

of the transaction. Generally, the principals in a transaction are the seller and the buyer. In most cases, the forwarding or other agent is not a principal party in interest.

* * * * *

Purchaser. The person abroad who has entered into a transaction to purchase an item for delivery to the ultimate consignee. In most cases, the purchaser is not a bank, forwarding agent, or intermediary. The purchaser and ultimate consignee may be the same entity.

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Routed export transaction. A transaction where the foreign principal party in interest authorizes a U.S. forwarding or other agent to facilitate export of items from the United States.

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Ultimate consignee. The principal party in interest located abroad who receives the exported or reexported items. The ultimate consignee is not a forwarding agent or other intermediary, but may be the end-user.

* * * * *

Dated: September 23, 1999.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 99-25604 Filed 10-1-99; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

[Docket No. 980716180-9171-02]

RIN 0607-AA20

Clarification of Exporters' and Forwarding Agents' Responsibilities; Authorizing an Agent To Prepare and File a Shipper's Export Declaration on Behalf of a Principal Party in Interest

AGENCY: Bureau of the Census, Commerce.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: The U.S. Census Bureau (Census Bureau) proposes amending the Foreign Trade Statistics Regulations (FTSR), 15 CFR part 30, to clarify the responsibilities of exporters and forwarding agents in completing the Shipper's Export Declaration (SED) and to clarify provisions for authorizing forwarding agents to prepare and file an SED or file the export information electronically using the Automated Export System (AES) on behalf of a principal party in interest.

DATES: Written comments must be submitted on or before December 3, 1999.

ADDRESSES: Direct all written comments on this proposed rulemaking to the Director, U.S. Census Bureau, Room 2049, Federal Building 3, Washington, D.C. 20233.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to C. Harvey Monk, Jr., Chief, Foreign Trade Division, U.S. Census Bureau, Room 2104, Federal Building 3, Washington, D.C. 20233-6700, by telephone on (301) 457-2255 or by fax on (301) 457-2645.

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau is responsible for collecting, compiling, and publishing trade statistics for the United States. These data are used by various Federal Government agencies and the private sector for planning and policy development. In order to accomplish its mission, the Census Bureau must receive accurate statistical information from the trade community. The Shipper's Export Declaration (SED) and the Automated Export System (AES) record are the primary vehicles used for collecting such trade data, and the information contained therein is used by the Census Bureau for statistical purposes only and is confidential under the provisions of Title 13, United States Code (U.S.C.), Section 301(g). The Census Bureau's primary objective in this proposed rule is to ensure the accuracy of its trade statistics and to clarify reporting responsibilities for all parties involved in export transactions.

As such the Census Bureau proposes amending the FTSR to clarify responsibilities of exporters and forwarding agents in completing the SED and to clarify who should be listed in the "Exporter" box on the SED and in the exporter field on the AES record. This proposed rule defines new terms, including "U.S. principal party in interest" and "routed export transaction," and clarifies existing ones (notably the definition of "exporter") for purposes of completing the SED. The proposed rule will also clarify provisions authorizing an agent to prepare and file an SED or its AES electronic equivalent on behalf of a principal party in interest.

The Census Bureau published a notice of proposed rulemaking on this subject in the **Federal Register** on August 6, 1998 (63 FR 41979). As a result of comments received on that proposed rulemaking and subsequent discussions with the Bureau of Export

Administration (BXA), the Census Bureau has decided to issue a supplementary notice of proposed rulemaking to address the issues raised during the comment period and to further clarify provisions contained in that notice of proposed rulemaking. The BXA is also revising appropriate sections of the Export Administration Regulations (EAR) in a document published elsewhere in this issue of the **Federal Register**. The EAR will conform to the provisions of the FTSR in reference to clarifying the responsibilities of exporters and forwarding agents in completing the SED, and BXA will also propose changes to the EAR to simplify export clearance.

Comments

The Census Bureau received sixty-nine (69) comments on the notice of proposed rulemaking published in the **Federal Register** on August 6, 1998 (63 FR 41979). Of the comments received, fifty-nine (59) were opposed to some provisions of the proposed rule and ten supported the proposed rulemaking. Of the fifty-nine comments opposed to the proposed rule, twenty-four (24) had interpreted the rule to require that the "manufacturer" always be listed as the exporter of record on the SED in all export transactions. This was a misinterpretation of the proposed rule, and the revised proposed rulemaking will clearly stipulate that only the "U.S. seller or principal party in interest" be listed as the exporter on the SED. Only when the manufacturer is the actual "seller of the merchandise for export" should it be listed as exporter on the SED or AES electronic record.

