorney in fact of the vessel owner. The "Incomplete Manifest for Export" box in item 17 of the Vessel Entrance or Clearance Statement form must be checked.

(b) Time in which to file complete manifest and EEI. Not later than the fourth business day after clearance from each port of lading in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, must submit to the director of each port a complete Cargo Declaration Outward with Commercial Forms, CBP Form 1302A, in accordance with § 4.63, of the cargo laden at such port together with all required EEI filing citations, exclusions, and/or exemption legends for such cargo and a Vessel Entrance or Clearance Statement, CBP Form 1300. The statutory grace period of four (4) days for filing the complete manifest and missing EEI begins to run on the first day (exclusive of any day on which the U.S. port of lading is not open for marine business) following the date on which clearance is granted.

(c) Countries for which vessels may not be cleared until complete manifests and EEI are filed. To aid CBP in the enforcement of export laws and regulations, no vessel will be cleared for any port in the following countries until a complete outward foreign manifest and all required EEI filing citations, exclusions, and/or exemption legends have been filed with the port director:

* * * * *

5. Amend § 4.76 as follows:

a. In paragraph (a), remove the citation “15 CFR 30.60” and add in its place “15 CFR 30.5”; and remove the words “Census Regulations” and add in their place “Census Bureau’s Foreign Trade Regulations”.

b. Revise paragraph (b) to read as follows:

§ 4.76 Procedures and responsibilities of carriers filing outbound vessel manifest information via the AES.

* * * * *

(b) Responsibilities. The performance requirements and operational standards and procedures for electronic submission of outbound vessel manifest information are detailed in the AES Trade Interface Requirements (AESTIR) available on the CBP website, <http://www.cbp.gov>. Carriers and their agents are responsible for reporting accurate and timely information and for responding to all notifications concerning the status of their transmissions and the detention and release of freight in accordance with the procedures set forth in the AESTIR. CBP will send messages to participant carriers regarding the accuracy of their transmissions. Carriers and their agents are required to comply with the recordkeeping requirements contained at § 30.10 of the Census Bureau’s Foreign Trade Regulations (15 CFR 30.10) and any other applicable recordkeeping requirements. When the exporter submits Electronic Export Information (EEI) prior to departure, carriers will be responsible for annotating the manifest with the Internal Transaction Number (ITN) without change and submitting the manifest to CBP within four (4) business days after the departure of the vessel from each port unless a different time requirement is specified in § 4.75 or § 4.84.

* * * * *

§ 4.81 [Amended]

6. Amend paragraph (g)(2) of § 4.81 by removing all references to “Customs” and adding in their place “CBP”; and removing the words “shipper’s export declarations” and adding in their place “Electronic Export Information (EEI)”.

§ 4.84 [Amended]

7. Amend § 4.84 as follows:
 - a. In paragraph (a), remove the references to “shall” and add in their place “will”; and remove the words “shipper’s export declarations” and add in their place “the filing of Electronic Export Information (EEI)”.
 - b. In paragraph (c)(1):
 - i. Remove all references to “shall” and add in their place “will”;
 - ii. Remove the words “regulations of the Bureau of the Census” and add in their place “the Census Bureau’s Foreign Trade Regulations”;
 - iii. Remove the words “Shipper’s Export Declarations” and add in their place “EEI”;
 - iv. Remove the citation “15 CFR 30.24” and add in its place “15 CFR 30.47”;
 - v. Remove all references to “Customs” and add in their place “CBP”; and
 - vi. Remove all references to “export declarations” and add in their place “EEI”.
 - c. In paragraph (c)(2):
 - i. Remove the references to “shall” in the first and second sentences and add in their place “must”; and remove the reference to “shall” in the third sentence and add in its place “will”;
 - ii. Remove the words “regulations of the Bureau of the Census” and add in their place “the Census Bureau’s Foreign Trade Regulations”;

- iii. Remove all references to “Shipper’s Export Declarations” and add in their place “EEI”;
 - iv. Remove all references to “Customs” and add in their place “CBP”;
 - v. Remove the citation to “15 CFR 30.24” and add in its place “15 CFR 30.47”; and
 - vi. Remove the words “export declarations” and add in their place “EEI”.
- d. In paragraph (d):
- i. Remove the first and second references to “shall” in the first sentence and add in their place “must”;
 - ii. Remove the third reference to “shall” in the first sentence and add in its place “will”;
 - iii. Remove the first reference to “shall” in the second sentence and add in its place “must”; and remove the second reference to “shall” in the second sentence and add in its place “will”; and
 - iv. Remove the word “Customs” and add in its place “CBP”.

