

2. Section 701.21 is amended by adding a new paragraph (g)(7) to read as follows:

**§ 701.21(g) Loans to members and lines of credit to members.**

\* \* \* \* \*

(g) \* \* \*

(7) *Assumption of real estate loans by nonmembers.* A federal credit union may permit a nonmember to assume a member's mortgage loan in conjunction with the nonmember's purchase of the member's principal residence, provided that the nonmember assumes only the remaining unpaid balance of the loan, the terms of the loan remain unchanged, and there is no extension of the original maturity date specified in the loan agreement with the member. An assumption is impermissible if the original loan was made with the intent of having a nonmember assume the loan.

\* \* \* \* \*

[FR Doc. 98-20951 Filed 8-5-98; 8:45 am]

BILLING CODE 7535-01-U

## DEPARTMENT OF COMMERCE

### Bureau of the Census

#### 15 CFR Part 30

[Docket No. 980716108-8108-01]

RIN 0607-AA20

#### **Amendment to Foreign Trade Statistics Regulations To Clarify Exporters' and Forwarding Agents' Responsibilities and To Clarify Provisions for Executing a Power of Attorney**

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

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The Bureau of the Census (Census Bureau) proposes amending the Foreign Trade Statistics Regulations (FTSR), 15 CFR Part 30, to clarify exporters' and forwarding agents' responsibilities for providing and reporting information on the Shipper's Export Declaration (SED), and to clarify the provisions for executing a power of attorney when exporters authorize forwarding agents to perform services regarding the export of merchandise out of the United States. This proposed rule will further clarify the provisions for executing a power of attorney when the principal party is transmitting SED information electronically. The Census Bureau also proposes requiring that the SED be prepared in English.

The proposed revisions are consistent with the Bureau of Export

Administration's Export Administration Regulations (EAR) regarding export control responsibilities of exporters and forwarding agents. The Department of Treasury concurs with the provisions contained in this proposed rule.

**DATES:** Written comments must be submitted on or before October 5, 1998.

**ADDRESSES:** Direct all written comments on this proposed rulemaking to the Director, Bureau of the Census, Room 2049, Federal Building 3, Washington, D.C. 20233.

**FOR FURTHER INFORMATION CONTACT:** C. Harvey Monk, Jr., Chief, Foreign Trade Division, Bureau of the Census, Room 2104, Federal Building 3, Washington, D.C. 20233-6700, by telephone on (301) 457-2255 or by fax on (301) 457-2645.

**SUPPLEMENTARY INFORMATION:**

**Background**

In response to requests from various members of the trade community, the Census Bureau proposes amending 15 CFR Part 30 to clarify the responsibilities of exporters and forwarding agents for preparing and submitting SEDs and to clarify the provisions for obtaining and executing a power of attorney.

For purposes of this proposed rule, the exporter is defined as any person in the United States; any firm; government agency, department, or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is also the principal party in interest in the export transaction. Generally, the exporter is the U.S. manufacturer, seller, order party, or licensee on an export license. A forwarding agent may act as exporter, but only when it is the "applicant" and "licensee" on an export license. A foreign principal, not located in the United States at the time of export, must not be designated as exporter on the SED. If a U.S. manufacturer sells merchandise for export to a foreign company (including Ex Works), the U.S. manufacturer must be listed as exporter on the SED. If a U.S. manufacturer sells merchandise to a U.S. seller (wholesaler/distributor), and the U.S. seller sells the merchandise for export to a foreign company (including Ex Works), the U.S. seller must be listed as exporter on the SED. If a U.S. manufacturer or seller sells merchandise to a U.S. order party and the U.S. order party arranges for the sale and export of the merchandise to a foreign company (including Ex Works), the U.S. order party must be listed as exporter on the SED.