The other major reason for opposition to the proposed rule concerned identifying the U.S. seller or principal as the "exporter of record" in EX WORKS (EXW) transactions. EXW is a "term of sale" whereby the foreign buyer takes possession of the merchandise in the United States, and the foreign buyer takes responsibility for facilitating the export of the merchandise out of the United States, including export documentation responsibility. The major concern the U.S. sellers presented, when required to be listed as the "exporter of record" in these transactions, is that the U.S. seller does not have effective control over the merchandise once it is turned over to the foreign buyer's agent. The U.S. seller does not want to be held liable for any export control violations that may occur in such a transaction.

The proposed Census Bureau export regulations do not intend to interfere with the terms of sale between the

foreign buyer and the U.S. seller in the export transaction. However, in order to collect accurate trade statistics, it is critical to have the actual "U.S. seller or principal party in interest" listed as exporter on the SED or the AES electronic record. BXA's proposed rule addresses the liability concerns of exporters in such transactions.

The ten comments in support of the proposed rule indicated approval for the clarification of duties and responsibilities of exporters and forwarding agents and the clarification of the power of attorney provisions contained in the proposed rule. Those comments supported the clarification of the definition of exporter and felt it gave them more control over the export transaction even in the EXW transaction. The Census Bureau responded to all comments and informed the commentors that a supplementary notice of proposed rulemaking would be issued to address their concerns.

Response to Comments and Proposed Action

In response to the comments received from the trade community on the notice of proposed rulemaking published in the **Federal Register** on August 6, 1998 (63 FR 41979), the Census Bureau proposes amending 15 CFR Part 30 to: (a) define the term "exporter," for purposes of the FTSR and completing the SED or AES record, as the U.S. principal party in interest in the export transaction; (b) clarify the reporting responsibilities of the U.S. principal party in interest and forwarding agent in completing the SED or AES record; (c) clarify provisions for authorizing an agent to prepare and file an SED or file the information electronically using the AES; and (d) clarify the documentation and compliance responsibilities of parties involved in the export transaction. For purposes of this rule all references to preparing and filing the paper SED also pertain to preparing and filing the AES electronic record.

This proposed rule will clarify the responsibilities of the U.S. principal party in interest and the forwarding agent in preparing the SED or AES record. For export shipments the Census Bureau recognizes "routed export transactions" as a subset of "export transactions." A routed export transaction is where the foreign principal party in interest authorizes a U.S. forwarding or other agent to facilitate export of items from the United States.

For purposes of completing the SED or AES record, the *Exporter* is the U.S. principal party in interest in the

transaction. The U.S. principal party in interest is the person in the United States that receives the primary benefit, monetary or otherwise, of the export transaction. Generally, that person would be the U.S. seller, manufacturer, order party, or foreign entity, if in the United States when signing the SED. In most cases, the forwarding agent is not a principal party in interest. The Exporter box on the SED will be revised to read "Exporter (U.S. Principal Party in Interest)."

However, 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 EAR 15 CFR Part 772). This definition permits the forwarding agent to apply for a license and act as exporter in some transactions.

The person who signs the SED must be in the United States at the time of signing. If a U.S. manufacturer sells merchandise directly to a foreign buyer for export, the U.S. manufacturer must be listed as the U.S. principal party in interest on the SED. If a U.S. manufacturer sells merchandise, as a domestic sale, to a U.S. buyer (wholesaler/distributor) and that U.S. buyer sells the merchandise to a foreign principal for export, the U.S. seller (wholesaler/distributor) must be listed as the U.S. principal party in interest on the SED. If a U.S. order party, as defined in § 30.4(a)(1) of this rule, arranges for the sale and export of merchandise to a foreign principal directly, the U.S. order party must be listed as the U.S. principal party in interest on the SED.

