

(3) NASA determines that the purposes of NEPA will be furthered by doing so.

(b) The preparation of a supplemental EA or EIS shall be undertaken using the same procedural requirements set forth in 40 CFR 1501.5 or 40 CFR part 1502, as applicable; however, in the event a supplement to an EIS is required, scoping shall not be required unless, at NASA's discretion and in consideration of the factors and requirements of 40 CFR 1501.9, it is determined to be necessary or would otherwise further the purposes of NEPA.

(c) When it is unclear if an EA or EIS supplement is required, NASA may prepare a Supplement Analysis.

(1) The Supplement Analysis will discuss the circumstances that are pertinent to deciding whether to prepare a supplemental EA or EIS.

(2) The Supplement Analysis will contain sufficient information for NASA to determine whether:

(i) An existing EA or EIS should be supplemented;

(ii) A new EA or EIS should be prepared; or

(iii) No further NEPA documentation is required.

(3) NASA shall make the determination and the related Supplement Analysis available to the public for information.

(d) When applicable, NASA shall incorporate the determination and supporting Supplement Analysis made under paragraph (b) of this section, into the administrative record related to the action that is the subject of the EA or EIS supplement or determination.

■ 11. Revise § 1216.309 to read as follows:

**§ 1216.309 Mitigation and monitoring.**

When the analysis proceeds to an EA or EIS and mitigation measures are adopted for the purpose of avoiding or reducing the significance of environmental impacts, such mitigation measures will be identified in the EA Finding of No Significant Impact (FONSI) or the EIS Record of Decision (ROD). NASA shall implement mitigation measures (including adaptive management strategies, where appropriate) consistent with applicable FONSI and/or RODs and shall monitor their implementation and effectiveness. The Responsible Official shall ensure that funding for such mitigation measures is included in the program or project budget.

■ 12. Amend § 1216.310 by revising paragraph (a) to read as follows:

**§ 1216.310 Classified actions.**

(a) The classified status of a proposed action does not relieve NASA of the

requirement to assess, document, and consider the environmental impacts of a proposed action.

\* \* \* \* \*

■ 13. Revise § 1216.311 to read as follows:

**§ 1216.311 Emergency responses.**

(a) When the Responsible Official determines that emergency circumstances exist which make it necessary to take immediate response and/or recovery action(s) before preparing a NEPA analysis, then the following provisions apply:

(1) The Responsible Official may undertake immediate emergency response and/or recovery action(s) necessary to protect life, property, or valuable resources. When taking such action(s), the Responsible Official shall, to the extent practicable, mitigate foreseeable adverse environmental impacts.

(2) At the earliest practicable time, the Responsible Official shall notify the SAO of the emergency and any past, ongoing, or future NASA emergency response and/or recovery action(s). The SAO shall determine if NEPA applies and the appropriate level of NEPA analysis to document the emergency. If the emergency response and/or recovery action(s) will reasonably result in significant environmental impacts, the SAO shall consult with the CEQ about alternative arrangements for compliance with NEPA.

(b) If the Responsible Official proposes emergency response and/or recovery actions that will continue beyond those needed to immediately protect life, property, and valuable resources, the Responsible Official shall consult with the SAO to determine the appropriate level of NEPA compliance. If continuation of the emergency actions will reasonably result in significant environmental impacts, the SAO shall consult with the CEQ about alternative arrangements for compliance.

■ 14. Revise appendix A to subpart 1216.3 to read as follows:

**Appendix A to Subpart 1216.3 of Part 1216—Acronyms**

CatEx Categorical Exclusion  
 CEQ Council on Environmental Quality  
 CFR Code of Federal Regulations  
 CWA Clean Water Act  
 CZMA Coastal Zone Management Act  
 DoI (U.S.) Department of the Interior  
 EA Environmental Assessment  
 EMD Environmental Management Division  
 EIS Environmental Impact Statement  
 FONSI Finding of No Significant Impact  
 FR Federal Register  
 GSA General Services Administration  
 HQ Headquarters

NASA National Aeronautics and Space Administration  
 NEPA National Environmental Policy Act  
 NHPA National Historic Preservation Act  
 REC Record of Environmental Consideration  
 RHU Radioisotope Heater Unit  
 RPS Radioisotope Power Systems  
 SAO Senior Agency Official  
 SEO Senior Environmental Official  
 OGC Office of the General Counsel  
 ROD Record of Decision  
 U.S.C. United States Code

**Nanette Smith,**

*Team Lead, NASA Directive and Regulations.*

[FR Doc. 2023–09038 Filed 5–2–23; 8:45 am]

**BILLING CODE 7510–13–P**

**DEPARTMENT OF COMMERCE**

**Census Bureau**

**15 CFR Part 30**

[DOCKET NO. 230421–0109]