§ 4.87 [Amended]

- 8. Amend § 4.87 as follows:
 - a. In paragraph (b), remove all references to “Customs” and add in their place “CBP”; and remove the reference to “1302-A” and add in its place “1302A”.
 - b. In paragraph (c), remove all references to “Customs” and add in their place “CBP”.

c. In paragraph (d), remove all references to “Customs” and add in their place “CBP”.

d. In paragraph (f):

i. Remove all references to “Customs” and add in their place “CBP”;

ii. Remove the reference to “1302-A” and add in its place “1302A”; and

iii. Remove the words “shipper’s export declarations” and add in their place “Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends”.

e. In paragraph (g):

i. Remove the word “Customs” and add in its place “CBP”;

ii. Remove the reference “1302-A” and add in its place “1302A”;
and

iii. Remove the words “export declarations” and add in their place “EEI”.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

9. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

§ 10.41b [Amended]

10. Amend paragraph (g)(2) of § 10.41b by removing the words “Shipper’s Export Declaration,” Form 7525-V” and adding in their place “Electronic Export Information (EEI)”.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

11. The general authority citation for part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624.

* * * * *

§ 18.42 [Amended]

12. Amend § 18.42 as follows:

- i. Remove the words “export declarations” and add in their place “Electronic Export Information (EEI)”;
- ii. Remove the words “Bureau of the Census” and add in their place “Census Bureau”;
- iii. Remove all references to “shall” in the first and second sentence and add in their place “must”; and
- iv. Remove all references to “shall” in the third sentence through the remainder of the paragraph and add in their place “will”.

§ 18.43 [Amended]

13. Amend paragraph (a) of § 18.43 by removing the words “export declarations” and adding in their place “Electronic Export Information (EEI)”;

removing the word “shall” and adding in its place “must”; and removing the words “Bureau of the Census” and adding

in their place “Census Bureau”.

PART 113—CBP BONDS

14. The general authority citation for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.64 [Amended]

15. Amend paragraph (i) of § 113.64 by removing the words “\$50 per day for the first 3 days, and \$100 per day thereafter, up to \$1,000 in total” and adding in their place “\$1,100 for each day’s delinquency beyond the prescribed period, but not more than \$10,000 per violation”.

PART 122—AIR COMMERCE REGULATIONS

16. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

§ 122.71 [Amended]

17. Amend § 122.71 as follows:

- a. In paragraph (a)(1)(ii), remove the words “Shipper’s Export Declarations are” and add in their place “Electronic Export Information (EEI) is”.
- b. In paragraph (a)(2), remove the word “shall” and add in its place “must”; and remove the word “Customs” and add in its place “CBP”.
- c. In paragraph (b), remove all references to “Customs” and add in their place “CBP”.

§ 122.72 [Amended]

18. Amend § 122.72 by removing the words “Shipper’s Export Declarations” and adding in their place “Electronic Export Information (EEI)”; and removing the word “shall” and adding in its place “must”.

§ 122.73 [Amended]

19. Amend § 122.73 as follows:

a. In paragraph (a)(1), remove the word “Customs” and add in its place “CBP” and remove all references to “shall” and add in their place “must”.

b. In paragraph (a)(2), remove the word “Customs” and add in its place “CBP”; and remove the word “shall” and add in its place “must”.

c. In paragraph (a)(3), remove the word “Customs” and add in its place “CBP”; and remove the word “shall” and add in its place “will”.

d. In paragraph (b)(1) remove the word “Customs” and add in its place “CBP”; and remove all references to the word “shall” and add in their place “must”.

e. In paragraph (b)(2) introductory text, remove all references to “shall” and add in their place “must”.

f. In paragraph (b)(2)(i), remove the words “Shipper’s Export Declarations” and add in their place “Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends”.

