

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR PARTS 10, 128, 143, AND 145

CBP DEC. NO. 16-13

RIN 1515-AE09

ADMINISTRATIVE EXEMPTION ON VALUE INCREASED FOR CERTAIN ARTICLES

AGENCY: U.S. Customs and Border Protection; Department of the Treasury.

ACTION: Interim final rule; solicitation of comments.

SUMMARY: This document amends the U.S. Customs and Border Protection regulations to implement section 901 of the Trade Facilitation and Trade Enforcement Act of 2015 by raising from \$200 to \$800 the value of certain articles that may be imported by one person on one day free of duty and tax. This document also makes clarifying and conforming amendments to the regulations.

EFFECTIVE DATE: This interim final rule is effective on August 26, 2016.

Comment date: Written comments must be submitted on or before September 26, 2016.

ADDRESSES: You may submit comments, identified by docket number USCBP-2016-0057, by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP-2016-0057. All comments received will be posted

without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Randy Mitchell, Director, Commercial Operation, Revenue and Entry, Trade Policy and Programs, Office of Trade, U.S. Customs and Border Protection, (202) 863–6532.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP in finalizing these regulations will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. CBP is also interested in receiving comments regarding the collection of data on behalf of Partner Government Agencies (PGAs) for shipments valued below \$800. See **ADDRESSES** above for information on how to submit comments.

I. Background

A. Trade Facilitation and Trade Enforcement Act of 2015

On February 24, 2016, President Obama signed into law the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) (Pub. L. 114–125). Prior to enactment of the TFTEA, section 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) authorized CBP to provide an administrative exemption to admit free from duty and tax shipments of merchandise (other than bona fide gifts and certain personal and household goods) imported by one person on one day

having an aggregate fair retail value in the country of shipment not less than \$200. Section 901(c) of the TFTEA amended section 1321(a)(2)(C) by increasing the value of this administrative exemption from \$200 to \$800. Pursuant to section 901(d) of TFTEA, the effective date of this amendment was the 15th day after the date of enactment, *i.e.*, effective as of March 10, 2016. Section 901 did not change the administrative exemption for bona fide gifts and personal or household articles accompanying travelers under 19 U.S.C. 1321(a)(2)(A) and 1321(a)(2)(B).

B. Amendments to Regulations To Reflect New Statutory Amount

CBP implements the administrative exemption provided for in 19 U.S.C. 1321 in its regulations at 19 CFR 10.151 and 10.153. The administrative exemption amount is also referenced in various other sections in the CBP regulations: §§ 128.21(a)(4)(ii); 128.24(d) and (e); 143.21(l)(1); 143.23(j); 143.26; and 145.31. In all of the previously listed sections that currently provide that the 19 U.S.C. 1321(a)(2)(C) administrative exemption amount is \$200, CBP is amending the regulations to reflect that the new amount is \$800.

C. Other Amendments to Administrative Exemption Regulations

Under 19 U.S.C. 1321(b), the Secretary of the U.S. Department of the Treasury is authorized to promulgate regulations to prescribe exceptions to any exemption provided for in section 1321(a) whenever the Secretary finds that such action is necessary for any reason to protect the revenue or to prevent unlawful importations.

This rule also amends the scope of alcohol and tobacco products covered by the limitation in paragraph (e) of section 10.153, to conform to other past statutory changes. Perfume is removed from the list of products excluded from the administrative exemption because the excise tax on such products was eliminated in 1995 pursuant to section 136 of the Uruguay Round Agreements Act, Public Law 103-465. Paragraph (e) of section 10.153 is also amended pursuant to amendments to the Internal Revenue Code, Section 5701, which increased excise taxes for smokeless tobacco, pipe tobacco, roll-your-own tobacco, and cigarette tubes and papers. 26 U.S.C. 5701, as amended by the Children's Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3).

This rule also adds a new paragraph (h) in section 10.153 to clarify that regarding shipments that qualify for the 19 U.S.C. 1321 administrative exemption, the importing party is not exempt from having to pay any applicable excise taxes collected by other agencies on imported goods. It is also noted that pursuant to 19 CFR 24.24(d)(3), the

harbor maintenance tax will not be assessed on loadings or unloadings of cargo in which the shipment would be entitled to be entered under informal entry procedures.

This document also revises paragraph (j) of § 143.23 to clarify that different dollar amounts apply to articles that are bona fide gifts and articles that are shipped from the Virgin Islands, Guam, and American Samoa. This document also revises paragraph (j) of § 143.23 to reflect that the increase in the value of shipments from \$200 to \$800 only applies to shipments that qualify for the administrative exemption under sections 10.151 and 128.24(e).

D. Comments

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. In particular, CBP is seeking comments on how CBP can maintain the collection of data required by Partner Government Agencies (PGAs) for imported merchandise to prevent unlawful importations when shipments of merchandise valued below \$800 that qualify for an administrative exemption are admitted through “release from manifest.” (Generally, such shipments are entered by the carrier and released by CBP based on information contained on the manifest or bill of lading provided by the carrier.) CBP is aware that the manifest information may not contain all the necessary information required by PGAs for admissibility purposes.

II. Statutory and Regulatory Requirements

A. Inapplicability of Notice and Delayed Effective Date

The Administrative Procedure Act (APA) requirements in 5 U.S.C. 553 govern agency rulemaking procedures. Section 553(b) of the APA generally requires notice and public comment before issuance of a final rule. In addition, section 553(d) of the APA requires that a final rule have a 30-day delayed effective date. The APA, however, provides exceptions from the prior notice and public comment requirement and the delayed effective date requirements, when an agency for good cause finds that such procedures are impracticable, unnecessary, or contrary to the public interest.

Treasury and CBP find that prior notice and comment procedures are unnecessary and that good cause exists to issue these regulations effective upon publication. By immediately effectuating this interim rule, CBP can avoid inconsistent application of the exemption and

eliminate confusion that may arise among importers with regard to the scope of the exemption and with regard to payment of excise taxes.

Pursuant to section 901(d) of the TFTEA, Congress established March 10, 2016, as the effective date of the increase in the administrative exemption under 19 U.S.C. 1321(a)(2)(C). The clear intent of Congress is that this amendment be rapidly implemented; therefore the regulations must be changed to conform to TFTEA's statutory amendment.

In addition, pursuant to the authority of the Secretary of the Treasury under 26 U.S.C. 7805(b)(3), regulations implementing the internal revenue laws can be made immediately effective to prevent abuse. Under that authority, these regulations reflect intervening statutory changes to section 5701 of the Internal Revenue Code, which increased excise taxes for smokeless tobacco, pipe tobacco, roll-your-own tobacco, and cigarette tubes and papers.