For purposes of completing the SED or AES record, the *forwarding agent* is the person in the United States who is authorized by the U.S. principal party in interest or, in a routed transaction, the foreign principal, to prepare and file the SED or its AES electronic equivalent. In routed export transactions, the forwarding agent and the exporter may be the same for compliance purposes under the EAR, but the forwarding agent is rarely the "exporter" in box 1a of the SED or in the "exporter" field of the AES record. For example, only when a forwarding agent acts as an "order party" can they be listed as "exporter" in box 1a on the SED or in the "exporter" field of the AES record.

The U.S. principal party in interest can prepare and file the SED or AES record, or it can authorize a forwarding agent to prepare and file the SED or AES record on its behalf. If the U.S. principal party in interest authorizes a forwarding agent to complete the SED or AES record on its behalf, the U.S. principal party in interest is responsible for: (A)

Providing the forwarding agent with the information necessary to complete the SED or AES record; (B) Providing the forwarding agent with authorization to complete the SED or AES record, in the form of a power of attorney or written authorization, or signing the authorization box printed on the paper SED (box 23 on Form 7525-V or box 29 on Form 7525-V-ALT); and (C) Maintaining the documentation to support the information provided to the forwarding agent for completing the SED or AES record.

The forwarding agent, if authorized by a principal party in interest, is responsible for: (A) Preparing the SED or AES record, based on instructions received from the U.S. principal party in interest or other parties in the transaction; (B) Providing the U.S. principal party in interest with a copy of the export information filed in the form of a completed SED, an electronic facsimile, or in any other manner prescribed by the exporter; and (C) Maintaining the documentation to support the information reported on the SED or AES record.

In a routed export transaction, where a foreign principal designates a U.S. forwarding agent to act on its behalf to prepare and file the SED or AES record, the U.S. principal party in interest must provide the forwarding agent with the following information to assist them in preparing the SED or AES record: (1) Name and address of the exporter (U.S. principal party in interest); (2) Exporter's (U.S. principal party in interest) Internal Revenue Service (IRS) Employer Identification Number (EIN); (3) point of origin (State or Foreign Trade Zone (FTZ)); (4) schedule B description of commodities; (5) domestic (D), foreign (F), or Foreign Military Sale (FMS) (M) code; (6) Schedule B Number; (7) quantity; (8) Upon request by the foreign principal or its agent, the Export Control Classification Number (ECCN) or with sufficient technical information to determine classification; (9) Any information that it knows will affect the determination of license authority.

(**Note:** For Items 8 and 9, where the foreign principal party in interest has assumed responsibility for determining and obtaining license authority, the EAR sets forth the information sharing requirements that apply at 15 CFR 758.2(d)).

In a routed export transaction, the forwarding agent is responsible for preparing the SED or AES record based on instructions received from the U.S. principal party in interest and other parties involved in the transaction. In addition to reporting the information

provided by the U.S. principal party in interest on the SED or AES record, the forwarding agent must provide the following export information on the SED or AES record: (1) Date of exportation; (2) bill of lading/airway bill number; (3) ultimate consignee; (4) intermediate consignee; (5) forwarding agent name and address; (6) country of ultimate destination; (7) loading pier; (8) method of transportation; (9) exporting carrier; (10) port of export; (11) port of unloading; (12) containerized; (13) weight; (14) value; (15) ECCN; (16) License Authority;

(Note: For items 15 and 16 where the foreign principal party in interest has assumed responsibility for determining and obtaining license authority, the EAR sets forth the information sharing requirements that apply at 15 § 758.2(d));

and

(17) signing the certification statement on the paper SED (box 24 on Form 7525-V and box 36 on Form 7525-V-ALT). In a routed export transaction, the U.S. principal party in interest must be listed as exporter (U.S. principal party in interest) on the SED or on the AES record.

In a routed export transaction, the forwarding agent is responsible for: (A) Obtaining a power of attorney or written authorization from the foreign principal to act on its behalf; (B) Upon request, providing the U.S. principal party in interest with appropriate documentation verifying that the information provided by the U.S. principal party in interest was accurately reported on the SED or AES record; and (C) Maintaining the documentation to support the information reported on the SED or AES record.

The FTSR places primary responsibility for compliance of the SED and AES requirements on the U.S. principal party in interest in an export transaction and on the forwarding agent in a routed export transaction. However, the FTSR also considers all parties involved in the transaction responsible for the truth, accuracy, and completeness of the information reported on the SED. The parties to the transaction must provide the forwarding agent with the information necessary to correctly prepare the paper SED or to file the data electronically using the AES. As always, documentation must be maintained by all parties involved in the transaction to support the information reported on the SED or the AES record.