The U.S. manufacturer, seller, or order party, that is, the principal party in interest in the export transaction, may authorize its own forwarding agent to facilitate the export transaction or may authorize the forwarding agent designated by the foreign company. In either case, the U.S. manufacturer, seller, or order party must authorize the forwarding agent to act on its behalf in completing and filing the SED in a power of attorney or a written authorization to execute the SED, or sign the authorization printed on the SED. When a U.S. manufacturer, seller, or order party authorizes a forwarding agent to facilitate the export transaction, the manufacturer, seller, or order party, that is, whoever sold the merchandise to the foreign company, must be listed as the exporter on the SED, unless the forwarding agent is the applicant and licensee on an export license.

The forwarding agent is any person in the United States; any firm; government agency, department or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is authorized by the U.S. principal party in interest in the export transaction to perform the services required to facilitate the export of the merchandise out of the United States. The principal party must authorize a forwarding agent to act on its behalf in completing and filing the SED in a power of attorney or a written authorization to execute the SED, or sign the authorization printed on the SED. The principal party also must provide the forwarding agent with the information necessary to correctly prepare the SED in accordance with the requirements specified in FTSR § 30.7.

The FTSR places ultimate responsibility for the export transaction on the exporter. However, the FTSR also considers all parties to the export transaction, including U.S. and foreign principals and forwarding agents responsible for providing information necessary to complete the SED, and for the accuracy of the information reported on the SED. If a forwarding agent's principal does not possess the necessary information, the forwarding agent may request that other parties to the export transaction provide that information. The parties to the transaction must provide the forwarding agent with the necessary information to correctly prepare the SED. Necessary and proper documentation must be maintained by all parties involved in the export transaction to support information reported on the SED.

This proposed rule clarifies provisions for using a properly executed power of attorney when a forwarding agent is authorized to prepare the SED on behalf of the exporter and when the SED information is filed electronically. Suggested formats for a power of attorney and a written authorization for executing a SED are available from the Foreign Trade Division, Bureau of the Census, and from the Office of Export Services, Bureau of Export Administration. Formats for the power of attorney and written authorization are provided in Appendix A and B to this proposed rule.

This proposed amendment further requires that the SED be prepared in English. This provision is already included in the Census Bureau's instructions for completing the SED, so this proposed amendment serves simply to include that requirement in the Code of Federal Regulations (CFR).

In addition, this proposed amendment clarifies the provision in § 30.7(d)(2) that a foreign entity, if operating in the United States at the time of export, can be listed as "exporter" on the SED, but does not need to report an Internal Revenue Service Employer Identification Number (EIN) or a Social Security Number (SSN) on the SED. Using an EIN or SSN that is not your own is prohibited.

#### Program Requirements

In order to comply with the requests from the trade community to update the provisions of the FTSR and to clarify the items discussed above, the Census Bureau proposes amending appropriate sections of the FTSR.

The Census Bureau proposes amending Section 30.4(a) to include: a description of the duties and responsibilities of exporters and forwarding agents; provisions for obtaining information for the preparation of the SED; provisions for authorizing a forwarding agent to perform exporting services; and provisions for filing a power of attorney when SED information is going to be transmitted electronically.

The Census Bureau proposes amending Section 30.4(b) to include the provision that the SED be prepared in English. This will make it consistent with the current instructions for preparing the SED.

The Census Bureau proposes amending Section 30.7(d)(1) "*Name of exporter and exporter's Employer Identification Number*" to clarify the designation of "exporter" named on the SED.

The Census Bureau proposes amending Section 30.7(d)(2) "*Exporters*

*Employer Identification Number*" to clarify the requirement that a foreign principal, located in the United States at the time of export, can complete a SED as "exporter" without reporting an Internal Revenue Service EIN or SSN.

The Census Bureau further proposes amending section 30.7(e) "*Agent of exporter (forwarding agent)*" to specify the responsibilities of the forwarding agent in preparing the SED.

#### Rulemaking Requirements

This proposed rule is exempt from all requirements of Section 553 of the Administrative Procedure Act because it deals with a foreign affairs function (5 U.S.C. (A) (1)). However, this is being published as a proposed rule with an opportunity for public comment because of the importance of the issues raised by this rulemaking.