RIN 0607–AA61

**Foreign Trade Regulations (FTR): State Department Directorate of Defense Trade Controls Filing Requirement and Clarifications to Current Requirements**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Census Bureau is proposing to amend its regulations to reflect new export reporting requirements related to the State Department, Directorate of Defense Trade Controls (DDTC) Category XXI Determination Number. Specifically, the Census Bureau is proposing to add a conditional data element, DDTC Category XXI Determination Number, when “21” is selected in the DDTC USML Category Code field in the Automated Export System (AES) to represent United States Munitions List (USML) Category XXI. In addition to the new export reporting requirement, the proposed rule would make remedial changes to the Foreign Trade Regulations (FTR) to update International Traffic in Arms Regulations (ITAR) references in existing data elements: DDTC Significant Military Equipment Indicator and DDTC Eligible Party Certification Indicator. The proposed rule also makes remedial changes to the FTR that were proposed in the Notice of Proposed Rulemaking published December 15, 2021.

**DATES:** Written comments must be received on or before July 3, 2023.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. The identification number for this rulemaking is identified by RIN 0607-AA61; or

- By email directly to [gtmd.ftrnotices@census.gov](mailto:gtmd.ftrnotices@census.gov). Include RIN 0607-AA61 in the subject line.

All comments received are part of the public record. No comments will be posted to <https://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Lisa E. Donaldson, Chief, Economic Management Division, Census Bureau by phone (301) 763-7296 or by email [lisa.e.donaldson@census.gov](mailto:lisa.e.donaldson@census.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Census Bureau is responsible for collecting, compiling, and publishing export trade statistics for the United States under the provisions of title 13, United States Code (U.S.C.), chapter 9, section 301. Additionally, the Census Bureau is responsible for publishing the Foreign Trade Regulations (FTR) that set the export reporting requirements for Electronic Export Information (EEI). The EEI is made up of mandatory, conditional, and optional data elements. The purpose of this rulemaking is to add a conditional data element, Directorate of Defense Trade Controls (DDTC) Category XXI Determination Number, when “21” (see Appendix L of the Automated Export System Trade Interface Requirements (AESTIR)) is selected in the DDTC United States Munitions List (USML) Category Code field in the EEI. The FTR defines the DDTC USML Category Code as the USML category of the article being exported (22 CFR part 121).

The Congressional mandate in Public Law 106-113 that amended section 301, of title 13 of the U.S. Code authorized the Secretary of Commerce to require the mandatory electronic filing of export information through the Automated Export System (AES) for items identified in the Commerce Control List (CCL) and the USML. Under the authorities in chapter 9 of title 13, the Secretary of Commerce proposes to collect additional data on the export of items under DDTC USML Category Code “21” to identify and validate which

commodities DDTC USML Category Code “21” was cited for.

The DDTC Category XXI Determination Number is a unique number issued by DDTC in conjunction with a notification that a specific commodity is described in USML Category XXI. Information on valid USML Category XXI determinations and the prospective AES error code may be found in the Frequently Asked Questions section of DDTC’s website ([www.pmdotc.state.gov](http://www.pmdotc.state.gov)).

The Census Bureau is seeking public comments from data users, businesses and others to assess this proposed change. Below are considerations when providing feedback to this proposed rule; however, any pertinent feedback not captured by these considerations is welcome.

1. Describe the potential value of adding the DDTC Category XXI Determination Number to the EEI.
2. How long would a company that utilizes or manages proprietary software need to make programming changes to potentially add the DDTC Category XXI Determination Number field to its interface to the AES?
3. Are there business practices that a company would need to implement in order to come into compliance with the reporting of the DDTC Category XXI Determination Number field? If so, how long would a company need to implement new business practices?

The proposed rule also makes remedial changes to the FTR that were proposed in the Notice of Proposed Rulemaking published December 15, 2021 in the **Federal Register**, Volume 86, No. 238 (2021-26874.pdf ([census.gov](https://www.census.gov)), and comments to these changes were favorable.

Finally, the U.S. Department of Homeland Security and the U.S. Department of State concur with the revisions to the FTR as required by 13 U.S.C. 302, and Public Law 107-228, division B, title XIV, section 1404.

**Program Requirements**

Pursuant to the Foreign Relations Act, Public Law 107-228 and 13 U.S.C. 301 302, the Census Bureau is amending relevant sections of the FTR to revise or clarify export reporting requirements. Therefore, the Census Bureau is proposing to amend 15 CFR part 30 by making the following amendments:

- Revise § 30.2(d)(3) to remove the language, “(See subpart B of this part for export control requirements for these types of transactions.)” as the exclusion overrides the export control requirements.
- Revise § 30.6(a)(1)(iii) to clarify that when the Dun and Bradstreet Number

(DUNS) is reported as the U.S. Principal Party in Interest (USPPI) Identification Number, the Employer Identification Number (EIN) of the USPPI also is required to be reported in the Automated Export System.

