

# U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR PARTS 10, 24, 162, 163, AND 178

[USCBP-2011-0043; CBP DEC. 12-18]

RIN 1515-AD79

## UNITED STATES-PERU TRADE PROMOTION AGREEMENT

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with one change, interim amendments to the U.S. Customs and Border Protection (CBP) regulations which were published in the **Federal Register** on November 3, 2011, as CBP Dec. 11-22, to implement the preferential tariff treatment and other customs-related provisions of the United States-Peru Trade Promotion Agreement.

**DATES:** Final rule effective November 19, 2012.

**FOR FURTHER INFORMATION CONTACT:** Textile Operational Aspects: Nancy Mondich, Trade Policy and Programs, Office of International Trade, (202) 863-6524.

Other Operational Aspects: Katrina Chang, Trade Policy and Programs, Office of International Trade, (202) 863-6532.

Legal Aspects: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325-0041.

## SUPPLEMENTARY INFORMATION:

### Background

On November 3, 2011, CBP published CBP Dec. 11-22 in the **Federal Register** (76 FR 68067) setting forth interim amendments to implement the preferential tariff treatment and other customs-related provisions of the United States-Peru Trade Promotion Agreement (PTPA). Please refer to that document for further background information. In order to provide transparency and facilitate their use,

the majority of the PTPA implementing regulations set forth in that interim rule and adopted as final in this document have been included within Subpart Q in Part 10 of the CBP regulations (19 CFR Part 10). However, in those cases in which PTPA implementation is more appropriate in the context of an existing regulatory provision, the PTPA regulatory text has been incorporated in an existing Part within the CBP regulations. CBP Dec. 11–22 also set forth a number of cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new PTPA implementing regulations.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on November 3, 2011, CBP Dec. 11–22 provided for the submission of public comments which would be considered before adoption of the interim regulations as a final rule, and the prescribed public comment closed on January 3, 2012. CBP received no comments.

### **Conclusion**

After further review of the matter, and in light of the fact that no comments were submitted in response to CBP’s solicitation of public comment, CBP has determined to adopt as final, with a technical correction, the interim rule published in the **Federal Register** (76 FR 68067) on November 3, 2011. The technical correction is made to § 10.918(c)(1)(ii) to reflect amendments to additional U.S. Note 4(d) to subchapter XXI of chapter 98 of the Harmonized Tariff Schedule of the United States (HTSUS) effected by Presidential Proclamation 8240 of April 17, 2008, whereby the tariff numbers of subheading “5402.19.30,” and subheading “5402.19.60” were added. As CBP Dec. 11–22 inadvertently omitted inclusion of these two tariff numbers within 19 CFR 10.918(c)(1)(ii), the technical correction is necessary to conform the CBP regulations to the current version of the HTSUS.

### **Executive Order 12866**

This document is not a regulation subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

### **Regulatory Flexibility Act**

CBP Dec. 11–22 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United

States pursuant to section 553(a)(1) of the APA. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

### **Paperwork Reduction Act**

The collections of information contained in these regulations have previously been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0117. The collections of information in these regulations are in §§ 10.903 and 10.904. This information is required in connection with claims for preferential tariff treatment under the PTPA and the Act and will be used by CBP to determine eligibility for tariff preference under the PTPA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 0.2 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC 20229–1179. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a valid OMB control number.

### **Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain CBP revenue functions.

### **List of Subjects**

#### *19 CFR Part 10*

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

*19 CFR Part 24*

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

*19 CFR Part 162*

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

*19 CFR Part 163*

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

*19 CFR Part 178*

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

**Amendments to the CBP Regulations**

Accordingly, the interim rule amending Parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR Parts 10, 24, 162, 163, and 178), which was published at 76 FR 68067 on November 3, 2011, is adopted as a final rule with one change as discussed above and set forth below.

**PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.**

■ 1. The general authority citation for Part 10 and the specific authority for new Subpart Q continue to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

\* \* \* \* \*

Sections 10.901 through 10.934 also issued under 19 U.S.C. 1202 (General Note 32, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 110–138, 121 Stat. 1455 (19 U.S.C. 3805 note).

**§ 10.918 [Amended]**

■ 2. In § 10.918, paragraph (c)(1)(ii) is amended by adding, in numerical order, a reference to “5402.19.30, 5402.19.60,”.

Dated: October 15, 2012.