Accordingly, pursuant to 5 U.S.C. 553(b) and (d) and the Secretary of the Treasury's authority under 19 U.S.C. 1321(b) and 26 U.S.C. 7805, the requirements for prior notice and comment and a delay in effective date are inapplicable; however, CBP is soliciting comments on this interim rule and will consider all comments received before issuing a final rule.

B. Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a "significant regulatory action," under section 3(f) of Executive Order 12866.

C. The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). The Regulatory Flex-

ibility Act applies when agencies are required to publish a general notice of proposed rulemaking for a proposed rule. Since a general notice of proposed rulemaking is not necessary in this rulemaking, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act.

D. Paperwork Reduction Act

As there is no new collection of information required in this document, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

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 customs revenue functions.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Entry of merchandise, Exports, Imports, Reporting and recordkeeping requirements.

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements.

19 CFR Part 128

Administrative practice and procedure, Customs duties and inspection, Entry, Express consignments, Imports, Reporting and recordkeeping requirements.

19 CFR Part 143

Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 145

Customs duties and inspection, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

For the reasons stated above in the preamble, CBP amends parts 10, 12, 128, 143, and 145 of title 19 of the Code of Federal Regulations (19 CFR parts 10, 12, 128, 143, and 145) as follows:

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

■ 1. The general authority citation for part 10 continues to read as follows:

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

* * * * *

§ 10.151 [Amended]

■ 2. Amend § 10.151 by removing the figure “\$200” and adding in its place “\$800” in the section heading and the first sentence.

■ 3. Amend § 10.153 by revising paragraph (e) and by adding paragraph (h) to read as follows:

§ 10.153 Conditions for exemption.

* * * * *

(e) No alcoholic beverage, cigars (including cheroots and cigarillos) and cigarettes containing tobacco, cigarette tubes, cigarette papers, smoking tobacco (including water pipe tobacco, pipe tobacco, and roll-your-own tobacco), snuff, or chewing tobacco, shall be exempted from the payment of duty and tax under § 10.151 or § 10.152.

(h) The exemption provided for in § 10.151 is not to be allowed with respect to any tax imposed under the Internal Revenue Code collected by other agencies on imported goods.

* * * * *

PART 128—EXPRESS CONSIGNMENTS

■ 4. The general authority citation for part 128 continues to read as follows:

Authority: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

* * * * *

§ 128.21 [Amended]

■ 6. Amend § 128.21 in paragraph (a)(4)(ii) by removing the figure “\$200” and adding in its place “\$800”.

§ 128.24 [Amended]

■ 7. Amend § 128.24 in paragraphs (d) and (e) by removing the figure “\$200” and adding in its place “\$800” in paragraph (d) and in three places in paragraph (e) introductory text.

PART 143—SPECIAL ENTRY PROCEDURES

■ 8. The general authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1321, 1414, 1481, 1484, 1498, 1624, 1641.

* * * * *

§ 143.21 [Amended]

■ 9. Amend § 143.21 in paragraph (l)(1) by removing the figure “\$200” and adding in its place “\$800”.

■ 10. Amend § 143.23 by revising paragraph (j) and adding paragraph (k) to read as follows:

§ 143.23 Form of entry.

* * * * *

(j) Except for mail importations (see §§ 145.31 and 145.32 of this chapter), or in the case of personal written or oral declarations (see §§ 148.12, 148.13, and 148.62 of this chapter), a shipment of merchandise that qualifies for informal entry under 19 U.S.C. 1498 may be entered, including the information listed in paragraph (k) of this section, by presenting the bill of lading or a manifest listing each bill of lading when:

(1) The value of the shipment does not exceed \$100 in the case of a bona fide gift from a person in a foreign country to a person in the United States and the shipment meets the requirements in § 10.152 of this chapter (see § 10.152 of this chapter);

(2) The value of the shipment does not exceed \$200 in the case of articles (including bona fide gifts) from the Virgin Islands, Guam, and American Samoa and the shipment meets the requirements in § 10.152 of this chapter (see § 10.152 of this chapter); or

(3) The value of the shipment does not exceed \$800 and the shipment satisfies the requirements in § 10.151 of this chapter (see §§ 10.151 and 128.24(e) of this chapter).

(k) The following information is required to be filed as a part of entry made under paragraph (j) of this section:

(1) Country of origin of the merchandise;

- (2) Shipper name, address and country;
- (3) Ultimate consignee name and address;
- (4) Specific description of the merchandise;
- (5) Quantity;
- (6) Shipping weight; and
- (7) Value.

■ 11. Amend § 143.26 by removing the figure “\$200” and adding in its place “\$800” in two places each in paragraphs (a) and (b).

PART 145—MAIL IMPORTATIONS

■ 12. The general authority citation for part 145 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624.

* * * * *

§ 145.31 [Amended]

■ 13. Amend § 145.31 by removing the figure “\$200” and adding in its place “\$800” in the section heading and text.

Dated: August 23, 2016.

R. GIL KERLIKOWSKE,
Commissioner,
U.S. Customs and Border Protection.
TIMOTHY E. SKUD,
Assistant Secretary of the Treasury.

[Published in the Federal Register, August 26, 2016 (81 FR 58831)]



DEPARTMENT OF THE TREASURY

19 CFR PARTS 12 AND 127

RIN 1515-AE13

TOXIC SUBSTANCE CONTROL ACT CHEMICAL SUBSTANCE IMPORT CERTIFICATION PROCESS REVISIONS

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations regarding the requirement to file a Toxic Substances Control Act (TSCA) certification when importing into the customs territory of the United States chemicals in bulk form or as part of mixtures and articles containing a chemical or mixture. The proposed regulations include an electronic option for filing TSCA certifications, consistent with the Security and Accountability for Every Port Act of 2006. This document also proposes to clarify and add certain definitions, and to eliminate the paper-based blanket certification process. The document was prepared in consultation with the Environmental Protection Agency (EPA), the agency with primary responsibility for implementing TSCA.

DATES: Comments must be received on or before September 28, 2016.

ADDRESSES: You may submit comments, identified by docket number USCBP–2016–0056, by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2016–0056. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during business days between the hours of 9:00 a.m. and 4:30 p.m. at the Office of Trade, Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: For operational issues related to the filing of EPA forms with CBP, contact William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade

Policy and Programs, Office of Trade, at *William.R.Scopa@cbp.dhs.gov*. For EPA policy questions, contact Harlan Weir, at *Weir.Harlan@epa.gov*.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rulemaking. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rulemaking, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments. CBP is particularly interested in comments on the following issues:

- Does collection of the names, phone number, and email address of the TSCA import certifier impact your business/ industry? If so, how (to the extent possible, please quantify impacts)?
- Does the electronic submission of TSCA certifications to ACE affect your business/industry? If so, how (to the extent possible, please quantify impacts)?