- Revise § 30.6(b)(3) to amend the Foreign Trade Zone (FTZ) identifier to allow for 9-digits. The increased number of digits is required because of the increase in the number of subzones.

- Revise § 30.6(b)(16)(ii) to amend the DDTC Significant Military Equipment (SME) indicator by updating the ITAR references as a result of DDTC relocating certain ITAR provisions to improve the overall structure of the ITAR.

- Revise § 30.6(b)(16)(iii) to amend the DDTC eligible party certification indicator by updating the ITAR references as a result of DDTC relocating certain ITAR provisions to improve the overall structure of the ITAR.

- Revise § 30.6(b)(16)(ix) to add the conditional data element “DDTC Category XXI Determination Number.” The “DDTC Category XXI Determination Number” will be the unique number issued by DDTC to a member of the regulated community (usually the original equipment manufacturer) in conjunction with a notification that a specific commodity is described in USML Category XXI. This number is required only when citing Category XXI as an export classification and is used to confirm that an authoritative DDTC USML Category XXI determination is being referenced to do so.

- Revise § 30.37(u) to remove and reserve the exemption for technical data. This exemption is covered under § 30.2(d)(3), making the exemption redundant.

- Revise § 30.55 to remove the citation “19 CFR 103.5” and add in its place “19 CFR part 103.”

- Revise § 30.71 to amend the Note to paragraph (b) to address the yearly adjustments for civil penalties as a result of inflation.

- Revise § 30.74 to amend paragraph (c)(5) to remove information that may become outdated and referencing the Census Bureau website to obtain the most current method for submitting a Voluntary Self-Disclosure.

**Rulemaking Requirements**

*Regulatory Flexibility Act*

The Chief Council for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In the current Foreign Trade Regulations, the Electronic Export Information (EEI) shall be filed through the Automated Export System (AES) for all exports of physical goods. The AES is the electronic system for collecting Shipper's Export Declaration (SED) (or any successor document) information from persons exporting goods from the United States, Puerto Rico, Foreign Trade Zones located in the United States and Puerto Rico, the U.S. Virgin Islands, between the U.S. and Puerto Rico, and to the U.S. Virgin Islands from the United States or Puerto Rico. In the proposed revisions, export shipments with "21" in the DDTC USML Category Code field will be required to report the DDTC Category XXI Determination Number.

In calendar year 2022, authorized agents and U.S. Principal Parties in Interest reported the DDTC USML Category Code of "21" on 0.6% of EEI records. A large majority of the EEI records involved export shipments of defense articles from branches of the Department of Defense. Based on these statistics, the Census Bureau believes this proposed rule will not create any economic impact on all companies including a substantial number of small entities.

#### Executive Orders

This proposed rule has been determined to not 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 13132.

#### 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 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 OMB under OMB Control Number 0607-0152—AES Program.

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. The proposed rule will not require any revisions to the information sought under OMB Control Number 0607-0152. Robert L. Santos, Director, Census Bureau, approved the

publication of this notification in the **Federal Register**.

#### List of Subjects in 15 CFR Part 30

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

For the reasons set out in the preamble, the Census Bureau is proposing to amend 15 CFR part 30 as follows:

### PART 30—FOREIGN TRADE REGULATIONS

- 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 1990 (3 CFR 1949–1953 Comp., p.1004); Department of Commerce Organization Order No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended; Public Law 107–228, 116 Stat. 1350.

- 2. Amend § 30.2 by revising paragraph (d)(3) to read as follows:

#### § 30.2 General requirements for filing Electronic Export Information (EEI).

\* \* \* \* \*

(d) \* \* \*

(3) Electronic transmissions and intangible transfers.

\* \* \* \* \*

- 3. Amend § 30.3 by revising paragraphs (e)(1)(ii) to read as follows:

#### § 30.3 Electronic Export Information filer requirements, parties to export transactions, and responsibilities of parties to export transactions.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(ii) USPPPI's EIN or DUNS.

\* \* \* \* \*

- 4. Amend § 30.6 by revising paragraphs (a)(1)(iii), (b)(3), (b)(16)(ii) and (iii), and adding paragraph (b)(16)(ix) to read as follows:

#### § 30.6 Electronic Export Information data elements.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iii) USPPPI identification number.