DAVID V. AGUILAR,  
*Deputy Commissioner,*  
*U.S. Customs and Border Protection.*

TIMOTHY E. SKUD,  
*Deputy Assistant  
Secretary of the Treasury.*

[Published in the Federal Register, October 18, 2012 (77 FR 64031)]



## 19 CFR PART 12

### SPECIAL CLASSES OF MERCHANDISE

#### *CFR Correction*

In Title 19 of the Code of Federal Regulations, Parts 0 to 140, revised as of April 1, 2012, on page 441, in § 12.112 (a), the words “(Index of Pesticide Products located in the Environmental Protection Agency’s handbook entitled *Recognition and Management of Pesticide Poisonings*, found at <http://www.epa.gov>)” are corrected to read “(Environmental Protection Agency Form 3540–1)”.

[Published in the Federal Register, October 18, 2012 (77 FR 64032)]



### AGENCY INFORMATION COLLECTION ACTIVITIES:

#### **Protest**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 30-Day notice and request for comments; extension of an existing information collection.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Protest (Form 19). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (77 FR 47420) on August 8, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before November 15, 2012.

**ADDRESSES:** Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov) or faxed to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

**Title:** Protest.

**OMB Number:** 1651-0017.

**Form Number:** Form 19.

**Abstract:** CBP Form 19, *Protest*, is used by an importer, filer, or any party at interest to petition CBP, or protest any action or charge made by the port director with respect to imported merchandise. The information collected on CBP Form 19 is authorized by Sections 514 and 514(a) of the Tariff Act of 1930 and provided for by 19 CFR Part 174. This form is accessible at: [http://forms.cbp.gov/pdf/CBP\\_Form\\_19.pdf](http://forms.cbp.gov/pdf/CBP_Form_19.pdf).

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Form 19.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Estimated Number of Respondents:** 3,750.

**Estimated Number of Total Annual Responses:** 45,000.

**Estimated Time per Response:** 1 hour.

Dated: October 11, 2012.

TRACEY DENNING,  
*Agency Clearance Officer,*  
*U.S. Customs and Border Protection.*

[Published in the Federal Register, October 16, 2012 (77 FR 63321)]



## AGENCY INFORMATION COLLECTION ACTIVITIES:

### Petroleum Refineries in Foreign Trade Sub-zones

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security.

**ACTION:** 30-Day Notice and request for comments; Extension of an existing collection of information.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Petroleum Refineries in Foreign Trade Sub-zones. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (77 FR 47429) on August 8, 2012, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before November 15, 2012.

**ADDRESSES:** Interested persons are invited to submit written comments on this proposed information collection to the Office of

Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to [aira\\_submission@omb.eop.gov](mailto:aira_submission@omb.eop.gov) or faxed to (202) 395-5806.

**FOR FURTHER INFORMATION CONTACT:** U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Petroleum Refineries in Foreign Trade Sub-zones.

**OMB Number:** 1651-0063.

**Form Number:** None.

**Abstract:** The Foreign Trade Zones Act, 19 U.S.C. 81c(d) contains specific provisions for petroleum refinery sub-zones. It permits refiners and U.S. Customs and Border Protection (CBP) to assess the relative value of such multiple products at the end of the manufacturing period during which these products were produced when the actual quantities of these products resulting from the refining process can be measured with certainty. The Act also permits the products refined in a sub-zone during a manufacturing period to be attributed to a given crude introduced into production during the period, to the extent that such products were producible or could have been produced the

from quantities removed from the sub-zone if Industry Standards of Potential Production on a Practical Operating Basis (known as producibility) is utilized.

19 CFR 146.4(d) provides that the operator of the refinery sub-zone is required to retain all records relating to the above mentioned activities for five years after the merchandise is removed from the sub-zone. Further, the records shall be readily available for CBP review at the sub-zone.

Instructions on compliance with these record keeping provisions are available in the Foreign Trade Zone Manual which is accessible at: [http://www.cbp.gov/linkhandler/cgov/trade/cargo\\_security/cargo\\_control/ftz/ftzmanual.ctt/FTZManual2.doc](http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/cargo_control/ftz/ftzmanual.ctt/FTZManual2.doc).

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

**Type of Review:** Extension (without change).

**Affected Public:** Businesses.

**Estimated Number of Respondents:** 81.

**Estimated Number of Total Annual Responses:** 81.

**Estimated Time per Response:** 1000 hours.

**Estimated Total Annual Burden Hours:** 81,000.

Dated: October 11, 2012.

TRACEY DENNING,  
*Agency Clearance Officer,*  
*U.S. Customs and Border Protection.*

[Published in the Federal Register, October 16, 2012 (77 FR 63320)]