Background

I. Authority

A. Toxic Substances Control Act (TSCA)

In 1976, Congress enacted the Toxic Substances Control Act (TSCA) in order to, among other things, protect human health and the environment against unreasonable risks resulting from manufacture, distribution in commerce, processing, use, or disposal of chemical substances or mixtures. (15 U.S.C. 2601 *et seq.*) The U.S. Environmental Protection Agency (EPA) is the agency primarily responsible for implementation of TSCA. Section 13 of TSCA (15 U.S.C. 2612) governs the entry of those chemical substances and mixtures, and articles containing such chemical substances or mixtures into the customs territory of the United States and authorizes the Secretary of the Treasury, authority subsequently delegated to the U.S. Customs and Border Protection (CBP), to refuse entry of any chemical substance, mixture, or article that: (1) Fails to comply with any rule in

effect under TSCA; or (2) is offered for entry in violation of TSCA section 5 or 6 (15 U.S.C. 2604 or 2605) or Subchapter IV (15 U.S.C. 2681 *et seq.*), or in violation of a rule or order under those provisions or in violation of an order issued in a civil action brought under TSCA section 5 or 7 (15 U.S.C. 2604 or 2606) or Subchapter IV (15 U.S.C. 2681 *et seq.*). Section 13 also sets forth procedural requirements in connection with an entry refusal and authorizes CBP, after consultation with EPA, to issue rules for the administration of section 13.

B. Current Regulations

The CBP regulations implementing section 13 are contained in §§ 12.118 through 12.127 and § 127.28 of title 19 of the Code of Federal Regulations (19 CFR 12.118 through 12.127 and 127.28).

Section 12.118 describes the statutory authority for the promulgation of regulations under the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*), by the Secretary of Treasury in consultation with the Administrator of EPA.

Section 12.119 sets forth the scope of the regulations in §§ 12.120 through 12.127 stating that these provisions apply to the importation into the customs territory of the United States of chemical substances in bulk form and as part of mixtures under TSCA as well as articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA. Section 12.120 provides definitions for purposes of the TSCA regulations.

Under 19 CFR 12.121(a), when a TSCA chemical substance is imported in bulk form or as part of a mixture or a non-TSCA chemical is imported, an importer or the importer's customs broker must submit a signed certification stating either: (1) All chemical substances in the shipment comply with all applicable rules or orders under TSCA and that the importer is not offering a chemical substance for entry in violation of TSCA or any rule or order thereunder (a positive certification), or (2) all chemicals in the shipment are not subject to TSCA (a negative certification). Section 12.121(b) states that the provisions of paragraph (a) apply to a TSCA chemical substance or mixture as part of an article only when required by a rule or order under TSCA.

Under 19 CFR 12.121(a)(2)(i), the TSCA certification must be filed with the director of the port of entry before release of the shipment. The certification may appear as a typed or stamped statement either: (1) On the entry document or commercial invoice, or on a preprinted attachment to the entry document or commercial invoice, or (2) in the case of a release under a special permit for an immediate delivery under 19 CFR 142.21 or in the case of an entry under 19 CFR 142.3, on the commercial invoice or an attachment to the commercial in-

voice. Further, importers are allowed to use paper blanket certifications under 19 CFR 12.121(a)(2)(ii).

Section 12.125 establishes the procedures for the importer to provide notice of exportation whenever the EPA Administrator directs CBP to refuse entry under § 12.123. Under § 12.126, an importer who intends to abandon a shipment after receiving a notice of refusal of entry is directed to provide written notice of intent to abandon to CBP.

Section 12.127 provides that a shipment detained under § 12.122 shall be considered to be unclaimed or abandoned and shall be turned over to the EPA Administrator for storage or disposition when the importer has not brought the shipment into compliance or exported the shipment within the required time limits.

Section 12.28(i) sets forth the procedures for the disposition of special classes of merchandise that are found to be inadmissible into the United States by the EPA for not complying with the terms of TSCA.

II. Proposed Amendments

A. *Description, Scope, and Definitions*

CBP is proposing changes to §§ 12.118 through 12.121 to clarify the description, scope, and definitions of the requirements for the importation of chemical substances, mixtures and articles containing a chemical substance or mixture, as well as the requirements associated with non-TSCA chemicals. In § 12.118 we propose to revise the description of the Toxic Substances Control Act for clarity. In addition, CBP proposes to clarify the scope of the regulations by revising certain definitions. The regulations currently include requirements for “chemical substances,” regardless of whether the substance is subject to TSCA. The definition of “chemical substance” in section 3(2) of the TSCA excludes certain substances, *e.g.*, pesticides. Although these chemicals are excluded from the definition of “chemical substance” under TSCA, importers are still required to file a negative certification under § 12.121(a), to certify that the shipment is not subject to TSCA. Because using the term “chemical substance” to refer to chemicals that are not subject to TSCA may be confusing, this document proposes to clarify the scope of the regulations in § 12.119 and the reporting requirements in § 12.121 by including language that makes clear that the regulation applies to the importation of chemicals regardless of whether they are “chemical substances” subject to TSCA. In proposed § 12.120, definitions are revised to ensure consistency between the terms used in the definitions and the terms used elsewhere in these regulations.

The EPA's regulations implementing section 13 of TSCA, codified at 40 CFR 707.20(b)(2)(ii), require the submission of a TSCA negative certification when a chemical import is not clearly identified as a pesticide or other chemical not subject to TSCA. Current CBP regulations at 19 CFR part 12 do not include an exemption from the negative certification requirement for chemicals that are clearly identified as a pesticide or other chemical not subject to TSCA, and CBP is not proposing to codify such an exemption. CBP requests comments, however, on whether such an exemption is appropriate. The requirements for TSCA certification are set forth in CBP's regulations in § 12.121, and based on the outcome of this rulemaking, CBP anticipates that if necessary EPA would adjust the imports policy statement at 40 CFR part 707 accordingly.