#### Regulatory Flexibility Act

Because a notice of proposed rulemaking is not required by 5 U.S.C. 553 or any other law, a Regulatory Flexibility Analysis is not required and has not been prepared (5 U.S.C. 603 (a)).

#### Executive Orders

This proposed rule has been determined to be not 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 12612.

#### 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 currently 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 the OMB under OMB Control Number 0607-0152.

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 of 1995, Public Law 104-13.

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

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

For the reasons set out in the preamble, it is proposed that Part 30 be amended as follows:

#### PART 30—FOREIGN TRADE STATISTICS

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 1950 (3 CFR 1949-1953 Comp., 1004); Department of Commerce Organization Order No. 35-2A, August 4, 1975, 40 CFR 42765.

#### Subpart A—General Requirements—Exporter

2. Section 30.4 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

#### § 30.4 Preparation and signature of Shipper's Export Declarations.

(a) The Shipper's Export Declaration (SED) shall be prepared and signed by any person in the United States; any firm; government agency, department, or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is also the principal party in interest in the export transaction. Generally, that person will be the exporter or the authorized forwarding agent.

(1) *Exporter.* The exporter is any person in the United States; any firm; government agency, department, or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is also the U.S. principal party in interest in the export transaction. Generally, the exporter is the U.S. manufacturer, seller, order party<sup>3a</sup>, or licensee on an export license. A forwarding agent may be the exporter only when it is the "applicant" and "licensee" on an export license. (See 15 CFR §§ 748.5 and 750.7(d)).

(2) *Forwarding Agent.* The forwarding agent is any person in the United States; any firm; government agency, department, or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is authorized by the

<sup>3a</sup> The order party is that person in the United States who conducted the direct negotiations or correspondence with the foreign purchaser or ultimate consignee and who, as a result of these negotiations, received the order from the foreign purchaser or ultimate consignee.

U.S. principal party in interest in the export transaction to perform the services required to facilitate the export of merchandise out of the United States. Forwarding agents should be authorized in a power of attorney or the authorization printed on the SED, or with some type of written authorization to execute the SED. The forwarding agent is generally responsible for arranging for the transport and delivery of the merchandise to the exporting carrier and, when the principal requests it, correctly preparing and submitting the SED. Forwarding agents that prepare the SED do so based on information obtained from the principals and other appropriate parties to the transaction and are responsible for the accuracy of all information provided on the SED, including the description of the merchandise being exported, export licensing information, Schedule B commodity numbers, and quantity, weight, and valuation information for the merchandise being exported. All parties to a transaction shall maintain the necessary and proper documentation to support the information reported on the SED. (See § 30.11 and 15 CFR Part 762 on Recordkeeping).

(3) *Information on the Shipper's Export Declaration (SED)*. The data provided on the SED shall be complete, correct, and shall be based on personal knowledge of the facts stated or on information furnished by the parties involved in the export transaction. All parties involved in export transactions, including U.S. and foreign principals and forwarding agents, should be aware that invoices and other commercial documents may not necessarily contain all the information needed for the preparation of the SED. The parties must ensure that all the information needed for the SED, including correct export licensing information, is provided to any forwarding agent for the purpose of correctly preparing the SED. The principal may delegate the responsibility of obtaining the correct export control information and required licenses to the forwarding agent, as long as this delegation of responsibility is reflected in writing and signed by both the principal and the forwarding agent.