20. Amend § 122.74 as follows:

a. In paragraph (a)(1), remove all references to “Customs” and add in their place “CBP”; and remove the words “Shipper’s Export Declarations” and add in their place “Electronic Export Information (EEI)”.

b. In paragraph (a)(2), remove all references to “Shipper’s Export Declarations” and add in their place “EEI filing citations, exclusions, and/or exemption legends”; remove the abbreviation “U.S.” and add in its place “United States”; remove all references to “shall” and add in their place “must”; and remove all references to “Customs” and add in their place “CBP”.

c. Revise paragraph (b) introductory text and paragraph (b)(2).

d. Designate the undesignated paragraph following paragraph (b)(2) as “Note to paragraph (b)”.

e. In paragraph (c)(1), remove the words “Shipper’s Export Declarations” and add in their place “EEI”; and remove the word “shall” and add in its place “must”.

f. In paragraph (c)(2), remove all references to “Shipper’s Export Declarations shall” and add in their place “EEI must”.

g. In paragraph (c)(3), remove the words “Shipper’s Export Declarations shall” and add in their place “EEI must”.

The revisions read as follows:

§ 122.74 Incomplete (pro forma) manifest.

* * * * *

(b) Exceptions. In the following circumstances, an incomplete manifest will not be accepted and a complete air cargo manifest and all required EEI must be filed with the port director before the aircraft will be cleared:

* * * * *

(2) If the aircraft is departing on a flight from the U.S. directly or indirectly to a foreign country listed in §4.75 of this chapter.

* * * * *

21. Amend § 122.75 as follows:

a. In paragraph (a) introductory text, remove all references to “shall” and add in their place “must”; and remove the words “a Shipper’s Export Declaration” and add in their place “Electronic Export Information (EEI) filing citations, exemptions, and/or exclusion legends”.

b. Revise paragraph (a)(2).

c. In paragraph (b)(1), remove the words “Attached Shipper’s Export Declarations” and add in their place “The annotated EEI filing citations, exclusions, and/or exemption legends”.

d. In paragraph (b)(2), remove the word “shall” and add in its place “must”; remove the words “Shipper’s Export Declarations” and add in their place “EEI filing citations, exclusions, and/or exemption legends”; and remove the words “Attached Shipper’s Export Declarations” and add in their place “The annotated EEI filing citations, exclusions, and/or exemption legends”.

The revision reads as follows:

§ 122.75 Complete manifest.

(a) * * *

(2) Direct departure. With regard to direct departures of shipments requiring EEI, each EEI filing citation must be listed on the air cargo manifest in the column for air waybill

numbers. The statement “Electronic Information Annotated” must appear on the manifest if this is done.

* * * * *

22. Amend § 122.76 as follows:

a. Revise the heading of the section and paragraph (a).

b. In paragraph (b), remove the word “shall” and add in its place “must”;

and remove the word “Customs” and add in its place “CBP”.

The revisions read as follows:

§ 122.76 Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends and inspection certificates.

(a) Electronic Export Information (EEI) -- (1) Other than shipments to Puerto Rico.

For shipments other than to Puerto Rico, at the time of clearance, the aircraft commander or agent must file with the CBP port director of the departure airport any EEI filing citations, exclusions, and/or exemption legends required by the Census Bureau’s Foreign Trade Regulations (FTR) (see 15 CFR part 30).

(2) Shipments to Puerto Rico. For flights carrying shipments to Puerto Rico from the

United States, the aircraft commander or agent must file any EEI filing citations, exclusions, and/or exemption legends required by the Census Bureau’s FTR (see 15 CFR part 30) upon arrival in Puerto Rico with the CBP port director there.

