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## **DEPARTMENT OF COMMERCE**

### **Bureau of the Census**

#### **15 CFR Part 30**

**Docket Number: 131211999-3999-01**

#### **Foreign Trade Regulations (FTR): Advanced Export Information (AEI) Pilot Program**

**AGENCY: Bureau of the Census, Commerce Department.**

**ACTION:** Solicitation of Pilot Program Participants to Evaluate Potential Rulemaking Procedure.

**SUMMARY:** This document announces that the Bureau of the Census (U.S. Census Bureau), in cooperation with the U.S. Customs and Border Protection (CBP), is implementing a pilot program to evaluate a new filing option in the Automated Export System (AES). Specifically, the Advance Export Information (AEI) pilot is a voluntary program in which selected exporters agree to submit a limited set of Electronic Export Information (EEI) in accordance with existing filing deadlines followed by the full set of data elements submitted within five calendar days of the date of export. This notice provides a description of the AEI pilot and sets forth eligibility requirements for participation. If the AEI pilot is successful, we may discontinue the AES Post-Departure filing option and offer an AEI filing option.

**DATES:** Correspondence indicating interest in the AEI pilot will be accepted until **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The Census Bureau will notify applicants if they are accepted into the pilot. The notification will provide the date that the test environment will be available and further information about

participation in the pilot. Approved pilot participants will then have 60 days after notification of acceptance to have their systems ready and able to transmit live AEI pilot data to the Automated Export System (AES).

**FOR FURTHER INFORMATION CONTACT:** Nick Orsini, Chief, Foreign Trade Division, U.S. Census Bureau, Room 6K032, Washington, DC 20233-6010, by phone (301) 763-6959, by fax (301) 763-8835, or by e-mail <nick.orsini@census.gov>.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Census Bureau is responsible for collecting, compiling, and publishing trade statistics for the United States under the provisions of Title 13, United States Code (U.S.C.), Chapter 9, Section 301. The Automated Export System (AES) is the primary instrument used for collecting export trade data. Through the AES, the Census Bureau collects Electronic Export Information (EEI), the electronic equivalent of the export data formerly collected on the Shipper's Export Declaration (SED), reported pursuant to Title 15, Code of Federal Regulations (CFR), Part 30. The EEI consists of data elements as set forth in 15 CFR 30.6 for an export shipment, and includes information, such as the exporter's identifying information, which includes name, address and identification number, and detailed information concerning the exported product. Other agencies use the EEI for the purpose of enforcing U.S. export laws and regulations.

Currently there are two AES filing options:

*AES Predeparture Filing*

All commodity information is filed electronically prior to departure as outlined in 15 CFR 30.4(b).

### *AES Postdeparture Filing*

Postdeparture filing is available for approved United States Principal Party in Interest (USPPI) and provides for the electronic filing of the data elements for eligible shipments required by 15 CFR 30.6 no later than five calendar days from the date of exportation.

On August 15, 2003, the Census Bureau, in agreement with CBP, placed a moratorium on accepting new applications for Postdeparture filing due to an anticipated regulation change. The Census Bureau and CBP continued the moratorium on accepting new applications for the postdeparture program with the publication in the Federal Register of the revised regulations of March 14, 2013 (78 FR 16366). Though the moratorium continues, the Census Bureau and CBP have worked together to develop this pilot program to test the AEI approach, which is intended to replace the current postdeparture filing program. All exporters are eligible to apply for the AEI pilot program discussed in this notice.

Advanced export data are required in order for CBP and other agencies to effectively target suspect export shipments as provided for in the Trade Act of 2002. Currently, the AES postdeparture filing program does not provide shipment information until after the shipment has left, which does not permit adequate screening of export shipments. Establishing an AEI program will provide the necessary information to permit CBP and other government agencies to conduct export enforcement and compliance activities, while permitting U.S. companies to export while some shipment details are unknown.

**Authority for the program:**

5 U.S.C. 301; 13 U.S.C. 301–307; Reorganization Plan 5 of 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order (DOO) No. 35–2A, July 22, 1987, as amended; DOO No. 35–2B, December 20, 1996, as amended; Public Law 107-228, 116 Stat.1350; and Trade Act of 2002 (as amended by Public Law 107- 295).

