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Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda. On July 7, 2009, approximately one-half hour will be reserved for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the TIP Advisory Board, National Institute of Standards and Technology, 100 Bureau Drive, MS 4700, Gaithersburg, Maryland 20899-8610, via fax at (301) 975-4032, or electronically by e-mail to ([lorel.wisniewski@nist.gov](mailto:lorel.wisniewski@nist.gov)).

All visitors to the National Institute of Standards and Technology site will have to pre-register to be admitted. Please submit your name, time of arrival, e-mail address and phone number to JoEllen Hansroth no later than Wednesday, July 1, and she will provide you with instructions for admittance. Ms. Hansroth's e-mail address is [joellen.hansroth@nist.gov](mailto:joellen.hansroth@nist.gov) and her phone number is 301-975-2162.

Dated: June 18, 2009.

**Patrick Gallagher,**

*Deputy Director.*

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## DEPARTMENT OF COMMERCE

### Census Bureau

[Docket No. 090514913-9954-01]

#### Privacy Act of 1974; System of Records

**AGENCY:** U.S. Census Bureau, Department of Commerce.

**ACTION:** Notice of New Privacy Act System of Records; Commerce/Census-12, Foreign Trade Statistics.

**SUMMARY:** In accordance with the Privacy Act of 1974, as amended, Title 5, United States Code (U.S.C.) 552a(e)(4) and (11); and Office of Management and Budget (OMB) Circular A-130, Appendix I, "Federal Agency Responsibilities for Maintaining Records About Individuals", the

Department of Commerce is issuing notice of intent to establish a new system of records entitled Commerce/Census-12, Foreign Trade Statistics. We invite public comment on the proposed new system announced in this publication.

**DATES:** *Comment Date:* To be considered, written comments on the proposed new system must be submitted on or before July 23, 2009.

*Effective Date:* Unless comments dictate otherwise, the new system will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

**ADDRESSES:** *Please address comments to:* Chief Privacy Officer, Privacy Office, Room HQ-8H168, U.S. Census Bureau, Washington, DC 20233-3700.

**SUPPLEMENTARY INFORMATION:** The purpose of this system of records is to account for the collection, maintenance and use of social security numbers (SSN) for a limited number of individuals, small business owners and sole proprietors without paid employees, where an employer identification number (EIN) does not exist. The Foreign Trade Statistics system and its component parts support the production of the monthly "International Trade in Goods and Services" report, a principal economic indicator, as authorized by Title 13, U.S.C., Section 301. The system consists of (1) the import and export transaction-level records and subsets thereof compiled for production review and control, research, analysis, investigation and customer service purposes, (2) source data systems including the Automated Export System (AES), the Internet front-end system *AESDirect*, and the Automated Foreign Trade Zone Reporting Program (AFTZRP), (3) extract files from U.S. Customs and Border Protection (CBP) systems including the Automated Commercial System (ACS) and the e-214 system for collecting Foreign Trade Zone admissions information, (4) information keyed from paper documents including the CBP Form 7501, Entry Summary; the CBP Form 214, Foreign Trade Zone Admission document; and Commerce Form 7525-V, the Shipper's Export Declaration (SED); and (5) information received from Statistics Canada under the terms of the U.S. and Canada data exchange agreement.

#### Commerce/Census-12

##### SYSTEM NAME:

Foreign Trade Statistics.

##### SECURITY CLASSIFICATION:

None.

##### SYSTEM LOCATION:

Automated Export System (AES), Automated Commercial System (ACS), e-214 System—U.S. Customs and Border Protection (CBP) National Data Center, Washington, DC.

*AESDirect*—Flagship Customs Services, contractor subject to Title 13 restrictions, Silver Spring, Maryland.

Import and Export Transaction Level Files—U.S. Census Bureau Headquarters, Suitland, Maryland and Census Bureau Computer Center, Bowie, Maryland.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals engaged in the importation or exportation of merchandise including but not limited to the Importer of Record, the U.S. Principal Party in Interest (USPPI); the authorized agent of the importer, USPPI or Foreign Principal Party in Interest; consignees (including consignee, intermediate consignee and ultimate consignee); and the filer and the transmitter of an automated record. **Note:** Nearly all of the transactions covered by this system involve only business enterprises. However, a small percentage of transactions involve individuals engaged in the importation or exportation of goods. Such transactions may involve transportation of personal items or business activities.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained on individuals engaged in import or foreign trade zone activities include the following data fields: Name, address, telephone number, social security number (SSN), and border crossing number or passport number. Records maintained on individuals engaged in export activities include the following data fields: Name, address, telephone number, e-mail address, and an identifier (employer identification number (EIN) or SSN, border crossing number, or passport number). The remaining information collected contains details of the shipment and its transportation into or out of the United States, or between the United States and Puerto Rico or the U.S. Virgin Islands.

##### AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

Title 13, U.S.C., Chapter 9; and Foreign Trade Statistical Regulations or its successor document, the Foreign Trade Regulations, both in Title 15, CFR part 30; and Title 19, CFR 24.5.

