

U.S. Customs and Border Protection

19 CFR Part 101

CBP Dec. 18-03

EXTENSION OF PORT LIMITS OF SAVANNAH, GA

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with changes, proposed amendments to U.S. Customs and Border Protection (CBP) regulations pertaining to the expansion of the geographical limits of the port of entry of Savannah, Georgia. The port limits will be expanded to make the boundaries more easily identifiable to the public and to allow for uniform and continuous service to the extended area of Savannah, Georgia. This change is part of CBP's continuing program to use its personnel, facilities, and resources more efficiently and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Roger Kaplan, Office of Field Operations, U.S. Customs and Border Protection, (202) 325-4543, or by email at *Roger.Kaplan@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (82 FR 30807) on July 3, 2017, U.S. Customs and Border Protection (CBP) proposed to amend § 101.3(b)(1) of title 19 of the Code of Federal Regulations (CFR) to extend the geographical limits of the port of entry of Savannah, Georgia. The proposed boundaries of the port of entry included the majority of Chatham County, Georgia, as well as a small portion of Jasper County, South Carolina.

As explained in the NPRM, Savannah, Georgia was designated as a customs port of entry by the President's message of March 3, 1913, concerning the reorganization of the U.S. Customs Service pursuant

to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Executive Order 8367, dated March 5, 1940, established specific geographical boundaries for the port of entry of Savannah, Georgia.

In the July 2017 NPRM, CBP proposed to amend the geographical limits of the port of entry of Savannah, Georgia because the current boundaries established by the Executive Order do not include a large portion of Savannah-Hilton Head International Airport, including the site of a proposed replacement Federal Inspection Service facility for arriving international travelers, or distribution centers and cold storage agricultural facilities that support the seaport. Also, most of the projected facilities, such as a new ship terminal with two berths for container ships and bonded warehouses, which will be built on the region's remaining undeveloped properties will be outside of the boundaries of the current port of entry. CBP determined that the extension of the boundaries would not result in a change in the service that is provided to the public by the port and would not require a change in the staffing or workload at the port. For the proposed rule, CBP posted on the docket on <http://www.regulations.gov> a map of the Savannah area with the current port limits marked by blue lines and the proposed port limits marked by red lines.

The NPRM solicited public comment on the proposed rulemaking. The public comment period closed on September 1, 2017.

Discussion of Comments

One commenter responded to the solicitation of comments to the proposed rule. A description of the comment received, together with CBP's analysis, is set forth below.

Comment:

The commenter fully supported the expansion of the port limits, but was concerned that the proposed limits did not take into consideration the warehouses and distribution centers being built to accommodate the current volume of trade. The commenter suggested that the western portion of the boundary line be extended to the county line (west of Interstate Highway 95) to support the future growth of the area, provide jobs and further solidify Savannah's position in international trade.

CBP Response:

CBP agrees with the commenter's suggestion to extend the western portion of the boundary line as the purpose of expanding the port of

entry of Savannah is to provide better services to the carriers, importers and the general public. In addition, CBP has become aware that import facilities are just outside of Chatham County. Thus, CBP is extending the western boundary slightly into Effingham County to include those facilities. The further extension of the port would not require a change in staffing or workload at the port.

Conclusion

After review of the comment, CBP has determined to further expand the boundaries of the Savannah port of entry in this final rule. Instead of the western boundaries being along the Federal Interstate Highway 95, they begin where Highway 204 (Fort Argyle Road) intersects with Federal Interstate Highway 95, then proceed north to the intersection with Old River Road, then north along Old River Road until it intersects with Federal Interstate Highway 16, then east along Federal Interstate Highway 16 until it meets the Chatham County line, and then north along the Chatham County line until it meets the intersection with Federal Interstate Highway 95 and the Georgia-South Carolina state line. The new port limits are described below, and the map posted on the docket on <http://www.regulations.gov> shows the new port limits as expanded by this final rule marked by the blue and black lines.