**Description of the AEI Pilot Program***Submission of AEI Data*

Participants in the AEI pilot will agree to provide a subset of the predeparture EEI data elements as defined in 15 CFR. 30.6, while adhering to the timeframes outlined in 15 CFR 30.4(b). They will then submit the full EEI data set within five days of the date of export.

(a) Mandatory AEI data elements are:

- (1) USPPPI and USPPPI identification.
  - (i) Name of the USPPPI.
  - (ii) Address of the USPPPI.
  - (iii) USPPPI identification number.
  - (iv) Contact information.
- (2) Ultimate consignee.
- (3) Commodity classification number.
- (4) Commodity description.
- (5) Port of export.
- (6) Date of export.
- (7) Carrier identification.

- (8) Conveyance name/carrier name.
- (9) License code/license exemption code.
- (10) Shipment reference number.

(b) Conditional AEI data elements are:

- (1) Authorized agent's identification number (if an authorized agent is used to prepare and file the EEI).
- (2) Export Control Classification Number (ECCN).

Note: Not all commodities are eligible for the AEI pilot, see the Conditions of Participation section, items J-L, of this notice.

These data elements were chosen because in meetings with members of the export trade community, they indicated that these data elements are commonly available prior to export. Additionally, the AEI data will be used by CBP to target export shipments, and enhance border security while minimizing disruption to U.S. commerce. Currently, the AES postdeparture filing program does not provide shipment information until after the shipment has left, which could represent a risk to national security.

The collection of the AEI data is subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and was approved under OMB Control Number 0607-0152. In the AEI pilot, participants agree to submit the AEI data directly to the AES.

### *Eligibility Requirements*

The Census Bureau is seeking participation from a wide variety of stakeholders representing various industries who use different methods of transportation. Prospective AEI pilot participants will need to assess whether they can fulfill the following eligibility requirements:

1. The participant must be a USPPI as defined in 15 CFR 30.1. Authorized agents will not be approved for the AEI pilot.
2. The participant must have 12 months of export reporting history.
3. The participant must report a minimum of ten shipments per month. However, seasonal exporters will be considered on a case-by-case basis.
4. The participant must show an acceptable level of compliance for export reporting for the latest 12-month period.
5. The participant must be compliant with all other federal regulations related to trade import and export transactions.

### *AEI Pilot Application Process and Acceptance*

All USPPIs interested in participating in the AEI pilot will have to apply, including USPPIs currently approved for postdeparture. An authorized agent may not apply on behalf of a USPPI; however, authorized agents may transmit AEI data, as well as the subsequent submission containing the full EEI, on behalf of a USPPI approved for AEI filing.

Interested parties who wish to be considered for participation in the AEI pilot should fax a letter on company letterhead to the Foreign Trade Division, Census Bureau, at 301-763-8835, stating their interest in participating and their qualifications based on the above eligibility requirements. The letter should also include a point of contact and the Employer Identification

Numbers (EINs) of any of their establishments that they wish to be included in the pilot.

Correspondence indicating interest in the AEI pilot will be accepted until **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

The Census Bureau will distribute letters received in response to this solicitation to CBP and the other federal government agencies participating in the AEI pilot filing review process. USPPIs that meet the eligibility requirements will be considered for selection in the AEI pilot.

Pilot participants will receive technical, operational, and policy guidance through all stages of pilot participation—from planning to implementation—on the necessary steps for the transmission of AEI and subsequent submission containing the full set of EEI.

The number of accepted applicants will depend on technical, fiscal, and personnel capacity of the reviewing government agencies. If more applications are received than can be supported, the applications will be processed in the order in which they are received. The Census Bureau will notify applicants if they are accepted into the pilot. The notification will provide the date that the test environment will be available and further information about participation in the pilot. Approved pilot participants will then have 60 days after notification of acceptance to have their systems ready and able to transmit live AEI pilot data to the AES.

#### *Conditions of Participation*

AEI pilot participants must agree to the following conditions of participation.