All parties that participate in transactions subject to the FTSR are responsible for compliance with the FTSR. In all cases where a violation of

the FTSR occurs, the documentation of all parties involved in the transaction must be made available to the proper enforcement officials to determine the liability and responsibility for the export violation pursuant to FTSR § 30.11. Acting through a forwarding or other agent or delegating or redelegating authority does not in and of itself relieve anyone of their compliance responsibility.

This notice further clarifies provisions for using a power of attorney or written authorization when a principal party in interest authorizes a forwarding agent to prepare and file the SED on its behalf and when the SED information is filed electronically, using the AES. Suggested formats for a power of attorney and a written authorization for executing a SED are available upon request from the U.S. Census Bureau, Foreign Trade Division (FTD).

This amendment will further specify in § 30.4(f) the requirement that the SED be prepared in English. This provision is already included in the Census Bureau's instructions for completing the SED and this amendment will simply include that requirement in the Code of Federal Regulations (CFR).

In addition, this amendment clarifies the provision in § 30.7(d)(2) that a foreign principal, if operating in the U.S. at the time of export, must be listed as exporter (U.S. principal party in interest) on the SED, but does not need to report an IRS EIN or a Social Security Number (SSN) on the SED. Using an EIN or SSN that is not your own is prohibited. However, if no EIN or SSN is available, the Dunn and Bradstreet (DUNS) number, border crossing number, passport number, or any number assigned by U.S. Customs is required to be reported.

The revisions contained in this supplementary notice of proposed rulemaking are consistent with the provisions of the BXA's proposed revisions to the EAR regarding the export control responsibilities of exporters and forwarding agents. The Department of the Treasury concurs with the provisions contained in this proposed rule.

Program Requirements

In order to comply with the requests from the trade community to update the provisions of the FTSR and to clarify the items discussed above, the Census Bureau proposes amending appropriate sections of the FTSR.

The Census Bureau proposes revising Section 30.4 to: (A) Define the term "exporter," for purposes of the FTSR and completing the SED or AES electronic record, as the U.S. principal

party in interest in the export transaction; (B) Clarify the reporting responsibilities of the U.S. principal party in interest and forwarding agent in completing the SED or AES record; (C) Clarify provisions for obtaining authorization for preparing and filing the SED or the AES electronic record; and (D) Clarify the documentation and compliance responsibilities of parties involved in the export transaction.

The Census Bureau proposes redesignating Section 30.4(b) to Section 30.4(f) and include the provision that the SED be prepared in English to be consistent with the current instructions for preparing the SED.

The Census Bureau proposes redesignating Section 30.4(C) to Section 30.4 (g) with minor wording revisions.

The Census Bureau proposes amending Section 30.7(d)(1), "*Name of exporter and exporter's Employer Identification Number*," to clarify the designation of "exporter" named on the SED by reference to § 30.4.

The Census Bureau proposes amending Section 30.7(d)(2), "*Exporters Employer Identification Number*," to clarify the requirement that a foreign principal, if in the United States when signing the SED, must be listed as "exporter" on the SED or AES record. However, if no EIN or SSN is available, the DUNS number, border crossing number, passport number, or any number assigned by U.S. Customs is required to be reported.

The Census Bureau further proposes amending section 30.7(e), "*Agent of exporter (forwarding agent)*," to specify the responsibilities of the forwarding agent in preparing the SED by reference to § 30.4.

Rulemaking Requirements

This proposed rule is exempt from all requirements of Section 553 of the Administrative Procedure Act because it deals with a foreign affairs function (5 U.S.C. (A) (1)). However, this rule is being published as a proposed rule with an opportunity for public comment because of the importance of the issues raised by this rulemaking.

Regulatory Flexibility Act

Because a notice of proposed rulemaking is not required by 5 U.S.C. 553 or any other law, a Regulatory Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603(a)).

Executive Orders

This proposed rule has been determined to be significant for purposes of Executive Order 12866. This proposed rule does not contain policies with Federalism implications

sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

Paperwork Reduction Act

Notwithstanding any other provisions 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 currently valid Office of Management and Budget (OMB) control number.

