



3510-07-P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 30

Docket Number: 140821699-4699-01

RIN 0607-AA53

Foreign Trade Regulations (FTR): Reinstatement of Exemptions Related to Temporary Exports, Carnets, and Shipments under a Temporary Import Bond

AGENCY: Bureau of the Census, Commerce Department.

ACTION: Interim final rule.

SUMMARY: The Bureau of the Census (Census Bureau) issues this interim final rule to amend its regulations to eliminate the reporting requirement for temporary exports, which includes carnets, and goods previously imported on a Temporary Importation Under Bond (TIB). In the Final Rule published in the Federal Register on March 14, 2013, the Census Bureau removed the exemptions for temporary exports, which includes carnets and goods imported under a TIB. This amendment reinstates exemptions for temporary exports/carnets and for goods that were imported under a TIB for return in the same condition as when imported. As a result, these types of shipments are exempt from filing, except as noted in the Foreign Trade Regulations (FTR).

DATES: *Effective date:* This interim final rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Comment date: To be assured consideration, written comments must be received on our before

[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please direct all written comments on this interim final rule to the Chief, Foreign Trade Division, U.S. Census Bureau, Room 6K032, Washington, DC 20233-6010. You may also submit comments, identified by RIN 0607-AA53 or by the eRulemaking docket number USBC-2014-0003, to the Federal e-Rulemaking Portal: *http://www.regulations.gov*. All comments received are part of the public record. No comments will be posted to *http://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. The Census Bureau will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Dale C. Kelly, Chief, Foreign Trade Division, U.S. Census Bureau, Room 6K032, Washington, DC 20233-6010, by phone (301) 763-6937, by fax (301) 763-8835, or by e-mail <dale.c.kelly@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. The Automated Export System (AES) is the primary instrument used for collecting export trade data, which are used by the Census Bureau for statistical purposes. 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, pursuant to the Foreign Trade Regulations (FTR), Title 15, Code of Federal Regulations (CFR), part 30. Filing in the AES is not required for shipments excluded in Section 30.2(d) and shipments exempted in Subpart D that are not subject to Section 30.2(a)(1)(iv).

The Census Bureau published a Final Rule in the Federal Register on March 14, 2013 (78 FR 16366) that removed the exemptions for carnets and other temporary exports and goods previously imported under a Temporary Import Bond (TIB) exported in the same condition; it became effective April 5, 2014. In other words, this rule created an AES filing requirement for previously exempted items, such as carnets. With respect to eliminating these exemptions, the Department of the Treasury raised concerns and members of the trade community submitted letters to the Census Bureau regarding the new AES filing requirement for carnets, an international customs document that permits the tax-free and duty-free temporary export and import of goods for up to one year, and goods previously imported under a TIB. The comments centered on the concern that mandatory AES filing for carnets may be contrary to the Customs Convention on the ATA carnet for the Temporary Admission of Goods (ATA Convention), to

which the U.S. is a contracting party. In addition, the trade community stated that, unless the exemptions were reinstated, it would be extremely difficult to comply with the FTR, particularly for goods moving on a foreign carnet. Since receiving this feedback, the Census Bureau and U.S. Customs and Border Protection (CBP) have reviewed this issue and determined that it is necessary to reinstate the exemptions from filing for temporary exports, including carnets, and goods that were previously imported under a TIB for return in the same condition as when exported. However, the Census Bureau and CBP will review these exemptions in partnership with the trade and may publish a Notice of Proposed Rulemaking to address temporary exports, carnets, and TIBs in the future.

Program Requirements

The Census Bureau is amending the following section of the FTR:

- Revise § 30.37(q) and (r) to reinstate the exemptions from AES filing for temporary exports, including carnets, and goods that were temporarily imported under a TIB for return in the same condition are exempt from AES filing.

Rulemaking Requirements

Administrative Procedure Act

The Census Bureau finds good cause pursuant to Title 5, United States Code (U.S.C), 553(b)(B) to waive prior notice and opportunity for public comment, as it is impracticable and contrary to the public interest. The Census Bureau is undertaking this amendment in response to comments from the public indicating that the current regulations may be contrary to the

conditions of the Customs Convention on the ATA Carnets for the Temporary Admission of Goods (ATA Convention). In particular, members of the international trade community and the

Department of the Treasury noted that the elimination of the AES filing exemptions for temporary exports, including carnets, may be contrary to the agreement by signatory nations to require such transactions to be filed in the AES. Removing the exemptions from filing may make the United States' regulations inconsistent with those of other signatory nations. This conflict could potentially lead other nations to implement additional filing requirements for carnets, thus impeding international trade. In addition, for goods moving on a foreign carnet, it is unclear who would file the required documentation, making it extremely difficult to comply with the FTR. It would be impracticable to allow for prior notice and opportunity for public comment as any such delay would prolong the United States' possible inconsistency with the terms of the ATA Convention. For these reasons, this rule reinstates the previous filing exemptions in § 30.37(q) and (r) of the FTR for temporary exports, including carnets, and goods that were imported under a TIB for return in the same condition as when imported. In doing so, this rule ensures consistency with the ATA Convention, reduces the filing requirement, avoids confusion, and eases compliance with the FTR.

Additionally, and for similar reasons, the Census Bureau finds good cause pursuant to 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness for this rule. This rule allows for an exemption to the AES filing requirements. This rule also imposes no additional requirements or obligations on any member of the public, and so delaying its effectiveness is unnecessary.

Therefore, the Census Bureau has determined that it will make this rule effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Regulatory Flexibility Act

Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. Therefore, a regulatory flexibility analysis is not required and one has not been prepared.

Executive Orders

This rule has been determined to be not significant for purposes of Executive Order 12866. It has been determined that this rule does not contain policies with federalism implications as that term is defined under Executive Order 13132.

Paperwork Reduction Act

Notwithstanding any other provision 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 current and valid Office of Management and Budget (OMB) control number. This rule contains a collection-of-information subject to the requirements of the PRA that has been approved under OMB control number 0607-0152.

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, 15 CFR part 30 is amended as follows:

PART 30 – FOREIGN TRADE REGULATIONS

1. The authority citation for part 30 continues to read as follows:

Authority: 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 No. 35–2A, July 22, 1987, as amended, and No. 35–2B, December 20, 1996, as amended; and Public Law 107-228, 116 Stat.1350.

2. Amend § 30.37 by adding paragraphs (q) and (r) to read as follows:

§ 30.37 Miscellaneous exemptions.

* * * * *

(q) Temporary exports, except those that require licensing, whether shipped or hand carried, (e.g., carnet) that are exported from and returned to the United States in less than one year (12 months) from the date of export.

(r) Goods previously imported under a Temporary Import Bond for return in the same condition as when imported including: goods for testing, experimentation, or demonstration; goods imported for exhibition; samples and models imported for review or for taking orders; goods imported for participation in races or contests, and animals imported for breeding or

exhibition; and goods imported for use by representatives of foreign governments or international organizations or by members of the armed forces of a foreign country. Goods that were imported under bond for processing and reexportation are not covered by this exemption.

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Dated: September 4, 2014.

John H. Thompson,
Director,
Bureau of the Census

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