Report the Employer Identification Number (EIN) of the USPPPI. If the USPPPI has only one EIN, report that EIN. If the USPPPI has more than one EIN, report the EIN that the USPPPI uses to report employee wages and withholdings, and not the EIN used to report only company earnings or receipts. Use of another company's EIN is prohibited. If a USPPPI reports a DUNS, the EIN is also required to be reported. If a foreign entity is in the United States at the time goods are purchased or obtained for

export, the foreign entity is the USPPPI. In such situations, when the foreign entity does not have an EIN, the authorized agent shall report a border crossing number, passport number, or any number assigned by CBP on behalf of the foreign entity.

\* \* \* \* \*

(b) \* \* \*

(3) *FTZ identifier*. If goods are removed from a FTZ and not entered for consumption, report the FTZ identifier. This is the unique 9-digit alphanumeric identifier assigned by the Foreign Trade Zone Board that identifies the FTZ, subzone or site from which goods are withdrawn for export.

\* \* \* \* \*

(16) \* \* \*

(ii) *DDTC Significant Military Equipment (SME) indicator*. A term used to designate articles on the USML (22 CFR part 121) for which special export controls are warranted because of their capacity for substantial military utility or capability. See sections 120.36 and 120.10(c) of the ITAR (22 CFR parts 120 through 130) for a definition of SME articles, respectively.

(iii) *DDTC eligible party certification indicator*. Certification by the U.S. exporter that the exporter is an eligible party to participate in defense trade. See 22 CFR 120.16(c). This certification is required only when an exemption is claimed.

\* \* \* \* \*

(ix) *DDTC Category XXI*

*Determination Number*. The unique number issued by DDTC to a member of the regulated community (usually the original equipment manufacturer) in conjunction with a notification that a specific commodity is described in USML Category XXI. This number is required only when citing USML Category XXI as an export classification and is used to confirm that an authoritative USML Category XXI determination is being referenced to do so.

\* \* \* \* \*

#### § 30.37 [Amended]

- 5. Amend § 30.37 by removing and reserving paragraph (u).
- 6. Amend § 30.55 by revising the introductory text to read as follows:

#### § 30.55 Confidential information, import entries, and withdrawals.

The contents of the statistical copies of import entries and withdrawals on file with the Census Bureau are treated as confidential and will not be released without authorization by CBP, in accordance with 19 CFR part 103

relating to the copies on file in CBP offices. The importer or import broker must provide the Census Bureau with information or documentation necessary to verify the accuracy or resolve problems regarding the reported import transaction.

\* \* \* \* \*

■ 7. Amend § 30.71 by revising the note to paragraph (b) to read as follows:

**§ 30.71 False or fraudulent reporting on or misuse of the Automated Export System.**

\* \* \* \* \*

**Note 1 to paragraph (b):** The civil monetary penalties are adjusted for inflation annually based on The Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410; 28 U.S.C. 2461), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701 of Pub. L. 114–74). In accordance with this Act, as amended, the penalties in title 13, chapter 9, sections 304 and 305(b), United States Code are adjusted and published each year in the **Federal Register** no later than January 15th.

■ 8. Amend § 30.74 by revising paragraph (c)(5) to read as follows:

**§ 30.74 Voluntary self-disclosure.**

\* \* \* \* \*

(c) \* \* \*

(5) *Where to make voluntary self-disclosures.* The information constituting a Voluntary Self-Disclosure or any other correspondence pertaining to a Voluntary Self-Disclosure may be submitted to the U.S. Census Bureau, Branch Chief, Trade Regulations Branch by methods permitted by the Census Bureau. See [www.census.gov/trade](http://www.census.gov/trade) for more details.

\* \* \* \* \*

Dated: April 25, 2023.

**Shannon Wink,**

*Program Analyst, Policy Coordination Office, U.S. Census Bureau.*

[FR Doc. 2023–09322 Filed 5–2–23; 8:45 am]

**BILLING CODE 3510–07–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 73**

[Docket No. FDA–2023–C–1487]

**Filing of Color Additive Petition From Environmental Defense Fund, et al.; Request To Revoke Color Additive Listing for Use of Titanium Dioxide in Food**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notification of petition.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that we have filed a color additive petition, submitted by Environmental Defense Fund, et al., proposing that FDA repeal the color additive regulation providing for the use of titanium dioxide in foods.

**DATES:** The color additive petition was filed on April 14, 2023. Either electronic or written comments must be submitted by July 3, 2023.

**ADDRESSES:** You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 3, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comment, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you

do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

*Written/Paper Submissions*

Submit written/paper instructions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA–2023–C–1487 for “Filing of Color Additive Petition from Environmental Defense Fund, et al.; Request To Revoke Color Additive Listing for Use of Titanium Dioxide in Food.” Received comments, those filed in a timely manner (see **DATES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comment only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80