

Census Changes Foreign Trade Regulations: New Filing Requirements

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On Thursday, March 14, the Census Bureau published a final rule (available [here](#)) implementing changes to the Foreign Trade Regulations (FTR), 15 C.F.R. Part 30. The final rule includes long-awaited revisions to the post-departure filing program commonly referred to as Option 4. Census is also requiring mandatory filing of export information through the Automated Export System (AES) or through AESDirect for all shipments of temporary exports. The final rule also implements remedial changes to the FTR to improve clarity and to correct errors.

Of the various changes in Census's final rule, perhaps the most important are the changes in post-departure filing requirements. The changes, many of which were based on comments received from the public, include a shift away from the proposed commodity-based approach that would have limited filing to those commodities that were seen to rely on post-departure filing (e.g., perishable commodities). Accordingly, currently authorized post-departure filers, regardless of their commodity type, will maintain their status.

At the same time, the post-departure filing period will be shortened, from ten to five calendar days. According to Census, most filers submit the required information within five days after departure; Census thereby concluded that a decreased filing period was reasonable. It should be noted, however, that Census and U.S. Customs and Border Protection have agreed that the moratorium on new applicants for post-departure status will remain in effect.

Other changes to the FTR include:

- Goods being temporarily exported or imported must be reported in the AES; in other words, persons temporarily exporting or importing goods are no longer exempt from filing an Electronic Export Information.
- All shipments that require a license from the Bureau of Industry and Security (BIS), exports listed under BIS's grounds for denial of post-departure filing status, and shipments licensed by the Nuclear Regulatory Commission must be filed pre-departure. These changes were made to provide clarity and consistency.
- There is a new mandatory filing requirement for ultimate consignee type. Thus, the ultimate consignee type must be designated as one of the following: Direct Consumer, Government Entity, Reseller, and Other/Unknown.

- Split Shipments now include all modes of transportation and all parts of a shipment must leave within 24 hours from the same port.
- The proposed requirement for reporting the Country of Origin has been removed; accordingly, reports need only indicate whether the goods are of domestic or foreign origin.

The final rule is effective January 8, 2014. While Census professes the desire to ease the burden on importers, it remains to be seen whether these new requirements will in fact do that. In any event, importers and exporters should take heed of the new rule and ensure their compliance processes address these new requirements.

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