Port Description of Savannah, Georgia

The final port limits of the port of entry of Savannah, Georgia, are as follows: From 32°14.588' N–081°08.455' W (where Federal Interstate Highway 95 crosses the Georgia-South Carolina state line) and extending in a straight line to 32°04.903' N–080°54.998' W (where Walls Cut meets Wright River and Turtle Island); then proceeding in a straight line to 31°52.651' N–081°03.331' W (where Adams Creek meets Green Island Sound); then proceeding northwest in a straight line to 32°00.280' N–081°17.00' W (where Highway 204 intersects Federal Interstate Highway 95); then proceeding northwest along Fort Argyle Road (Highway 204) to the intersection with Old River Road; then proceeding north on Old River Road to the intersection with Federal Interstate Highway 16; then proceeding southeast along Federal Interstate Highway 16 to the Chatham County line; then proceeding northeast and then east along the length of the Chatham County line until it intersects with Federal Interstate Highway 95 at Knoxville Creek; then proceeding north on Federal Interstate Highway 95 to the point of beginning at the Georgia-South Carolina state line.

Authority

This change is made under the authority of 5 U.S.C. 301, 6 U.S.C. 101, *et seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Regulatory Requirements

A. *Executive Orders 12866, 13563 and 13771*

Executive Orders 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) 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. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’ ” (April 5, 2017).

The final rule expands the geographical boundaries of the Savannah, Georgia, port of entry, and makes the boundaries more easily identifiable to the public. There are no new costs to the public associated with this rule.

B. *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. 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).

This final rule merely expands the limits of an existing port of entry and does not impose any new costs on the public. Accordingly, we certify that this rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

This 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.

D. Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the extension of port limits is not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this final rule may be signed by the Secretary of Homeland Security (or her delegate).

List of Subjects in 19 CFR Part 101

Customs ports of entry, Harbors, Organization and functions (Government agencies), Seals and insignia, Vessels.

Amendment to the Regulations

For the reasons set forth above, part 101, CBP Regulations (19 CFR part 101), is amended as set forth below:

PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the relevant specific authority citation for section 101.3 continue to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 101, *et seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

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Section 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b.

* * * * *

§ 101.3 [Amended]

■ 2. In § 101.3(b)(1), the table is amended under the State of Georgia by removing from the “Limits of port” column for Savannah the present limits description “Including territory described in E.O. 8367, Mar. 5, 1940 (5 FR 985).” and adding the words “CBP Dec. 18–03” in its place.

Dated: April 4, 2018.

ELAINE C. DUKE,
Deputy Secretary of Homeland Security.

[Published in the Federal Register, April 11, 2018 (82 FR 15498)]



19 CFR Part 149

RIN 1651-AA98

CBP Decision No. 18–04

DEFINITION OF IMPORTER SECURITY FILING IMPORTER

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule adopts a proposed amendment to expand the definition of an Importer Security Filing (ISF) Importer, the party that is responsible for filing the ISF, for certain types of shipments. The changes are necessary to ensure that the definition of ISF Importer includes parties that have a commercial interest in the cargo and the best access to the required information.

DATES: This rule is effective May 14, 2018.

FOR FURTHER INFORMATION CONTACT: Craig Clark, Branch Chief, Advance Data Programs and Cargo Initiatives, Office of Cargo and Conveyance Security, Office of Field Operations by telephone at 202–344–3052 and email at craig.clark@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under CBP regulations, Importer Security Filing (ISF) Importers, as defined in 19 CFR 149.1, are required to submit an ISF to CBP, which consists of information pertaining to certain cargo arriving by vessel. The ISF is required to be submitted before the cargo is loaded on a vessel that is destined to the United States. For cargo other than foreign cargo remaining on board (FROB), the transmission of the ISF is required no later than 24 hours before cargo is laden aboard a vessel destined to the United States. For FROB shipments, the transmission of the ISF is required any time prior to lading. *See* 19 CFR 149.2(b).

For shipments consisting of goods intended to be entered into the United States and goods intended to be delivered to a foreign trade zone (FTZ), ISF Importers, or their agents, must submit 10 data elements to CBP. *See* 19 CFR 149.3(a). For shipments consisting entirely of FROB and shipments consisting entirely of goods intended to be transported as Immediate Exportation (IE) or Transportation and Exportation (T&E) in-bond shipments, ISF Importers, or their agents, must submit five data elements to CBP. *See* 19 CFR 149.3(b).