* * * * *

23. Revise § 122.79 to read as follows:

§ 122.79 Shipments to U.S. possessions.

(a) Other than Puerto Rico. An air cargo manifest must be filed for aircraft transporting cargo between the United States and U.S. possessions. Electronic Export Information (EEI) is not required for shipments from the United States or Puerto Rico to the U.S. possessions, except to the U.S. Virgin Islands or from a U.S. possession and destined to the United States, Puerto Rico, or another U.S. possession.

(b) Puerto Rico. When an aircraft carries merchandise on a direct flight from the United States to Puerto Rico, any required air cargo manifest or EEI filing citations, exclusions, and/or exemption legends, must be filed with the appropriate port director Puerto Rico.

§ 122.143 [Amended]

24. Amend § 122.143 as follows:

a. In paragraph (b) introductory text, remove the words “Bureau of the Census” in the heading and add in their place “Census Bureau”; remove the words “Bureau of the Census regulations” in the text and add in their place “Census Bureau’s Foreign Trade Regulations”; and remove the word “shall” and add in its place “will”.

b. In paragraph (b)(1), remove the words “Shipper’s Export Declarations” and add in their place “Electronic Export Information (EEI)”.

c. In paragraph (b)(2), remove the citation “15 CFR 30.24” and add in its place “15 CFR 30.47”; and remove the words “Shipper’s Export Declarations are” and add in their place “EEI is”.

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

25. The general authority citation for part 123 and the specific authority citation for § 123.28 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

Sections 123.21-123.23, 123.25-123.29, 123.41, 123.51 also issued under 19 U.S.C. 1554.

* * * * *

§ 123.28 [Amended]

26. Amend § 123.28 as follows:

a. In paragraph (a), remove all references to “shall” and add in their place “must”; and remove the words “U.S. Customs” and add in their place “CBP”.

b. In paragraph (b), remove references to “shall” in the first and second sentence and add in their place “will”; remove the words “shipper’s export declaration” and add in their place “Electronic Export Information (EEI) filing citations, exclusions, and/or exemption legends”; and remove the word “shall” in the third sentence and add in its place “must”.

PART 141—ENTRY OF MERCHANDISE

27. The general authority citation for part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1498, 1624.

* * * * *

§ 141.43 [Amended]

28. Amend paragraph (a) of § 141.43 by removing the words “executing shippers’ export declarations” and adding in their place “filing Electronic Export Information (EEI)”.

PART 191—DRAWBACK

29. The general authority citation for part 191 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;

* * * * *

30. Revise paragraph (c)(3) of § 191.51 to read as follows:

§ 191.51 Completion of drawback claims.

* * * * *

(c) * * *

(3) Exports. For exports, the HTSUSA number(s) or Schedule B commodity classification number(s) must be from the Electronic Export Information (EEI), when required. If no EEI is required (see, e.g., 15 CFR 30.58), the claimant must provide the Schedule B commodity classification number(s) or HTSUSA number(s) that the exporter would have set forth in the EEI, but for the exemption from the requirement to file EEI.

* * * * *

PART 192—EXPORT CONTROL

31. The authority citation for part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

§ 192.0 [Amended]

32. Amend § 192.0 as follows:

a. Remove all references to “Customs” and add in their place “CBP”.

b. Remove the words “Census Regulations at part 30, subpart E (15 CFR part 30, subpart E)” and add in their place “Foreign Trade Regulations (FTR) of the Census Bureau, U.S. Department of Commerce, at part 30, subpart A (15 CFR part 30, subpart A)”.

33. Revise § 192.11 to read as follows:

§ 192.11 Description of the AES.