##### *Participants must:*

- (A) Ensure the filing of the AEI data elements predeparture, adhering to the timeframes outlined in 15 CFR 30.4(b), as part of an initial data submission;

- (B) Ensure the filing of the subsequent data submission, containing the full set of EEI data elements within five days of the date of export;
- (C) Respond promptly with complete and accurate information when contacted by the Census Bureau, CBP or any other partnering agencies;
- (D) Take part in teleconferences or meetings established by the Census Bureau or CBP, when necessary, to ensure any issues or challenges regarding the pilot are communicated and addressed;
- (E) Respond to any and all AES response messages as outlined in 15 CFR 30.9;
- (F) Report a minimum of 10 shipments within the scope of the AEI pilot per month. Special provisions may be made for seasonal exporters exporting less than 10 shipments per month. Not all shipments reported on behalf of a participant for a month must be filed using AEI privileges. The remaining shipments may be filed using predeparture reporting or current postdeparture reporting (if the USPPI is an approved postdeparture filer);
- (G) Promptly report any problems encountered during the duration of the pilot to the Census Bureau and/or CBP;
- (H) Participate in the evaluation and debriefing of the pilot; and
- (I) Have their systems ready and able to transmit live AEI pilot data to the AES 60 days after notification of acceptance in the pilot program.

*Additional Conditions:*

- (J) Commodities controlled under Bureau of Industry and Security (BIS) Export Control Classification Numbers will not be permitted for AEI pilot reporting, with the exception of those specifically permitted to be filed postdeparture by the BIS;

- (K) Any commodity under a general or specific license issued by any U.S. government agency will not be eligible for AEI pilot reporting; and
- (L) All shipments required to be transmitted predeparture, pursuant to 15 CFR 30.4(a), will not be eligible for AEI pilot reporting.

Failure to maintain the conditions of participation outlined in this section or the eligibility requirements defined above, or any other reason determined by the Census Bureau, may result in removal from the AEI pilot program.

#### *Filing Methods*

AEI pilot participants or their authorized agent may submit AEI data directly to the AES mainframe. Further technical information related to filing AEI data to the AES will be provided to the AEI pilot participants following acceptance into the program.

#### *Costs to AEI Pilot Participants*

AEI pilot participants are responsible for all costs incurred as a result of their participation in the pilot and such costs will vary, depending on their pre-existing infrastructures. Costs may include, but are not limited to, programming and staff training. Costs incurred as a result of the AEI pilot may not be recouped if a resulting AEI program is not implemented, or is modified prior to implementation.

### *Benefits to AEI Pilot Participants*

While the benefits to AEI pilot participants will vary, there are several advantages to participating. The benefits include but are not limited to:

- The opportunity to provide input into the Census Bureau's and CBP's efforts to establish, test, and refine the AEI program;
- The opportunity for your business model to be considered in the development and implementation of the AEI program;
- Facilitation of filing when not all information is known prior to export;
- Facilitation of corporate preparedness for future implementation of an AEI program and the discontinuation of the current postdeparture program; and
- If an AEI program is implemented based on this pilot, the participants that are in good standing, as determined by the Census Bureau, will not have to reapply for the AEI program.

### *Regulatory and Statutory Requirements*

Participants in the AEI pilot are subject to the Conditions of Participation; however, this does not alter the participant's obligations to comply with applicable statutory and regulatory requirements, including but not limited to 15 CFR, Parts 30, 700-799; 19 CFR, Parts 1-199; and 22 CFR, Parts 120-130. Participants remain subject to all applicable penalties for non-compliance.

*Evaluation of the AEI Pilot*

The results of the AEI pilot will help determine whether the advanced export information permits CBP to effectively screen exports and will help identify and mitigate risks with the least impact practicable on trade operations. Additionally, the pilot will help determine whether any other related procedures and policies would be needed for any AEI program that may result.

While the pilot is in progress, the Census Bureau and CBP will evaluate the program and make a determination as to whether the pilot will be extended. If the pilot is extended, the Census Bureau will publish another notice in the Federal Register. When sufficient pilot analysis and evaluation has been conducted, the Census Bureau intends to begin rulemaking to address the future of postdeparture filing. If an AEI program is implemented based on this pilot, the participants that are in good standing, as determined by the Census Bureau, will not have to reapply for the AEI program.

Date: January 22, 2014

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John H. Thompson  
Director  
Bureau of the Census

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