Currently, an ISF Importer is generally defined as the party causing goods to arrive within the limits of a port in the United States by vessel. *See* 19 CFR 149.1. The regulation provides that generally the ISF Importer is the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. However, the regulation limits the definition of ISF Importer to certain named parties for FROB, IE and T&E in-bond shipments, and for merchandise being entered into FTZ. For FROB cargo, the regulation provides that the ISF Importer is the carrier; for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the regulation provides that the ISF Importer is the party filing the IE, T&E, or FTZ documentation.

Based on input from the trade as well as CBP's analysis, CBP concluded that these limitations did not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though the party has no commercial interest in the shipment and limited access to the ISF data. Therefore, in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 6, 2016 (81 FR 43961), CBP proposed to expand the definition of ISF Importer for FROB cargo, for IE and T&E shipments and for goods to be delivered to an FTZ.

For FROB shipments, CBP proposed to broaden the definition of an ISF Importer to include non-vessel operating common carriers (NVOCCs). For IE and T&E in-bond shipments, and for goods to be

delivered to an FTZ, CBP proposed to broaden the definition of an ISF Importer to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. This rule adopts these proposals as final. By broadening the definition to include these parties, the responsibility to file the ISF will be with the party causing the goods to enter the limits of a port in the United States and most likely to have access to the required ISF information.

For a detailed discussion of the statutory and regulatory histories of the rule, and the factors governing the development of this rule, please refer to the NPRM.

II. Discussion of Comments

CBP received two comments on the proposed rule, and each raised a number of issues. One comment favored the proposed amendment with recommended changes and one did not. A summary of the significant issues raised by the comments and CBP's responses are set forth below.

Comment

One commenter said that the proposed ISF Importer definition with respect to FROB cargo was unclear. The commenter recommended revising the definition to indicate that the carrier is responsible for filing the ISF except when a shipment is being carried by an NVOCC, in which case the NVOCC would be responsible for filing the ISF.

Response

Although the commenter's suggested language would cover many situations, it would not account for all circumstances in which the shipment is being carried by an NVOCC. It would not cover the situation where the vessel operating carrier is the party that causes the goods to arrive within the limits of a port in the United States by vessel despite the NVOCC having booked the shipment. As discussed in the NPRM, an example would be when an NVOCC books a shipment not initially scheduled to arrive in the United States, but the vessel is diverted to the United States by the vessel operating carrier. If the cargo remains on board the vessel at the U.S. port and is not discharged until it arrives at the originally-scheduled foreign destination port, this would create FROB cargo. In this situation, even though the shipment would be carried by the NVOCC, the vessel operating carrier, and not the NVOCC, would be the party that caused the goods to arrive within the limits of a port in the United States by vessel and thus, the party responsible for filing the ISF.

In view of the above, CBP believes that the broader proposed definition of ISF Importer with regard to FROB shipments, which places the responsibility for filing the ISF on the party who caused the goods to arrive within the limits of a port in the United States by vessel, rather than on a specific party, is necessary.

Comment

One commenter noted that, for situations in which a shipment booked by an NVOCC is diverted by the vessel operating carrier to the United States in cases of extreme weather, machinery failure, or other unforeseen circumstances, the required ISF for the resulting FROB cargo could not be filed prior to loading as required by the current regulations. This commenter also noted that, in such situations, the NPRM's suggestion that the vessel operating carrier would be responsible for filing the ISF would not be workable because the carrier would not have possession of the business confidential house-bill level information that it would need from the NVOCC to be able to file the ISF.

To address these issues, the commenter recommended that CBP adopt one of the following regulatory amendments: (1) Exempt FROB cargo in such situations from ISF requirements; (2) allow the vessel operating carrier to file the ISF at the master bill of lading level as soon as practicable; or (3) allow the vessel operating carrier to submit the required data elements for the ISF as soon as practicable to CBP, and require the NVOCCs with cargo on the vessel to submit the remaining data elements of the ISF as soon as practicable to CBP once the vessel operating carriers have informed the NVOCCs of the diversion.

