

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 USPPPI, the authorized agent of either the USPPPI 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 USPPPI, or the U.S. authorized agent. 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 DUNS and be certified to report in the AES. In the event that the filer does not have an EIN or DUNS, the filer must obtain an EIN from the Internal Revenue Service. The filer is responsible for the truth, accuracy, and completeness of the EEI, except insofar as that party can demonstrate that it 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 U.S. 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) *USPPPI.* For purposes of filing EEI, the USPPPI 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

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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

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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 DUNS
- (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 or DUNS 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.

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- (xi) 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.

[73 FR 31555, June 2, 2008, as amended at 74 FR 38916, Aug. 5, 2009]

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§ 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