This document also proposes to replace the existing definition of the term "chemical substance in bulk form" in § 12.120(b) with a definition of "TSCA chemical substance in bulk form", and add new definitions for the terms "TSCA chemical substance as part of a mixture" in § 12.120(c) and "non-TSCA chemical" in § 12.120(d). These definitions are being revised and added to clarify that the certification obligations apply to both chemical substances and mixtures that are subject to TSCA, which require a positive certification, as well as those chemicals and mixtures that are not subject to TSCA, which require a negative certification and to ensure that terms used in the regulatory text are defined when necessary. "Mixture" is a statutory term in TSCA that does not apply to non-TSCA chemicals. Non-TSCA chemicals require a negative certification whether imported as a single non-TSCA chemical or mixed with other non-TSCA chemicals. In addition, in §§ 12.122(a) and (b), 12.123(b), 12.124(a), 12.125(b), and 127.28, this document proposes to revise references to "chemical substances, mixtures, or articles" to clarify that these regulations apply to TSCA chemical substances, mixtures, or articles as well as non-TSCA chemicals. This document also proposes to add a definition of the term "Administrator" to mean the Administrator of the EPA, and "covered commodity" to properly describe a commodity that is subject to actions under §§ 12.122 through 12.127 and § 127.28. In § 12.120, this document proposes to define the term "covered commodity" to include any merchandise that is an article, a TSCA chemical substance in bulk form, a non-TSCA chemical (as those terms are defined in § 12.120(a), (b), or (d)), or that is a mixture as defined in TSCA.

This document proposes to revise § 12.119 to ensure that the scope of the regulation accurately reflects the requirements with regard to certain TSCA chemical substances and non-TSCA chemicals. The

scope as written in the existing regulation does not accurately describe all items addressed in the regulation. This proposed rule also clarifies the limitation regarding articles (*i.e.*, “if so required by the Administrator by specific rule under TSCA”), applies to the requirement for a certification in § 12.121, but does not apply to actions taken under § 12.122 and following sections. This document proposes, in §§ 12.122, 12.124, 12.125, and 127.28, to use the term “covered commodity” as defined in a proposed definition in § 12.120, to refer to any commodity that may be subject to those sections. In § 12.124, this proposed rule proposes to change the name of the agency from “Customs Service” to “CBP”.

B. Electronic Option Allowed for Import Certification

On February 10, 2016, CBP published a notice in the **Federal Register** (81 FR 7133) announcing that CBP was modifying the National Customs Automation Program (NCAP) test concerning electronic filings of data to ACE, known as the Partner Government Agency (PGA) Message Set test to allow for the transmission of TSCA certification data. Prior to the conclusion of that test, CBP will evaluate the test to assess the reliability and utility of the electronic TSCA certification process. If CBP determines that the TSCA NCAP test is successful, CBP will conclude that test in conjunction with the publication of the final rule implementing the changes proposed in this notice.

The proposed regulations provide an electronic option for filing TSCA certifications, consistent with Executive Order (EO) 13659, *Streamlining the Export/Import Process for America’s Businesses*, which seeks to reduce unnecessary procedural requirements relating to, among other things, importing into the United States, while continuing to protect our national security, public health and safety, the environment, and natural resources. *See* 79 FR 10657 (February 25, 2014). The proposed regulations are also consistent with the Security and Accountability for Every Port Act of 2006 (“SAFE Port Act,” 19 U.S.C. 1411(d)) which mandates that all federal agencies that require documentation for clearing or licensing the importation of cargo participate in the International Trade Data System (ITDS) by using a CBP-authorized Electronic Data Interchange (EDI) system as a single portal for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

In order to submit an electronic positive or negative TSCA certification, importers or their agents would be required to submit their entry filings to ACE or any other CBP-authorized electronic data interchange (EDI) system. This document also proposes to require in

§ 12.121(a)(3) the submission of additional information relating to the certifying individual, including name, phone number, and email address for TSCA certifications submitted either in writing or electronically. The collection of contact information for the certifying individual will facilitate the resolution of issues related to particular shipments. This document also changes in § 12.121(c) the reference to paragraph (a)(1) to paragraph (a) which concerns TSCA certifications.

C. Blanket Certifications

CBP is proposing to eliminate the blanket certification process. The existing paper-based blanket certification process set forth in current § 12.121(a)(2)(ii) has limited utility because each blanket certification is only valid at one port of entry and is only valid for one year. In addition, the current blanket certification process is more burdensome than the current entry-specific certification process because it requires filers to report a statement referring to the blanket certification and incorporating it by reference for each entry, as well as four data elements on the blanket certification itself, including product name, Harmonized Tariff Schedule of the United States (HTSUS) subheading number, and the name and address of the foreign supplier. Because the electronic TSCA certification process will require only a certification code, along with the name and contact information of the TSCA certifier, and because the paper-based blanket certification has limited application, we believe the elimination of the blanket certification process will reduce the reporting burden for importers.

D. Notice of Exportation and Abandonment

In addition, this document proposes to amend §§ 12.125 and 12.126 to allow importers to provide electronic notice of exportation and abandonment as an alternative to the paper-based written notice process allowed under the existing regulations.

The automation of these processes will modernize the way that CBP and EPA interact with importers of chemicals, and ensure effective application of regulatory controls. CBP estimates approximately 2.5 million TSCA positive certifications and 230,000 TSCA negative certifications are received annually. The electronic collection of TSCA certifications for processing in ACE will improve information access, data integration with CBP entry information, and the data quality of TSCA certifications. As a result, CBP expects improved communication among EPA, CBP, and importers.

E. Plain Language Revisions

CBP is proposing minor changes to §§ 12.118 through 12.127 by removing the word “shall” and revising the sentence grammar to simplify the language. The use of “shall” is imprecise and outdated. Plain language guidance recommends to replace “shall” with the word “must,” “will,” or another word that more appropriately conveys the intended meaning. This is part of the U.S. government efforts to update regulatory text per plain language guidance.

III. Estimated Costs and Benefits of This Rule

A. Costs

The costs for the regulated community to implement TSCA certification via this proposed rule would be minimal. CBP and EPA estimate that providing the name, phone number, and email address of the import certifier would result in a net increase in information collection burden of three minutes for each of the estimated 2.5 million TSCA positive certifications and 230,000 TSCA negative certifications (increased cost of about \$3 per certification), yielding an annual trade increased cost of \$8.41 million.

B. Benefits

The use of the ACE system is intended to streamline the cargo entry and review process. The benefits to industry for implementing electronic reporting for TSCA import certification specifically would be limited in this rule compared to the overall benefits of utilizing ACE. With migration to ACE, the access plus integration with CBP entry data will facilitate interagency communications, as well as assist CBP and EPA in contacting brokers and importers (with the assistance of the new data elements for certifier contact information). Additionally, EPA staff will have improved capability to verify information for use in developing targeting strategies, and other mission critical information gathering tasks.