Response

The proposed rule was limited to amending the definition of the ISF Importer in 19 CFR 149.1(a) concerning the parties responsible for filing the ISF. The commenter's suggestions, which relate to suggestions about when the required data elements must be transmitted or the level of detail required for the data elements as set forth in 19 CFR 149.2 and 149.3,¹ are outside the scope of this rulemaking. CBP notes that while those sections do not provide for exceptions from the

¹ 19 CFR 149.2(b) provides the required time of transmission of the data elements for the ISF. For FROB cargo, the regulation specifies that the required data elements must be submitted prior to lading aboard the vessel at the foreign port. *See* 19 CFR 149.2(b)(4). The regulation provides no exceptions to this requirement in any circumstances, including for diversions. The ISF regulations provide that for shipments consisting entirely of FROB cargo, ISF Importers, or their agents, must submit five data elements to CBP for each good listed at the six-digit HTSUS number at the lowest bill of lading level (*i.e.*, at the house bill of lading level, if applicable). *See* 19 CFR 149.3(b).

ISF requirements based on extenuating circumstances, CBP may take the existence of extenuating circumstances into account in determining whether to issue a liquidated damages claim for an untimely or incomplete submission of the ISF.

Comment

One commenter requested clarification regarding the portion of the proposed definition that states that for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. The commenter said that this language appears to be designed to allow the carrier or NVOCC to file the ISF documentation for such shipments, as is the case in some instances today.

Response

The proposed ISF Importer definition establishes the party that is responsible for filing the ISF, depending on the type of cargo transported. For IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer will be the goods' owner, purchaser, consignee, agent such as a licensed customs broker, or the party filing the IE, T&E, or FTZ documentation. If the carrier or NVOCC falls within the definition as one these parties, as it may if it was the agent for such a shipment, then it may file the ISF under the proposed definition.

Comment

One commenter did not agree that the NVOCC should be included in the definition of ISF Importer with respect to FROB cargo. This commenter said that the NVOCC does not have access to basic shipment manifest data, that it is not the party who caused the merchandise to be imported, and that it is not normally the party who is in position to know the details that are required for filing the ISF. This commenter also added that the ocean carrier is in control of the vessel and is responsible for the initial routing and any subsequent changes, and that an NVOCC may be unaware of the vessel operator's decision to route a vessel through a U.S. port.

Response

CBP disagrees with the commenter's reasoning and conclusion that an NVOCC should not be included in the definition of ISF Importer with respect to FROB cargo. For FROB cargo, the regulations require the submission of five data elements: The booking party, the foreign port of unloading, the place of delivery, the ship to party, and the

commodity HTSUS number. *See* 19 CFR 149.3(b). When a party shipping the goods books a FROB shipment with an NVOCC, the NVOCC is the party most likely to have direct knowledge of these data elements because it, not the vessel operating carrier, has a direct business relationship with the shipping party. With limited exceptions, it is also the party that causes the goods to arrive within the limits of a port in the United States by vessel. Thus, it is generally the appropriate party to file the ISF. As noted in response to an earlier comment, where the vessel operating carrier diverts a shipment not initially scheduled to arrive in the United States and the cargo remains on board the vessel at the U.S. port, the vessel operating carrier, not the NVOCC, is the party that causes the goods to arrive within the limits of a port in the United States and thus the responsible party for filing the ISF.

Comment

One commenter stated that the U.S. offices of a multinational NVOCC may be unaware that a shipment booked by the NVOCC's non-U.S. affiliate is destined to the United States.

Response

This final rule requires the NVOCC to file the ISF for shipments of FROB cargo when it falls under the definition of the ISF Importer. This requirement applies to the NVOCC regardless of which affiliate within the NVOCC booked the shipment. Each NVOCC is responsible for ascertaining whether any of its shipments are destined to the United States.

Comment

One commenter stated that the proposed rule would jeopardize smaller NVOCCs that would be forced to develop procedures to comply with the rule in the rare occurrence of a shipment of FROB cargo.

Response

FROB cargo consists of only a small subset of the total cargo that an NVOCC regularly ships. As discussed in the Regulatory Flexibility Act section in Part IV.B of this rule, CBP believes that the rule would not have a significant economic impact burden on a substantial number of smaller entities, including NVOCCs. These entities already send this information to the party that files the ISF, or directly to CBP, so amending the regulation to require that they submit it directly to CBP will not significantly affect their existing process.