This proposed rule covers collections of information subject to the provisions of the PRA, which are cleared by the OMB under OMB Control Number 0607-0152.

This proposed rule will not impact the current reporting-hour burden requirements as approved under OMB Control Number 0607-0152 under provisions of the PRA, Public Law 104-13.

List of Subjects in 15 CFR Part 30

Economic statistics, Foreign trade, Exports, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, it is proposed that part 30 be amended as follows:

PART 30—FOREIGN TRADE STATISTICS

1. The authority citation for 15 CFR Part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 13 U.S.C. 301-307; Reorganization Plan No. 5 of 1950 (3 CFR 1949-1953 Comp., 1004); Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 CFR 42765.

Subpart A—General Requirements—Exporter

2. In part 30, footnotes 4, 5, 6 and 9 are proposed to be redesignated as footnotes 5, 6, 7 and 8, respectively, and § 30.4 is proposed to be revised to read as follows:

§ 30.4 Preparation and signature of Shipper's Export Declarations.

(a) *General requirements (SED).* For purposes of this section, all references to preparing and filing the paper SED also pertain to preparing and filing the AES electronic record. The Shipper's Export Declaration (SED) or the AES electronic equivalent must be prepared and signed by a principal party in interest or by a forwarding agent authorized by a principal party in interest. The person who signs the SED must be in the United States at the time of signing. That person, whether the

U.S. principal party in interest or agent, is responsible for the truth, accuracy, and completeness of the SED or AES electronic equivalent, except insofar as that person can demonstrate that he or she reasonably relied on information furnished by others. The Census Bureau recognizes "routed export transactions" as a subset of export transactions. A routed export transaction is where the foreign principal party in interest authorizes a U.S. forwarding or other agent to facilitate export of items from the United States. See paragraph (c) of this section for responsibilities of parties in a routed export transaction.

(1) *Exporter (U.S. principal party in interest).* For purposes of completing the SED, in all export transactions, the exporter required to be listed in box 1a of the SED or in the "Exporter" field of the AES record is the U.S. principal party in interest. The U.S. principal party in interest is the person in the United States that receives the primary benefit, monetary or otherwise, of the transaction. Generally that person is the U.S. seller, manufacturer, order party⁴, or foreign entity, if in the U.S. when signing the SED. In most cases, the forwarding or other agent is not a principal party in interest. Note: The Export Administration Regulations (EAR) (15 CFR parts 730 through 799) 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 part 772 of the EAR).

(i) If a U.S. manufacturer directly sells merchandise for export to a foreign principal, the U.S. manufacturer must be listed as the exporter (U.S. principal party in interest) on the SED.

(ii) If a U.S. manufacturer sells merchandise, as a domestic sale, to a U.S. buyer (wholesaler/distributor) and that U.S. buyer sells the merchandise for export to a foreign principal, the U.S. seller (wholesaler/distributor) must be listed as the exporter (U.S. principal party in interest) on the SED.

(iii) If a U.S. order party directly arranges for the sale and export of merchandise to a foreign buyer, the U.S. order party must be listed as the exporter (U.S. principal party in interest) on the SED or AES record.

(2) *Forwarding agent.* The forwarding agent is the person in the United States who is authorized by the U.S. principal party in interest or, in the case of a

⁴The Order Party is that person in the United States who conducted the direct negotiations or correspondence with the foreign principal or ultimate consignee and who, as a result of these negotiations, received the order from the foreign principal or ultimate consignee.

routed transaction, the foreign principal party in interest to prepare and file the SED or its AES electronic equivalent, and/or perform the services required to facilitate the export of items from the United States. In routed export transactions, the forwarding agent and the exporter may be the same for compliance purposes under the EAR, but the forwarding agent is rarely the "exporter" in box 1a of the SED or in the "exporter" field of the AES record.

(3) *Principal parties in interest.* Those persons in a transaction that receive the primary benefit, monetary or otherwise, of the transaction. Generally, the principals in a transaction are the seller and the buyer. In most cases a forwarding or other agent is not a principal party in interest.

(b) *U.S. principal party in interest and forwarding agent responsibilities in preparing the SED (except in routed export transactions).*—(1) *Designating the forwarding agent.* The U.S. principal party in interest can prepare and file the SED or AES record, or it can authorize a forwarding agent to prepare and file the SED or AES record on its behalf. If the U.S. principal party in interest designates a forwarding agent to act on its behalf in completing the SED or AES record it must be in the form of a power of attorney or written authorization, or by signing the authorization box printed on the paper SED (box 23 on Form 7525-V and box 29 on Form 7525-V-ALT).