IV. Statutory and Executive Order Reviews

A. Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and ben-

efits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this regulation. An Economic Analysis for this action, which is contained in a document entitled “Economic Analysis for Custom and Border Protection (CBP) Proposed Rule on TSCA Import Certifications in ACE/ITDS,” is available in the docket for this rule-making and is summarized in the previous section of this document.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et. seq.*) requires federal agencies to assess the effects of regulations on small entities, including businesses, nonprofit organizations, and governments, and—in some instances—to examine alternatives to the regulations that may reduce adverse economic effects on significantly impacted small entities. Section 604 of the RFA, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires an agency to perform a regulatory flexibility analysis for a rule unless the agency certifies under section 605(b) that the regulatory action would not have a significant (economic) impact on a substantial number of small entities (SISNOSE). The RFA does not specifically define “a significant economic impact on a substantial number” of small entities.

A small entity analysis (SEA) was conducted and summarized herein. The SEA consists of: Two quantitative analyses of impacts of the proposed rule on small entities for TSCA positive certifications, a qualitative discussion of impacts for TSCA negative certifications, and an integrative analysis of the combined universe of TSCA positive and TSCA negative certifications (all entities affected by the rule). These analyses provide information on the magnitude and extent of cost impacts for the purpose of supporting a CBP certification that the proposed rule would not result in significant (economic) impact on a substantial number of small entities (SISNOSE). For additional details, see the Economic Analysis for this action, which is contained in a document entitled “Economic Analysis for Customs and Border Protection (CBP) Proposed Rule on TSCA Import Certifications in ACE/ITDS,” and is available in the docket for this rule-making.

For TSCA positive certifications, the first quantitative analysis is a screening analysis of cost impacts to the smallest entities associated with TSCA positive certifications; and the second, a more detailed distributional analysis of impacts associated with TSCA positive certifications. These analyses use cost impact percentages to measure

potential impacts on small parent entities affected by the proposed rule. The cost impact percentage is defined as annualized compliance costs resulting from the TSCA positive certification portion of the proposed rule as a percentage of annual revenues or sales, a commonly available and objective measure of a company’s business volume. As is the expected case for this rule, when increases in regulatory costs are minimal, they represent a small fraction of a typical entity’s revenue, and therefore the impacts of the regulation are minimal.

The first quantitative analysis for TSCA positive certifications is a screening analysis that provides a concise estimate of small entity impacts under the proposed rule by examining whether an “average small parent entity” incurs significant economic impact. The results of this analysis are presented in Table 1. The second quantitative analysis is a detailed distributional analysis that provides an estimate of small entity impacts under the assumption that affected entities have the same size characteristics as the overall industry sector. The results of this analysis are presented in Table 2.

TABLE 1—TSCA POSITIVE CERTIFICATION SUMMARY OF SCREENING ANALYSIS RESULTS

NAICS	NAICS Code description	Parent entities with 0 to 4 employees			All small parent entities		
		Average revenue	1% impact	3% impact	Average revenue	1% impact	3% impact
325 ^a	Chemical Manufacturing	\$1,457,186	No	No	\$80,841,890	No	No
324 ^b	Petroleum and Coal Products Manufacturing	2,120,398 ...	No	No	556,652,918	No	No

^a For NAICS 325, the analysis of parent entities with 0 to 4 employees include 3,261 businesses while the analysis of all parent entities includes 9,772 businesses.
^b For NAICS 324, the analysis of parent entities with 0 to 4 employees include 391 businesses while the analysis of all parent entities includes 1,189 businesses.

TABLE 2—TSCA POSITIVE CERTIFICATION SUMMARY OF DETAILED DISTRIBUTIONAL ANALYSIS

NAICS	NAICS Code description	Parent entities	Small parent entities	Number and percent of small parent entities incurring impact of . . .			Minimum impact ^a (%)	Mean ^b impact (%)	Maximum impact ^c (%)
				<1%	1–3%	>3%			
325 ..	Chemical Manufacturing.	11,175	11,175	11,175 (100%)	0 (0%)	0 (0%)	<0.001	0.015	0.032
324 ..	Petroleum and Coal Products Manufacturing.	3,657	3,657	3,657 (100%)	0 (0%)	0 (0%)	<0.001	0.009	0.022

^a Of the 11,175 small entities in NAICS 325, the minimum impact experienced by any entity was <0.001%. Of the 3,657 small entities in NAICS 324, the minimum impact experienced by any entity was <0.001%.
^b Of the 11,175 small entities in NAICS 325, the mean impact experienced by any entity was 0.015%. Of the 3,657 small entities in NAICS 324, the mean impact experienced by any entity was 0.009%.
^c Of the 11,175 small entities in NAICS 325, the maximum impact experienced by any entity was 0.032%. Of the 3,657 small entities in NAICS 324, the maximum impact experienced by any entity was 0.022%.

The small entity screening analysis for TSCA positive certifications demonstrates that no small entities are expected to incur impacts of one percent or greater. The detailed distributional analysis for TSCA positive certifications shows that while a large number of small entities in certain sectors may be affected by the proposed rule, all of these small entities are expected to incur impacts of considerably less than one percent.

For TSCA negative certifications, because the unit incremental steady state burden associated with positive and negative certification are virtually the same (2.93 versus 2.98 minutes, respectively), the small entity impacts associated with negative certifications are similar to the small entity impacts associated with positive certifications, and are considerably less than one percent.

Integrating the above information for all firms submitting TSCA positive certifications and/or TSCA negative certifications requires consideration of the degree to which the firms submitting each type of certification overlap. Since this detailed information is not readily available, an assessment is made via review of lower-bound and upper-bound impact scenarios. At the lower bound with an assumption of no overlap, firms submitting TSCA positive and TSCA negative certifications are completely isolated and separate. Each firm incurs about three minutes additional burden per certification with associated impacts of less than one percent, yielding overall impacts of less than one percent for all firms. In the upper-bound scenario, with an assumption that all firms overlap, firms submit both TSCA positive and negative certifications at the same transaction rates per firm for each type of certification. All firms incur twice the burden due to managing twice as many certifications (*i.e.*, in comparison to three minutes per certification, the “double duty” requires six minutes for one positive certification plus one negative certification). Nonetheless, the associated overall impacts are still less than one percent for all firms.

Per conventional practices including EPA guidance, even if a substantial number of entities are affected by a proposed rule, as long as the impact to these entities is very low, the rule can be determined to not result in a significant impact on a substantial number of small entities. Based on the evidence of the analyses summarized above, CBP certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities (no SIS-NOSE).

C. Paperwork Reduction Act

As this proposed rule does not establish a new collection of information, as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the provisions of the Paperwork Reduction Act are inapplicable.

D. Unfunded Mandates Reform Act (UMRA)

This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Signing Authority

This proposed regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the authority of the Secretary of the Treasury (or that of his or her delegate) to approve regulations pertaining to certain customs revenue functions.

List of Subjects

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements.

19 CFR Part 127

Customs duties and inspection, Exports, Freight, Reporting and recordkeeping requirements.