Comment

One commenter stated that an NVOCC should not be penalized for being responsible for an ISF filing when it either, did not know a shipment was FROB or, simply does not have the data elements that the regulations require. The commenter further stated that an NVOCC is not recognized as a carrier in the Trade Act of 2002 and is not mandated to manifest its House Bill of Lading data. The commenter added that NVOCCs gain release of their cargo against the carrier's bill of lading, not the House Bill of Lading.

Response

As mentioned in an earlier comment response, if the shipping party books a FROB shipment with an NVOCC, the NVOCC is the party most likely to have direct knowledge of the required ISF information. In cases of diversion to the United States creating FROB cargo, the NPRM stated that the vessel operating carrier would be the ISF Importer.

The issue of whether an NVOCC is recognized as a carrier in the Trade Act of 2002 and the vessel manifest and cargo release procedures are irrelevant to whether it is responsible for filing an ISF. As discussed earlier, the responsibility for filing the ISF lies with the party who caused the goods to arrive within the limits of a port in the United States by vessel. In addition, CBP notes that the Trade Act of 2002 recognizes an NVOCC as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. See section 431A(b) of the Trade Act of 2002 (19 U.S.C. 1431a(b)) (citing section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)); see also 19 CFR 4.7(b)(3)(ii)).

Comment

One commenter stated that the proposed rule would have a dramatic impact on the underwriting of International Carrier Bonds and increase liability to NVOCCs with late filing penalties.

Response

CBP disagrees. CBP believes that NVOCCs which are required to file ISFs under the proposed rule are fully capable of complying with the required ISF provisions and that any impact on the underwriting of International Carrier Bonds, if any, would be minimal. The bond that covers the ISF is broad enough to cover these amendments and this rule simply shifts the liability onto the most appropriate party—the one with the information.

III. Conclusion

After review of the comments and further consideration, DHS adopts as final the proposed amendments published in the **Federal Register** on July 6, 2016 (81 FR 43961).

IV. Regulatory Analysis

A. *Executive Orders 12866, 13563, and 13771*

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. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. OMB considers this rule to be an Executive Order 13771 deregulatory action. *See* OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

Though CBP does not estimate a quantitative savings as a result of this rule, it is a deregulatory action because it simplifies the transmission of ISF information to CBP, eliminates confusion regarding the party responsible for submitting the ISF, and significantly reduces confidentiality concerns raised by the current requirements. CBP has prepared the following analysis to help inform stakeholders of the impacts of this proposed rule.

Under current regulations, the party that is required to submit the ISF is the party causing the goods to arrive within the limits of a port in the United States by vessel. However, the regulation limits the definition for FROB, IE, and T&E shipments as well as for merchandise being entered into an FTZ to certain named parties. Based on input from the trade as well as CBP’s analysis, CBP has concluded that these limitations do not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though that party

has no commercial interest in the shipment and limited access to the ISF data. In some cases, the party responsible may not even be involved in the importation at the time the ISF must be filed. This causes confusion in the trade as to who is responsible for filing the ISF and raises confidentiality concerns because sometimes the private party with the information gives the information to the ISF Importer who then sends it to CBP. Therefore, CBP is expanding the definition of ISF Importer for FROB cargo, for IE and T&E shipments, and for goods to be delivered to an FTZ. This change is consistent with the requirement of the Security and Accountability For Every Port Act of 2006 (SAFE Port Act), which provides that the requirement to file the ISF will be imposed on the party most likely to have direct knowledge of that information.

Under the current definition, the ISF Importer for FROB shipments is the vessel operating carrier. In cases where the shipper uses an intermediary, *i.e.*, NVOCC, the vessel operating carrier does not have access to certain of the required elements for confidentiality reasons—only the intermediary has this information. In most cases, the NVOCC chooses to file this information directly to CBP, sidestepping the confidentiality concerns, but the legal burden is on the vessel operating carrier so some NVOCCs feel pressured to share this information with the carrier. Under this rule, the ISF Importer for FROB cargo is either the NVOCC or the vessel operating carrier, depending on which of these parties is the party causing the goods to arrive within the limits of a port in the United States by vessel.