(2) *U.S. principal party in interest responsibilities in preparing the SED.* (i) If the U.S. principal party in interest prepares the SED or AES record themselves they are responsible for the accuracy of all the export information reported on the SED or AES record, for signing the paper SED, filing the paper SED with U.S. Customs, or transmitting the AES record to Customs.

(ii) If the U.S. principal party in interest authorizes a forwarding agent to complete the SED or AES record on its behalf the U.S. principal party in interest is responsible for:

(A) Providing the forwarding agent with the export information necessary to complete the SED or AES record;

(B) Providing the forwarding agent with a power of attorney or written authorization to complete the SED or AES record, or sign the authorization box printed on the paper SED (box 23 on Form 7525-V and box 29 on Form 7525-V-ALT); and

(C) Maintaining the documentation to support the information provided to the forwarding agent for completion of the SED or AES record, as specified in § 30.11.

(3) *Forwarding agent responsibilities in preparing the SED.* The forwarding agent, when authorized by a U.S. principal party in interest to prepare and sign the SED or prepare and file the AES record, is responsible for:

(i) Accurately preparing the SED or AES record based on information received from the U.S. principal party in interest;

(ii) Obtaining a power of attorney or written authorization to complete the SED or AES record, or obtaining a paper SED with a signed authorization;

(iii) Maintaining the documentation to support the information reported on the SED or AES record, as specified in § 30.11; and

(iv) Providing the U.S. principal party in interest with a copy of the export information filed in the form of a completed SED, an electronic facsimile, or in any other manner prescribed by the exporter.

(c) *U.S. principal party in interest and forwarding agent responsibilities in preparing the SED in "routed export transactions."*

(1) *Designating the forwarding agent.* In a routed export transaction, the forwarding agent must obtain a power of attorney or written authorization from the foreign principal party in interest to act on their behalf. If the foreign principal party in interest designates a U.S. forwarding agent to complete the SED or AES record, the U.S. principal party in interest must provide certain export information to such agent (see paragraph (c)(2) of this section). If the U.S. principal party in interest authorizes its own forwarding agent to complete the SED or AES record, it must follow the procedures specified in paragraph (b) of this section.

(2) *U.S. principal party in interest responsibilities in a "routed export transaction."* In a routed export transaction where the foreign principal party in interest designates a U.S. forwarding agent to prepare and file the SED or AES record, the U.S. principal party in interest must provide such forwarding agent with the following information to assist in preparing the SED or AES record:

(i) Name and address of the exporter (U.S. principal party in interest);

(ii) Exporter EIN (IRS) Number;

(iii) Point of origin (State or FTZ);

(iv) Schedule B description of commodities;

(v) Domestic (D), foreign (F), or FMS (M) code;

(vi) Schedule B Number;

(vii) Quantity;

(viii) Upon request from the foreign principal party in interest or its agent, the Export Control Classification

Number (ECCN) or with sufficient technical information to determine classification; and

(ix) Any information that it knows will affect the determination of license authority.

Note to paragraph (c)(2): For Items (c)(2)(viii) and (ix), where the foreign principal party in interest has assumed responsibility for determining and obtaining license authority, the EAR sets forth the information sharing requirements that apply, at 15 CFR 758.2(d).

(3) *Forwarding agent responsibilities in a "routed export transaction."* In a routed export transaction, the forwarding agent who is responsible for preparing the SED or AES record must provide the following export information on the SED or AES record:

- (i) Date of exportation;
- (ii) Bill of lading/airway bill number;
- (iii) Ultimate consignee;
- (iv) Intermediate consignee;
- (v) Forwarding agent name and address;
- (vi) Country of ultimate destination;
- (vii) Loading pier;
- (viii) Method of transportation;
- (ix) Exporting carrier;
- (x) Port of export;
- (xi) Port of unloading;
- (xii) Containerized;
- (xiii) Weight;
- (xiv) Value;
- (xv) ECCN;
- (xvi) License authority; and
- (xvii) Signing the certification box on the paper SED (box 24 on Form 7525-V and box 36 on Form 7525-V-ALT).