Proposed Amendments to the CBP Regulations

For the reasons set forth in the preamble, 19 CFR parts 12 and 127 are proposed to be amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general and specific authority citations for part 12 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.118 through 12.127 also issued under 15 U.S.C. 2601 *et seq.*

* * * * *

- 2. Revise § 12.118 to read as follows:

§ 12.118 Toxic Substances Control Act.

The Toxic Substances Control Act (“TSCA”) (15 U.S.C. 2601 *et seq.*) governs the importation into the customs territory of the United States of a chemical substance in bulk form or as part of a mixture, and articles containing a chemical substance or mixture. Such importations are also governed by these regulations which are issued under the authority of section 13(b) of TSCA (15 U.S.C. 2612(b)).

- 3. Revise § 12.119 to read as follows:

§ 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of:

- (a) Chemical substances in bulk form and as part of a mixture under TSCA;
- (b) Chemicals not subject to TSCA; and
- (c) Articles containing a chemical substance or mixture.

- 4. In § 12.120, revise paragraph (b) and add paragraphs (c), (d), (e), and (f) to read as follows:

§ 12.120 Definitions.

* * * * *

(b) *TSCA chemical substance in bulk form* means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) (other than as part of an article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

(c) *TSCA chemical substance as part of a mixture* means a chemical substance as set forth in section 3(2) of TSCA, (15 U.S.C. 2602(2)) that is part of a combination of two or more chemical substances as set forth in section 3(8) of TSCA.

(d) *Non-TSCA chemical* means any chemical that is excluded from the definition of TSCA chemical substance by section 3(2)(B)(ii) through (vi) of TSCA, (15 U.S.C. 2602(2)(B)(ii) through (vi)) (other than as part of a mixture), regardless of form.

(e) *Covered commodity* means merchandise that meets the terms of one of the definitions specified in paragraphs (a), (b), or (d) of this section or that is a mixture as defined in TSCA.

(f) *Administrator* means the Administrator of the Environmental Protection Agency (EPA).

■ 5. In § 12.121, revise paragraphs (a), (b), and (c) to read as follows:

§ 12.121 Reporting requirements.

(a) *Certification required.* (1) The importer of a TSCA chemical substance in bulk form or as part of a mixture, or the authorized agent of such an importer, must certify in writing or electronically that the chemical shipment complies with all applicable rules and orders under TSCA by filing with CBP the following statement:

I certify that all chemical substances in this shipment comply with all applicable rules or orders under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any applicable rule or order thereunder.

(2) The importer of any non-TSCA chemical, or the authorized agent of such an importer, must certify in writing or electronically that the chemical shipment is not subject to TSCA by filing with CBP the following statement:

I certify that all chemicals in this shipment are not subject to TSCA.

(3) *Filing of certification.* (i) The appropriate certification required under paragraph (a) of this section must be filed with the director of the port of entry in writing or electronically to the Automated Commercial Environment (ACE) system or any other CBP-authorized EDI system prior to release of the shipment. For each entry subject to certification under paragraph (a) of this section, the importer or their agent must identify the certifier by name, phone number, and email address.

(ii) Written certifications must appear as a typed or stamped statement:

(A) On an appropriate entry document or commercial invoice or on an attachment to that entry document or invoice; or

(B) In the event of release under a special permit for an immediate delivery as provided for in § 142.21 of this chapter or in the case of an entry as provided for in § 142.3 of this chapter, on the commercial invoice or on an attachment to that invoice.

(b) *TSCA chemical substances or mixtures as parts of articles.* An importer of a TSCA chemical substance or mixture as part of an article must comply with the certification requirements set forth in paragraph (a) of this section only if required to do so by a rule or order issued under TSCA.

(c) *Facsimile signatures.* The certification statements required under paragraph (a) of this section may be signed by means of an authorized facsimile signature.

§ 12.122 [Amended]

■ 6. Amend § 12.122:

■ a. By removing the word “shall” each place it appears and adding in its place the word “will”; and

■ b. In paragraphs (a) and (b) by removing the words “chemical substances, mixtures, or articles” and adding in their place the words “covered commodity”.

§ 12.122 [Amended]

■ 7. Amend § 12.123:

■ a. By removing the word “shall” each place it appears and adding in its place the word “will”; and

■ b. In paragraph (b), third sentence, by removing the words “chemical substance, mixture, or article” and adding in their place the words “a covered commodity”.

■ 8. Amend § 12.124 as follows:

■ a. In paragraph (a) by removing the words “chemical substances, mixtures, or articles” and adding in their place the words “a covered commodity”;

■ b. In paragraph (a) by removing the word “shall” and adding in its place the word “must”;

■ c. In paragraph (b) by removing the words “Customs Service” and adding in its place “CBP”.

■ 9. Amend § 12.125:

■ a. By revising the introductory text;

■ b. In paragraph (b) by removing the words “chemical substances, mixtures, or articles” and adding in their place the words “covered commodity”.

The revision reads as follows:

§ 12.125 Notice of exportation.

Whenever the Administrator directs the port director to refuse entry under § 12.123 and the importer exports the non-complying shipment within the 30 day period of notice of refusal of entry or within 90 days of demand for redelivery, the importer must submit notice of the exportation either in writing to the port director or electronically to CBP through ACE or any other CBP-authorized EDI system. The importer must include the following information in the notice of exportation:

* * * * *

- 10. Revise § 12.126 to read as follows:

§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer must present a notice of intent to abandon in writing to the port director or electronically to CBP through ACE or any other CBP-authorized EDI system. Notification under this section is a waiver of any right to export the merchandise. The importer will remain liable for any expense incurred in the storage and/or disposal of abandoned merchandise.

- 11. Amend § 12.127 to read as follows:

§ 12.127 Decision to store or dispose.

A shipment detained under § 12.122 will be considered to be unclaimed or abandoned and will be turned over to the Administrator for storage or disposition as provided for in § 127.28(i) of this chapter if the importer has not brought the shipment into compliance with TSCA and has not exported the shipment within time limitations or extensions specified in § 12.124. The importer will remain liable for any expenses in the storage and/or disposal of abandoned merchandise.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

- 12. The general and specific authority citations for part 127 continue to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1493, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

* * * * *

Section 127.28 also issued under 15 U.S.C. 2612, 26 U.S.C. 5688;

* * * * *

■ 13. Amend § 127.28, paragraph (i) to read as follows:

§ 127.28 Special merchandise.

* * * * *

(i) *Goods subject to TSCA Requirements.* Goods subject to TSCA requirements, *i.e.*, covered commodities as defined in § 12.120 of this chapter, will be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with Toxic Substances Control Act and the regulations and orders issued thereunder. If found not to comply with these requirements that good must be exported or otherwise disposed of immediately in accordance with the provisions of §§ 12.125 through 12.127 of this chapter.