##### PURPOSE(S):

The records in this system of records are used by the Census Bureau to compile the U.S. merchandise trade

statistics, a key component of the monthly U.S. International Trade in Goods and Services report (FT-900) and to provide information needed for related statistical programs of other agencies. In addition, the records in this system of records are also used by other Federal agencies to enforce U.S. export laws and regulations, to evaluate the impact of trade agreements and to monitor compliance with such agreements.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

1. By Census Bureau staff for use in the compilation of U.S. international trade statistics and related research and analysis, and to provide customer assistance to members of the trade community in areas such as AES filing and interpretation of the Foreign Trade Statistics Regulations and its successor, the Foreign Trade Regulations. Information from this system is matched against information in the Census Bureau's Business Register to develop data products describing the characteristics of companies that export. However, since this project does not use any Business Register subsets that contain information about individuals, (nor does any subset of the Business Register contain SSNs), no information about individuals is incorporated in the data tabulations that comprise the Exporter Database.

2. By authorized sworn staff of Flagship Customs Services (FCS) for purposes of operating the *AESDirect* system and providing customer service to *AESDirect* filers. FCS staff's access is limited to the information filed through the *AESDirect*.

3. Provided to the U.S. Bureau of Labor Statistics, the U.S. Army Corps of Engineers, U.S. Maritime Administration, Bureau of Economic Analysis, the U.S. Foreign Agricultural Service, the U.S. Federal Reserve Board and other U.S. government agencies, as authorized by a National Interest Determination (NID), for statistical purposes.

4. Provided, with authorization by CBP, to Statistics Canada (for imports from Canada only) for statistical purposes only in accordance with the terms of the U.S.—Canada Data Exchange agreement. No name, address or other identifying information is provided beyond an altered version of the importer identifier, so that no actual SSN is provided.

5. Provided to the U.S. Department of Justice (U.S. Attorneys) and U.S. courts, the U.S. Bureau of Industry and Security, the U.S. Department of

Homeland Security, the U.S. Office of Naval Intelligence, the U.S. Maritime Administration, the U.S. Department of State, the Office of the U.S. Trade Representative, or other government agency, as authorized by NIDs, for purposes of enforcing U.S. export laws and regulations through analysis, investigation and prosecution of violations or other circumstances where the Secretary of Commerce or Census Bureau Director determines that withholding the information would be contrary to the national interest.

6. Provided, with authorization from CBP for import information and as authorized by an NID for export information, to the U.S. Office of Textiles and Apparel to monitor the implementation of textile agreements.

7. Provided, when authorized by NID, to appropriate agencies, entities and persons when (1) the Census Bureau suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Census Bureau has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Census Bureau or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities and persons is reasonably necessary to assist in connection with the Census Bureau's efforts to respond to the suspected or confirmed compromise and prevent, minimize or remedy such harm.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

The AES, *AESDirect* and the FT-900 systems have all been certified under the Federal Information Processing Standard requirements in accordance with the National Institute of Standards and Technology guidelines. Records are stored in a secure computerized system and on magnetic media; output data will use either electronic or paper media. Source data sets containing personal identifiers are maintained in a secure restricted-access environment. Access is controlled by use of usernames and passwords to ensure that system users may only access the information they are authorized to see. All communications between filers and the

Census Bureau are encrypted. Access control lists and unique usernames and passwords, in accordance with Federal computer security guidelines; protect all data extracted by the Census Bureau from the AES.

**RETRIEVABILITY:**

Records of individuals may be retrieved by name, address, telephone number, SSN or the alternate identifier.

**SAFEGUARDS:**

The U.S. Census Bureau is committed to respecting respondent privacy and protecting confidentiality. Through the Data Stewardship Program, it has implemented management, operational, and technical controls and practices to ensure high-level data protection to respondents of our census and surveys. All U.S. Census Bureau employees, contractors and other special sworn staff under Title 13, U.S.C. 23(c) are subject to the restrictions, penalties, and prohibitions of Title 13, U.S.C., Chapter 9; 15 CFR part 30; the Privacy Act of 1974 (Title 5, U.S.C. 552a(b)(4)); Title 18, U.S.C. 1905; Title 26, U.S.C. 7213; and Title 42, U.S.C. 1306. When confidentiality or penalty provisions differ, the most stringent provisions apply to protect the data. Census Bureau employees and contractors are regularly advised of the regulations issued pursuant to Title 13, U.S.C. and other relevant statutes governing confidentiality of the data. The Trade Secrets Act, 18 U.S.C. 1905 provides for penalties of up to \$100,000 or imprisonment for no more than one year, or both for any unauthorized release of confidential data. Furthermore, the use of unsecured telecommunications to transmit individually identifiable information is prohibited.