Likewise, the current definition of ISF Importer causes confusion for IE and T&E cargo. It provides that the ISF Importer in these cases is the filer of the IE or T&E documentation. This causes confusion because the IE or T&E documentation often is not created until the cargo arrives in the United States. This is problematic because ISF information must be submitted at least 24 hours prior to lading. To address this issue and to ensure that the ISF Importer has a bona fide interest in the commercial shipment, this rule expands the definition of ISF Importer for IE and T&E in-bond shipments to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. The rule also makes a similar change to the definition of the ISF Importer of FTZ cargo. With this change, the ISF Importer includes the party with a bona fide interest in the commercial shipment and who has access to the required data in the specified time frame.

The modification of the definition of ISF Importer simply shifts the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ

cargo). For IE, T&E, and FTZ cargo, the party that is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party that has the data such as the owner, purchaser, consignee, or agent often files the data, though that party is not legally obligated to file it. Under this rule, these parties that have the data are now included in the definition of the party responsible for filing the data. Since these parties are generally the ones currently submitting this data to CBP, this change will have no significant impact.

In some rare instances, this final rule may shift the burden of filing from one party to another. For example, since the party currently responsible for filing may not be involved in the transaction at the time the data must be submitted, it could be one of several parties (*e.g.*, the owner, purchaser, consignee, or agent) that actually submits the information. Once this rule is in effect, there will be greater clarity as to which party is responsible, which could change who actually submits the data. In the vast majority of cases, there will be no change in who submits the data, but it is possible that there will be a change in some cases.

To the extent that there is a change in who actually submits the ISF data, there will be a shift in the time burden to do so from one party to the other. CBP estimates that submitting this information takes 2.19 hours at a cost of \$50.14 per hour.² This loaded wage rate was estimated by multiplying the Bureau of Labor Statistics' (BLS) 2014 median hourly wage rate for Ship and Boat Captains and Operators (\$32.73) by the ratio of BLS' average 2014 total compensation to wages and salaries for Transportation and Material Moving occupations (1.5319), the assumed occupational group for ship and boat captains and operators, to account for non-salary employee benefits.^{3,4} Therefore, to the extent this rule shifts the reporting burden from one party to the other, there will be a corresponding shift of

² This differs from the estimated wage rate on the most recent supporting statement for this information collection: OMB Control Number 1651-0001, available at: http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201506-1651-003, which is based on outdated data. We will update the wage rate in this supporting statement the next time the Information Collection Review (ICR) is renewed.

³ Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, "May 2014 National Occupational Employment and Wage Estimates, United States-Median Hourly Wage by Occupation Code: 53-5020." Updated March 25, 2015. Available at http://www.bls.gov/oes/2014/may/oes_nat.htm#53-0000. Accessed June 15, 2015.

⁴ The total compensation to wages and salaries ratio is equal to the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of the total compensation cost per hour worked for Transportation and Material Moving occupations (26.62) divided by the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of wages and salaries cost per hour worked for the same occupation category (17.3775). Source of total compensation to wages and salaries ratio data: U.S. Bureau of

\$109.81 in opportunity cost per filing. CBP lacks data showing how often there will be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. When it published the proposed rule, CBP requested comments on this matter and did not receive any.

For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. Under this rule, with limited exceptions, the party that has access to the ISF information will submit it directly to CBP. Since this third party is generally already providing the ISF information through the current ISF Importer or directly to CBP, this rule will not add a significant burden to these entities. As described above, to the extent that this rule shifts the reporting burden from one party to the other, there will be a corresponding shift of \$109.81 in opportunity cost per filing. CBP lacks data showing how often there will be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. When it published the proposed rule, CBP requested comment on this matter and received one saying that the impact would be infinitesimally small except for when a ship is diverted unexpectedly (for example, due to weather). The commenter stated that in this case placing the burden on the NVOCC would be burdensome because the NVOCC does not have control of the vessel and would not necessarily have the information needed to file. CBP agrees with the commenter and notes that in such situations, the reporting burden would remain with the carrier, as it was the party that caused the goods to arrive within the limits of a port in the United States by vessel. We therefore maintain our assumption that the reporting burden due to this provision is very small and possibly zero.