Dated: August 23, 2016.

R. GIL KERLIKOWSKE,
Commissioner,
U.S. Customs and Border Protection.
TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 29, 2016 (81 FR 59157)]

ACCREDITATION AND APPROVAL OF INSPECTORATE AMERICA CORPORATION, AS A COMMERCIAL GAUGER AND LABORATORY

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

ACTION: Notice of accreditation and approval of Inspectorate America Corporation as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of June 8, 2016.

EFFECTIVE DATE: The accreditation and approval of Inspectorate America Corporation as commercial gauger and laboratory became effective on June 8, 2016. The next triennial inspection date will be scheduled for June 2019.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific

Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202-344-1060.

SUPPLEMENTARY INFORMATION:

Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 4350 Oakes Rd., Suite 521 A, Davie, FL 33314, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API Chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
9	Density Determination.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27-02	D 1298	Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method.
27-04	D 95	Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation.
27-06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27-08	D 86	Standard Test Method for Distillation of Petroleum Products at Atmospheric Pressure.
27-11	D 445	Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids.

CBPL No.	ASTM	Title
27-13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry.
27-48.....	D 4052	Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter.
27-57	D 7039	Standard Test Method for Sulfur in Gasoline and Diesel Fuel by Monochromatic Wavelength Dispersive X-Ray Fluorescence Spectrometry.
27-58	D 5191	Standard Test Method For Vapor Pressure of Petroleum Products.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344-1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: August 22, 2016.

IRA S. REESE,
Executive Director,
Laboratories and Scientific Services
Directorate.

[Published in the Federal Register, August 29, 2016 (81 FR 59233)]

NOTICE ANNOUNCING THE AUTOMATED COMMERCIAL ENVIRONMENT (ACE) AS THE SOLE CBP-AUTHORIZED ELECTRONIC DATA INTERCHANGE (EDI) SYSTEM FOR PROCESSING ELECTRONIC DRAWBACK AND DUTY DEFERRAL ENTRY AND ENTRY SUMMARY FILINGS

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

ACTION: General notice.

SUMMARY: This document announces that the Automated Commercial Environment (ACE) will be the sole electronic data interchange (EDI) system authorized by the Commissioner of U.S. Customs and Border Protection (CBP) for processing electronic drawback and duty deferral entry and entry summary filings. This document also announces that the Automated Commercial System (ACS) will no longer be a CBP-authorized EDI system for purposes of processing the electronic filings specified in this notice. This notice also announces a name change for the ACE filing code for duty deferral and the creation of a new ACE filing code for all electronic drawback filings, replacing the six distinct drawback codes previously filed in ACS.

DATES: *Effective October 1, 2016:* ACE will be the sole CBP-authorized EDI system for processing electronic entry and entry summary filings for certain entry types, and ACS will no longer be a CBP-authorized EDI system for purposes of processing the electronic filings specified in this notice.

FOR FURTHER INFORMATION CONTACT: Questions related to this notice may be emailed to ASKACE@cbp.dhs.gov with the subject line identifier reading “ACS to ACE October 1, 2016 transition”.

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority

Section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), establishes the requirement for importers of record to make entry for merchandise to be imported into the customs territory of the United States. Customs entry information is used by U.S. Customs and Border Protection (CBP) and Partner Government Agencies (PGAs) to determine whether merchandise may be released from CBP custody. Importers of record are also obligated to complete the entry by filing an entry summary declaring the value, classification, rate of duty applicable to the merchandise and such other information as is necessary for CBP to properly assess duties, collect accurate statistics and determine whether any other applicable requirement of law is met.

The customs entry requirements were amended by Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057, December 8, 1993), commonly known as the Customs Modernization Act, or Mod Act. In particular, section 637 of

the Mod Act amended section 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1484(a)(1)(A)) by revising the requirement to make and complete customs entry by submitting documentation to CBP to allow, in the alternative, the electronic transmission of such entry information pursuant to a CBP-authorized electronic data interchange (EDI) system. CBP created the Automated Commercial System (ACS) to track, control, and process all commercial goods imported into the United States. CBP established the specific requirements and procedures for the electronic filing of entry and entry summary data for imported merchandise through the Automated Broker Interface (ABI) to ACS.

Transition From ACS to ACE

In an effort to modernize the business processes essential to securing U.S. borders, facilitating the flow of legitimate shipments, and targeting illicit goods pursuant to the Mod Act and the Security and Accountability for Every (SAFE) Port Act of 2006 (Pub. L. 109–347, 120 Stat. 1884), CBP developed the Automated Commercial Environment (ACE) to eventually replace ACS as the CBP-authorized Electronic Data Interchange (EDI) system. Over the last several years, CBP has tested ACE and provided significant public outreach to ensure that the trade community is fully aware of the transition from ACS to ACE.

On February 19, 2014, President Obama issued Executive Order (E.O.) 13659, *Streamlining the Export/Import Process for America's Businesses*, in order to reduce supply chain barriers to commerce while continuing to protect our national security, public health and safety, the environment, and natural resources. See 79 FR 10657 (February 25, 2014). Pursuant to E.O. 13659, a deadline of December 31, 2016, was established for participating Federal agencies to have capabilities, agreements, and other requirements in place to utilize ITDS and supporting systems, such as ACE, as the primary means of receiving from users the standard set of data and other relevant documentation (exclusive of applications for permits, licenses, or certifications).

On October 13, 2015, CBP published an Interim Final Rule in the **Federal Register** (80 FR 61278) that designated ACE as a CBP-authorized EDI system. The designation of ACE as a CBP-authorized EDI system was effective November 1, 2015. In the Interim Final Rule, CBP stated that ACS would be phased out and anticipated that ACS would no longer be supported for entry and entry summary filing by the end of February 2016. Filers were encouraged to adjust their business practices so that they would be prepared when ACS was decommissioned.

CBP has developed a staggered transition strategy for decommissioning ACS. The first two phases of the transition were announced in a **Federal Register** notice on February 29, 2016. *See* 81 FR 10264 (February 29, 2016). The third phase of the transition was announced in a **Federal Register** notice on May 16, 2016. *See* 81 FR 30320 (May 16, 2016). The fourth phase of the transition was announced in a **Federal Register** notice on May 23, 2016. *See* 81 FR 32339 (May 23, 2016). This notice announces the fifth phase of the transition.