Pursuant to Title 13, U.S.C. 301(g), Shipper's Export Declaration (SED) (or any successor document) are exempt from public disclosure unless the Secretary of Commerce (whose authority has been delegated to the Census Bureau Director) determines that such an exemption would be contrary to the national interest. Releases under such NIDs have been limited to U.S. government agencies. Both the NID and the implementing Memorandum of Understanding (MOU) place strict limits upon the use of SED information, including prohibiting public disclosure except to U.S. courts when necessary to prosecute a violation of U.S. export laws and regulations. Several levels of Census Bureau management up to and including the Director review all such requests before the NID is issued. Prior to providing data to an agency pursuant

to an NID, and periodically thereafter, the Census Bureau conducts a safeguard review, including an on-site inspection, to ensure that the information provided will be adequately protected and used solely for the purposes authorized. The terms of the MOU governing the U.S.-Canada Data Exchange prohibit use of the data for any nonstatistical purpose. The import data obtained by the Census Bureau are collected under the authority of the CBP and are kept confidential by the Census Bureau, as required by law, unless disclosure is authorized by the CBP. Parties to U.S. import or export transactions that believe the published statistics disclose their confidential business information may contact the Chief, Foreign Trade Division, U.S. Census Bureau, Washington, DC 20233, 301-763-2255 to request that measures be taken to protect their information.

Access to the databases covered by this notice reside on servers/hardware reflected in the security plans and system documentation maintained by the IT Directorate. All software running on the servers is Census Bureau approved and further resides in environments that are certified and accredited. In addition to periodic virus scans, the systems are subjected to security reviews and audits. Access to the databases covered by this notice is controlled through the use of documented processes requiring the use of usernames and passwords to ensure that system users may only access the information they are authorized to see. Usernames and passwords comply with Census Bureau IT Security Policy, which includes standards for password complexity, how often they must be changed, etc. In the AES and the AESDirect, access is further limited by user roles, which restrict users' access to the information required to fulfill their responsibilities. Access to all databases covered by this notice is further restricted through use of access control lists.

#### RETENTION AND DISPOSAL:

Forms from which transaction level data are keyed are retained for three years. Consistent with 15 CFR part 30, the export transaction level records will be available to USPPs and their agents, and authorized U.S. Federal agencies for five years unless there is a legal requirement established through a court order. In which case, the records will be retained until that order is no longer in effect. Both import and export transaction level records will be available internally indefinitely, with records archived within the Census Bureau when direct access is no longer needed. Electronic summary files are

kept for 20 years or disposed of sooner if deemed no longer needed.

#### SYSTEM MANAGER AND ADDRESS:

Associate Director for Economic Programs, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233-8000.

#### NOTIFICATION PROCEDURE:

To determine if this system contains records relating to you, write to: Freedom of Information Act Officer, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233 or telephone 888-206-6463.

#### RECORD ACCESS PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content must submit a request in writing addressed to the Freedom of Information Act Officer at the address above. The envelope or fax cover sheet should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought and must include the requester's full name, current address and contact information. Requests for notification or access should not be sent via e-mail. The request must be signed and either notarized or submitted under penalty of perjury. Additionally, outside of the Privacy Act procedures, USPPs or their authorized agents can obtain access to the records they filed, or that were filed on their behalf by contacting the Chief, Foreign Trade Division, U.S. Census Bureau at 4600 Silver Hill Road, Washington, DC 20233; telephoning 301-763-2255; or secure faxing 301-763-8835.

#### CONTESTING RECORD PROCEDURES:

See "Record Access Procedures" above.

#### RECORD SOURCE CATEGORIES:

Individuals involved in import and export transactions covered in U.S. Census Bureau Foreign Trade statistics.

#### EXEMPTIONS CLAIMED FOR SYSTEM:

None.

Dated: June 17, 2009.

#### Brenda Dolan,

*Department of Commerce, Freedom of Information/Privacy Act Officer.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XP79

#### Taking Marine Mammals Incidental to Specified Activities; Offshore Exploratory Drilling in the Beaufort Sea off Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; withdrawal of an incidental take authorization application.

**SUMMARY:** Notice is hereby given that Shell Offshore, Inc. (Shell) has withdrawn its application for an Incidental Harassment Authorization (IHA). The following action is related to a proposed IHA to Shell for the take of small numbers of marine mammals, by Level B harassment, incidental to conducting open-water offshore exploratory drilling on outer continental shelf (OCS) oil lease blocks in the Beaufort Sea off Alaska during the 2008/2009 open-water season.

**ADDRESSES:** The documents and the application related to this action are available by writing to P. Michael Payne, Chief, Permits, Conservation, and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here.

A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or online at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

**FOR FURTHER INFORMATION CONTACT:** Candace Nachman or Ken Hollingshead, NMFS, 301-713-2289.

**SUPPLEMENTARY INFORMATION:** On February 24, 2008, NMFS received a revision to Shell's October 19, 2007, application requesting an IHA. The requested IHA was for an authorization to take, by Level B harassment, small numbers of several species of marine mammals incidental to conducting open-water offshore exploratory drilling on OCS oil lease blocks in the Beaufort Sea off Alaska during the 2008/2009 open-water season. On May 13, 2009,