In a routed export transaction the U.S. principal party in interest must be listed as exporter (U.S. principal party in interest) on the SED or on the AES record.

Note to paragraph (c)(3): For Items (c)(3)(xv) and (xvi), where the foreign principal party in interest has assumed responsibility for determining and obtaining license authority, the EAR sets forth the information sharing requirements that apply, at 15 CFR 758.2(a).

(d) *Information on the Shipper's Export Declaration (SED).* The data provided on the SED or AES electronic record shall be complete, correct, and based on personal knowledge of the facts stated or on information furnished by the parties involved in the export transaction. All parties involved in export transactions, including U.S. forwarding agents, should be aware that invoices and other commercial documents may not necessarily contain all the information needed to prepare the SED or AES record. The parties must ensure that all the information needed for completing the SED or AES record,

including correct export licensing information, is provided to the forwarding agent for the purpose of correctly preparing the SED or AES record.

(e) *Authorizing a forwarding 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(i) of the EAR). In cases where a forwarding agent is filing the export information on the SED or electronically using the AES, the forwarding agent must obtain a power of attorney or written authorization from a principal party in interest to file the information on their behalf. A power of attorney or written authorization should specify the responsibilities of the parties with particularity, and should state that the forwarding agent has authority to act on behalf of a principal party in interest as its true and lawful agent for purposes of the export transaction and in accordance with the laws and regulations of the United States.

(f) The SED shall be prepared in English and shall be typewritten or prepared in ink or other permanent medium (except indelible pencil). The use of duplicating processes, as well as the overprinting of selected items of information, is acceptable.

(g) All copies of the SEDs must contain all of the information called for in the signature space as to name of firm, address, name of signer, and capacity of signer. The original SED must be signed in ink, but signature on other copies is not required. The use of signature stamps is acceptable. A signed legible carbon or other copy of the export declaration is acceptable as an "original" of the SED.

3. Section 30.7 is proposed to be amended by revising paragraphs (d) and (e) to read as follows:

§ 30.7 Information required on Shipper's Export Declarations.

* * * * *

(d) *Name of exporter (U.S. principal party in interest) and exporter's Employer Identification Number (EIN).* The name and address (number, street, city, state, zip code) of the exporter (U.S. principal party in interest) and the exporter's (U.S. principal party in interest) EIN shall be entered where requested on the SED or AES electronic record. The EIN shall be the exporter's (U.S. principal party in interest) own and not another's EIN.

(1) *Name of exporter (U.S. principal party in interest).* The exporter (U.S. principal party in interest) named on the SED and in the exporter field on the AES record must be the U.S. principal

party in interest in the transaction. The exporter (U.S. principal party in interest) is the person in the United States that receives the primary benefit, monetary or otherwise, of the export transaction. Generally that person is the U.S. seller, manufacturer, order party, or foreign entity, if in the United States when signing the SED. In all export transactions, the U.S. principal party in interest must be listed in the "Exporter (U.S. principal party in interest)" block on the paper SED or in the "exporter field" in the AES record. (See § 30.4 for details on the specific reporting responsibilities of exporters (U.S. principal party in interest)).

(2) *Exporter's (U.S. principal party in interest) Employer Identification*

Number (EIN). An exporter (*U.S. principal party in interest*) shall report its own IRS EIN on the SED or AES record. If, and only if, no Internal Revenue Service EIN has been assigned to the exporter (*U.S. principal party in interest*), the exporter's (*U.S. principal party in interest*) own Social Security Number (SSN), preceded by the symbol "SS" must be reported. In situations when a foreign principal party in interest who does not possess an EIN or SSN operates from within the U.S. to facilitate its own export, no EIN or SSN reporting requirement applies. Using another's EIN or SSN is prohibited. However, if no EIN or SSN is available, the DUNS (Dunn and Bradstreet) number, border crossing number,

passport number, or any number assigned by U.S. Customs is required to be reported on the SED or the AES record.

(e) *Forwarding agent.* The name and address of the duly authorized forwarding agent (if any) of a principal party in interest or the foreign principal party in interest shall be recorded where requested on the SED or AES record. (See § 30.4 for details on the specific reporting responsibilities of forwarding agents).

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Dated: September 21, 1999.

Kenneth Prewitt,

Director, Census Bureau.

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