The Automated Export System (AES) is the information system for collecting Electronic Export Information (EEI) 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. Pursuant to the Census Bureau’s Foreign Trade Regulations (FTR), all commodity export information for which EEI is required must be filed through the AES. This system is the CBP-approved electronic data interchange system used for purposes of filing EEI as required by § 192.14. AES is also the system by which certain sea carriers may report required outbound vessel information electronically (see, §§ 4.63, 4.75, and 4.76 of this chapter). Eligibility and application procedures are found in the General Requirements section of the FTR, codified at 15 CFR part 30, subpart A. The Census Bureau’s FTR (15 CFR part 30, subpart A) provides that exporters may choose to submit export information through AES by any one of three electronic filing options available. Only Option 4, the complete post-departure submission of export information, requires prior approval by participating agencies before it can be used by AES participants.

34. Revise § 192.14 to read as follows:

§ 192.14 Electronic information for outward cargo required in advance of departure.

(a) General requirement. Pursuant to section 343(a), Trade Act of 2002, as amended (19 U.S.C. 2071 note), for any commercial cargo that is to be exported from the United States by vessel, aircraft, rail, or truck, unless exempted under paragraph (d) of this section, the U.S. Principal Party in Interest (USPPI), the USPPI's authorized agent, or the authorized filing agent of the Foreign Principal Party in Interest (FPPI) must electronically transmit for receipt by CBP, no later than the time period specified in paragraph (b) of this section, certain Electronic Export Information (EEI), as enumerated in paragraph (c) of this section. Specifically, to effect the advance electronic transmission of the required cargo information to CBP, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must use a CBP-approved electronic data interchange system (currently, the Automated Export System (AES)).

(b) Transmission of data—(1) Time for transmission of EEI. The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must electronically transmit the EEI required by § 30.6 of the Census Bureau's FTR (15 CFR 30.6) and have received the AES Internal Transaction Number (ITN) (see paragraph (b)(3) of this section) for outbound cargo no later than the time period specified as follows:

(i) For vessel cargo, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 24 hours prior to loading cargo on the vessel at the U.S. port of lading;

(ii) For air cargo, including cargo being transported by air express couriers, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no

later than 2 hours prior to the scheduled departure time of the aircraft from the U.S. port of export;

(iii) For truck cargo, including cargo departing by express consignment courier, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 1 hour prior to the arrival of the truck at the border;

(iv) For rail cargo, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier no later than 2 hours prior to the arrival of the train at the border;

(v) For shipments of used self-propelled vehicles as defined in § 192.1, the USPPI's authorized agent, or the FPPI's authorized filing agent must provide the EEI filing citation (the ITN), exclusion, and/or exemption legend to the exporting carrier at least 72 hours prior to export; and

(vi) For cargo shipped by pipeline, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent should refer to § 30.4 of the Census Bureau's FTR (15 CFR 30.4, 30.46) for applicable time frames for the transmission of EEI.

(2) Applicability of time frames. The time periods in paragraph (b)(1) of this section for reporting required EEI to CBP for outward vessel, air, truck, or rail cargo only apply to shipments without an export license, license exemption, or license exception that require full predeparture reporting of shipment data, in order to comply with the advance cargo information filing requirements under section 343(a), Trade Act of 2002, as amended. Requirements placed on exports controlled by other government agencies will remain in

force unless changed by the agency having the regulatory authority to do so. CBP will also continue to require 72-hour advance notice for used vehicle exports pursuant to §192.2(c)(1) and (c)(2)(i). The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent should refer to the relevant titles of the Code of Federal Regulations (CFR) for pre-filing requirements of other government agencies. In particular, for the advance reporting requirements for exports of U.S. Munitions List items, see the U.S. Department of State's International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130).

(3) System verification of data acceptance or rejection. Once the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent has transmitted the EEI required under paragraphs (c)(1) and (c)(2) of this section, and AES has received and accepted this data, AES will generate and transmit to the party that filed the EEI a confirmation number, the Internal Transaction Number (ITN), assigned to that shipment confirming acceptance of the EEI transmission. When the submission is not accepted, a rejection message will be transmitted to the filer.

(c) EEI required—(1) Commodity data. The commodity data elements that are required to be reported electronically through the approved system are found in § 30.6 of the Census Bureau's FTR (15 CFR 30.6).