(4) *Authorizing a Forwarding Agent*. Although a U.S. or foreign principal may designate a forwarding agent, only the U.S. principal has the authority to execute a power of attorney or sign the authorization printed on the SED, or provide a written authorization authorizing the forwarding agent to perform the services required to facilitate the export transaction. The failure of the U.S. principal to authorize,

in writing, the forwarding agent to act on its behalf does not relieve either party of responsibility for actions taken in connection with an export transaction. A power of attorney or written authorization is most useful when it specifies the responsibilities of the parties with particularity, but it should at least state that the forwarding agent has authority to act on behalf of the U.S. principal as its true and lawful agent for purposes of the export transaction and in accordance with the laws and regulations of the United States. A power of attorney may be executed by using either the available formats provided by the Foreign Trade Division, Bureau of the Census, or the Office of Export Services, Bureau of Export Administration, or any other format or authorization acceptable to the parties involved. The parties to the transaction must keep any power of attorney or written authorization on file and available for inspection on demand. In cases where the forwarding agent is acting on behalf of a U.S. principal and filing the SED information electronically, a power of attorney or other written authorization is particularly important.

(b) The SED shall be prepared in English and shall be typewritten or prepared in ink or other permanent medium (except indelible pencil). The use of duplicating processes, as well as the overprinting of selected items of information is acceptable.

\* \* \* \* \*

3. Section 30.7 is proposed to be amended by revising paragraphs (d)(1), (d)(2), and (e) to read as follows:

**§ 30.7 Information required on Shipper's Export Declarations.**

\* \* \* \* \*

(d) *Name of exporter and exporter's Employer Identification Number (EIN)*. The name and address (number, street, city, state, zip code) of the exporter and the exporter's EIN shall be entered where requested on the Shipper's Export Declaration (SED). The EIN shall be the exporter's own and not another's EIN.

(1) *Name of exporter*. The exporter named on the SED must be any person in the United States; any firm; government agency, department, or commission; and any other association or organization, whether or not organized for profit, organized under the laws of the United States, or any jurisdiction within the United States, who is also the U.S. principal party in interest in the export transaction (see § 30.4(a)(1)). In addition, a forwarding agent that is the "applicant" and "licensee" on an export license is

considered the exporter. (On Form 7513, if an authorized agent is representing the exporter, the name of the exporter as defined herein should be shown on the line labeled "For account of" where "Principal or seller" is indicated below the line on the form.)

(2) *Exporter's Employer Identification Number (EIN)*. An exporter shall report its own Internal Revenue Service EIN on the SED. If, and only if, no Internal Revenue Service EIN has been assigned to the exporter, the exporter's SSN, preceded by the symbol "SS" must be reported. In situations when a foreign principal who does not possess an EIN or SSN operates from within the United States to facilitate its own export, no EIN or SSN reporting requirement applies. Using another's EIN or SS is prohibited.

(e) *Forwarding Agent*. The name and address of the duly authorized forwarding agent (if any) of the U.S. principal shall be recorded where requested on the SED. (See § 30.4(a)(2) or 15 CFR Part 772 for a definition of "forwarding agent"). In addition, a forwarding agent that is an "applicant" and "licensee" on an export license is considered the exporter, and as the exporter, must enter his/her own name, address, and EIN or SSN as the exporter. (See § 30.4(a)(1) and § 30.7(d)). (On Form 7513, the information as to agent (if any) should be shown on the line labeled "Exporter" where "Actual shipper or agent" is indicated below the line on the form.)

\* \* \* \* \*

Dated: July 21, 1998.

**James F. Holmes,**

*Acting Director, Bureau of the Census.*

**Bureau of the Census—Appendix A**

**Note:** The following appendix will not appear in the Code of Federal Regulations.

**Power of Attorney Export Forwarding Agent**

Know all men by these presents, That \_\_\_\_\_ (Name of Exporter), the (Exporter) organized and doing business under the laws of the State or Country of \_\_\_\_\_ and having an office and place of business at \_\_\_\_\_ (Address of Exporter) hereby authorizes \_\_\_\_\_ (Forwarding Agent), the (Forwarding Agent) of \_\_\_\_\_ (Address of Forwarding Agent) to act for and on its behalf as a true and lawful agent and attorney of the Exporter for and in the name, place, and stead of the Exporter, from this date, in the United States either in writing, electronically, or by other authorized means to:

Act as Forwarding Agent for Export Control, Census Reporting, and Customs purposes. Make, endorse, or sign any Shipper's Export Declaration or other documents or to perform any act which may

be required by law or regulation in connection with the exportation or transportation of any merchandise shipped or consigned by or to the Exporter and to receive or ship any merchandise on behalf of the Exporter.