In this phase, CBP will decommission ACS for all drawback and duty deferral filings. Additionally, CBP is removing the reference to NAFTA from the name of the ACE filing code 08 for duty deferral and is announcing a new ACE filing code 47 for drawback, which will replace the following decommissioned ACS filing codes:

- 41—Direct Identification Manufacturing Drawback
- 42—Direct Identification Unused Merchandise Drawback
- 43—Rejected Merchandise Drawback
- 44—Substitution Manufacturer Drawback
- 45—Substitution Unused Merchandise Drawback
- 46—Other Drawback

ACE as the Sole CBP-Authorized EDI System for the Processing of Certain Electronic Entry and Entry Summary Claims

This notice announces that, effective October 1, 2016, ACE will be the sole CBP-authorized EDI system for the electronic entry and entry summary filings listed below, for all filers. These electronic filings must be formatted for submission in ACE and will not be accepted in ACS.

- 08—Duty Deferral
- 47—Drawback

ACS as the Sole CBP-Authorized EDI System for the Processing of Certain Electronic Entry and Entry Summary Filings

Electronic entry and entry summary filings for the following entry type must continue to be filed only in ACS. CBP will publish a subsequent **Federal Register** Notice in the future when this entry and entry summary filing will be transitioned in ACE.

- 09—Reconciliation Summary

Due to Low Shipment Volume, Filings for the Following Entry Types Will Not Be Automated in Either ACS or ACE

- 04—Appraisalment
- 05—Vessel—Repair
- 24—Trade Fair
- 25—Permanent Exhibition
- 26—Warehouse—Foreign Trade Zone (FTZ) (Admission)
- 33—Aircraft and Vessel Supply (For Immediate Exportation)
- 64—Barge Movement
- 65—Permit to Proceed
- 66—Baggage

Dated: August 25, 2016.

R. GIL KERLIKOWSKA,
Commissioner,
U.S. Customs and Border Protection.

[Published in the Federal Register, August 30, 2016 (81 FR 59644)]



AGENCY INFORMATION COLLECTION ACTIVITIES:

**Arrival and Departure Record (Forms I-94 and I-94W) and
Electronic System for Travel Authorization**

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

ACTION: 30-Day notice and request for comments; revision 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: CBP Form I-94 (Arrival/Departure Record), CBP Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). This is a proposed extension and revision of an information collection that was previously approved. CBP is proposing that this information collection be extended with a revision to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before September 30, 2016 to be assured of consideration.

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 *oira_submission@omb.eop.gov* or faxed to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, or via email (*CBP_PRA@cbp.dhs.gov*). Please note contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs please contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP Web site at <https://www.cbp.gov/>. For additional help: <https://help.cbp.gov/app/home/search/1>.

SUPPLEMENTARY INFORMATION:

This proposed information collection was previously published in the **Federal Register** (81 FR 40892) on June 23, 2016, 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. 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. 3507). 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 to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, and Electronic System for Travel Authorization (ESTA).

OMB Number: 1651-0111.

Form Number: I-94 and I-94W.

Abstract

Background

CBP Forms I-94 (Arrival/Departure Record) and I-94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler's admission into the United States. These forms are filled out by aliens and are used to collect information on citizenship, residency, passport, and contact information. The data elements collected on these forms enable DHS to perform its mission related to the screening of alien visitors for potential risks to national security and the determination of admissibility to the United States. ESTA applies to aliens seeking to travel to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States without a visa. Travelers who are entering the United States under the VWP in the air or sea environment and who have a travel authorization obtained through ESTA are not required to complete the paper Form I-94W.

Pursuant to an interim final rule published on March 27, 2013 in the **Federal Register** (78 FR 18457) related to Form I-94, CBP has partially automated the Form I-94 process. CBP now gathers data previously collected on the paper Form I-94 from existing automated sources in lieu of requiring passengers arriving by air or sea to submit a paper I-94 upon arrival. Passengers can access and print their electronic I-94 via the Web site at www.cbp.gov/I94.

ESTA can be accessed at: <https://esta.cbp.dhs.gov>. Samples of CBP Forms I-94 and I-94W can be viewed at: <http://www.cbp.gov/document/forms/form-i-94-arrivaldeparture-record> and <http://www.cbp.gov/document/forms/form-i-94w-visa-waiver-arrivaldeparture-record>.

Recent Changes

On December 18, 2015, the President signed into law the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 as part of the Consolidated Appropriations Act of 2016. To meet the requirements of this new Act, DHS strengthened the security of the VWP by enhancing the ESTA application and Form I-94W. In two recent emergency submissions under the Paperwork Reduction Act,

additional questions were added to ESTA and to Form I-94W that request information from applicants about countries to which they have traveled on or after March 1, 2011; countries of which they are citizens/nationals; countries for which they hold passports; and Global Entry Numbers.

Proposed Changes

DHS proposes to add the following question to ESTA and to Form I-94W: “Please enter information associated with your online presence—Provider/Platform—Social media identifier.” It will be an optional data field to request social media identifiers to be used by highly trained CBP personnel for vetting purposes, and applicant contact information. Collecting social media identifiers will enhance the existing vetting process and provide DHS greater clarity and visibility to possible nefarious activity and connections by providing an additional selector which analysts and investigators may use to better assess ESTA applications. Social media information may be used to validate information provided in the ESTA application, such as countries visited, purpose of travel, etc. If an applicant chooses not to fill out or answer questions regarding social media, the ESTA application can still be successfully submitted. If an applicant chooses to answer this question, DHS will have visibility of the publicly available information on those platforms, consistent with the privacy settings the applicant has set on the platforms.

Current Actions: This submission is being made to extend the expiration date with a change to the information collected as a result of adding a question about social media to ESTA and to Form I-94W, as described in the Abstract section of this document. There are no changes to the burden hours or to the information collected on Form I-94, or the I-94 Web site.

Type of Review: Revision.

Affected Public: Individuals, Carriers, and the Travel and Tourism Industry.

Form I-94 (Arrival and Departure Record)

Estimated Number of Respondents: 4,387,550.

Estimated Time per Response: 8 minutes.

Estimated Burden Hours: 583,544.

Estimated Annual Cost to Public: \$26,325,300.

I-94 Web Site

Estimated Number of Respondents: 3,858,782.

Estimated Time per Response: 4 minutes.

Estimated Annual Burden Hours: 254,679.

Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure)

Estimated Number of Respondents: 941,291.

Estimated Time per Response: 16 minutes.

Estimated Annual Burden Hours: 251,325.

Estimated Annual Cost to the Public: \$5,647,746.

Electronic System for Travel Authorization (ESTA)

Estimated Number of Respondents: 23,010,000.

Estimated Time per Response: 23 minutes.

Estimated Total Annual Burden Hours: 8,812,830.

Estimated Annual Cost to the Public: \$265,020,000.

Dated: August 26, 2016.

SETH RENKEMA,
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Economic Impact Analysis Branch,
U.S. Customs and Border Protection.

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