(2) Transportation data. The following transportation data elements are also required to be reported electronically through the approved system. These data elements are also found in § 30.6 of the Census Bureau's FTR (30 CFR 30.6):

(i) Method of transportation (the method of transportation is defined as that by which the goods are exported or shipped (vessel, air, rail, or truck));

(ii) Carrier identification (for vessel, rail and truck shipments, the unique carrier identifier is the 4-character Standard Carrier Alpha Code (SCAC); for aircraft, the carrier identifier is the 2- or 3-character International Air Transport Association (IATA) code);

(iii) Conveyance name (the conveyance name is the name of the carrier; for sea carriers, this is the name of the vessel; for others, the carrier name);

(iv) Country of ultimate destination (this is the country as known to the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent at the time of exportation, where the cargo is to be consumed or further processed or manufactured; this country would be identified by the 2-character International Standards Organization (ISO) code for the country of ultimate destination);

(v) Date of export (the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the date the cargo is scheduled to leave the United States for all modes of transportation; if the actual date is not known, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the best estimate as to the time of departure); and

(vi) Port of export (the port where the outbound cargo departs from the United States is designated by its unique code, as set forth in Annex C, Harmonized Tariff Schedule of the United States (HTSUS); the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must report the port of exportation as known when the USPPI, USPPI's authorized agent, or the FPPI's authorized filing agent tenders the cargo to the outbound carrier; should the carrier export the cargo from a different port and the carrier so informs the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent, the port of exportation must be corrected by the filer in AES.).

(3) Proof of electronic filing; exemption from filing. The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must furnish to the exporting carrier a proof of EEI filing citation (the ITN), post-departure filing citation, AES downtime filing citation (when allowed), and the exclusion, and/or exemption legends (see paragraph (d) of this section) for annotation on the carrier's outward manifest, waybill, or other export documentation covering the cargo to be shipped. The proof of EEI filing citation (the ITN), post-departure filing citation, AES downtime filing citation, exclusion, and/or exemption legend must conform to the approved EEI filing citation, exclusion, and/or exemption legend formats in Appendix B to the Census Bureau's FTR (15 CFR part 30, Appendix B).

(4) Carrier responsibility—(i) Loading of cargo. The carrier may not load cargo without first receiving from the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent either the related electronic filing citation as prescribed under paragraph (c)(3) of this section, or an appropriate exemption legend for the cargo as specified in paragraph (d) of this section.

(ii) High-risk cargo. For cargo that CBP has identified as potentially high-risk, the carrier, after being duly notified by CBP, will be responsible for delivering the cargo for inspection/examination. When cargo identified as high risk has already been exported, CBP may demand that the export carrier redeliver the cargo in accordance with the terms of its international carrier bond (see §113.64(k)(2) of this chapter).

(5) USPPI receipt of information believed to be accurate. When the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent electronically presenting the cargo information required in paragraphs (c)(1) and (c)(2) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with

ordinary commercial practices, the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent acquired this information, and whether and how the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent is able to verify this information. When the USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent is not reasonably able to verify any information received, CBP will permit this party to electronically present the information on the basis of what it reasonably believes to be true.

(d) Exemptions from reporting; Census exemptions or exclusions applicable. The USPPI, the USPPI's authorized agent, or the FPPI's authorized filing agent must furnish to the outbound carrier an appropriate exemption or exclusion legend for any export shipment laden that is not subject to predeparture electronic information filing under this section. The exemption or exclusion legend must conform to the proper format approved by the Census Bureau (see 15 CFR part 30, Appendix B). Any exemptions or exclusions from reporting requirements for export cargo are enumerated in §§ 30.2 and 30.35 through 30.40 of the Census Bureau's FTR (15 CFR 30.2 and 30.35 through 30.40). These exemptions or exclusions under §§ 30.2 and 30.35 through 30.40 of the Census Bureau's FTR are equally applicable under this section.

DATE: July 5, 2017

Kevin K. McAleenan
Acting Commissioner

[FR Doc. 2017-14549 Filed: 7/12/2017 8:45 am; Publication Date: 7/13/2017]