The Exporter hereby certifies that all statements and information contained in the documentation provided to the Forwarding Agent relating to exportation are true and correct. Furthermore, the Exporter understands that civil and criminal penalties, may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation.

This power of attorney is to remain in full force and effect until revocation in writing is duly given by the Exporter and received by the Forwarding Agent.

In witness whereof, \_\_\_\_\_  
(Full Name of Exporter/Exporting Company)  
caused these presents to be sealed and signed:

Witness: \_\_\_\_\_

Signature: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

#### Bureau of the Census—Appendix B

**Note:** The following appendix will not appear in the Code of Federal Regulations.

Authorization to Prepare or Transmit Shipper's Export Information (Suggested Format)

I \_\_\_\_\_ (Exporter),  
authorize \_\_\_\_\_ (Forwarding Agent), to act as forwarding agent for export control and customs purposes and to sign any Shipper's Export Declaration (SED), or transmit such export information electronically, which may be required by law or regulation in connection with the exportation or transportation of any merchandise on behalf of said Exporter. The Exporter certifies that necessary and proper documentation to accurately complete the SED or transmit the information electronically is and will be provided to the said Forwarding Agent. Exporter further understands that civil and criminal penalties may be imposed for making false or fraudulent statements or for the violation of any United States laws or regulations on exportation and agrees to be bound by all statements of said agent based upon information or documentation provided by exporter to said agent.

Signature: \_\_\_\_\_ (Exporter)

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

[FR Doc. 98-21024 Filed 8-5-98; 8:45 am]

BILLING CODE 3510-07-P

#### COMMODITY FUTURES TRADING COMMISSION

##### 17 CFR Chapter I

#### Concept Release Concerning Performance Data and Disclosure for Commodity Trading Advisors and Commodity Pools

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Extension of comment period on Concept Release.

**SUPPLEMENTARY INFORMATION:** The Commodity Futures Trading Commission issued a Concept Release concerning performance data and disclosure for commodity trading advisors and commodity pools on June 18, 1998 (63 FR 33297) with comments due by August 17, 1998. In response to a request from the Managed Funds Association, the Commission has determined to extend the comment period for an additional 30 days, until September 16, 1998. As indicated in the release, comments should be submitted by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418-5521, or by electronic mail to *secretary@cftc.gov*.

**DATES:** Comments must be received on or before September 16, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Paul H. Bjarnason, Jr., Chief Accountant, (202) 418-5459, electronic mail:

"paulb@cftc.gov;" or Robert B. Wasserman, Special Counsel, (202) 418-5092, electronic mail:

"rwasserman@cftc.gov," Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

Issued in Washington, D.C., on this 30th day of July, 1998, by the Commodity Futures Trading Commission.

**Catherine D. Dixon,**

*Assistant Secretary of the Commission.*

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#### DEPARTMENT OF ENERGY

##### Federal Energy Regulatory Commission

##### 18 CFR Parts 1b, 343, and 385

[Docket No. RM98-13-000]

#### Complaint Procedures

July 29, 1998.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations (Rule 206) governing complaints filed with the Commission under the Interstate Commerce Act, the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, and the Public Utility Regulatory Policies Act of 1978. The goals of the proposed revisions are to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

The Commission also proposes to revise certain sections of its procedural rules applicable to oil pipeline proceedings, to conform to the proposed changes in the complaint procedures regulations. In addition, the Commission proposes to revise its alternative dispute resolution regulations to conform to the changes made by the Administrative Dispute Resolution Act of 1996, and to codify its current Enforcement Hotline procedures in the rules relating to investigations.

**DATES:** Comments are due October 5, 1998.

**ADDRESSES:** Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208-1275.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via