This final rule benefits all parties by eliminating the confusion surrounding the responsibility for the submission of ISF information. Under the expanded definition, the party that has a commercial interest in the cargo and the best access to ISF information will fall within the definition of ISF Importer. This will improve the accuracy of the information CBP uses for targeting. In addition, this rule significantly reduces confidentiality concerns that may be caused by

Labor Statistics. Employer Costs for Employee Compensation. *Employer Costs for Employee Compensation Historical Listing March 2004—December 2015*, Table 3. Civilian workers, by occupational group: employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004–2015 by Respondent Type: Transportation and material moving occupations.” June 10, 2015. Available at <http://www.bls.gov/nces/ect/sp/ecccqrtn.pdf>. Accessed June 15, 2015.

the current requirements. Finally, eliminating a step in the transmission process (sending the ISF information from the third party to the current ISF Importer) will result in CBP getting the information sooner. Any extra time can be used for more extensive targeting.

B. Regulatory Flexibility Act

This section examines the impact of the rulemaking on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), 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).

In the Interim Final Rule establishing the ISF requirements (73 FR 71730; November 25, 2008, CBP Decision 08-46; Docket Number USCBP-2007-0077), CBP concluded that many importers of containerized cargo are small entities. The rule could affect any importer of containerized cargo so it could have an impact on a substantial number of small entities.

This impact, however, is very small. The modification of the definition of ISF Importer simply shifts the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ cargo). For IE, T&E, and FTZ cargo, the party that is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party such as the owner, purchaser, consignee, or agent often files the data, though that party is not legally obligated to file it. Under this rule, these parties will be included in the definition of the party responsible for filing the data. Since these parties are currently submitting this data to CBP, this change will have no significant impact. For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. In this rule, CBP is expanding the definition of ISF Importer so that the party that most likely has access to the ISF information will submit it directly to CBP as the ISF Importer. Since this third party is already providing the ISF information through the current ISF Importer or directly to CBP, this rule will not add a significant burden to these entities.

For these reasons, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information related to this final rule are approved by OMB under collection 1651–0001.

List of Subjects in 19 CFR Part 149

Customs duties and inspection, Foreign trade, Foreign trade zones, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

Amendment to the Regulations

For the reasons stated in the preamble, DHS amends part 149 of title 19 of the Code of Federal Regulations (19 CFR part 149) as set forth below:

PART 149—IMPORTER SECURITY FILING

■ 1. The authority citation for part 149 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1624, 2071 note.

■ 2. In § 149.1, paragraph (a) is revised to read as follows:

§ 149.1 Definitions.

(a) *Importer Security Filing Importer.* For purposes of this part, Importer Security Filing (ISF) Importer means the party causing goods to arrive within the limits of a port in the United States by vessel. For shipments other than foreign cargo remaining on board

(FROB), the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a Foreign Trade Zone (FTZ), the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. For FROB cargo, the ISF Importer will be the carrier or the non-vessel operating common carrier.

* * * * *

ELAINE C. DUKE,
Deputy Secretary.

[Published in the Federal Register, April 12, 2018 (83 FR 15736)]



U.S. Immigration and Customs Enforcement

ANNOUNCEMENT OF PROGRAM FOR THE PRIVATE SECTOR TO PARTICIPATE IN TRADE-RELATED TRAINING OF U.S. CUSTOMS AND BORDER PROTECTION AND U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT PERSONNEL; CORRECTION

AGENCY: U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security.

ACTION: General notice; correction.

SUMMARY: CBP and ICE published a document in the **Federal Register** of February 16, 2018, concerning the process to solicit, evaluate, and select interested parties in the private sector to fulfill agency needs for instruction and related instructional materials for trade-related training, pursuant to section 104 of the Trade Facilitation and Trade Enforcement Act of 2015. The document contained incorrect contact information.

DATES: This correction is effective April 12, 2018.

FOR FURTHER INFORMATION CONTACT: Keith Josephson, Trade Transformation Office, U.S. Customs & Border Protection, at 571-468-5108.

Correction

In the **Federal Register** of February 16, 2018, in FR Doc. 2018-03233, on page 7064, in the first column, correct the **FOR FURTHER INFORMATION CONTACT** caption to read:

FOR FURTHER INFORMATION CONTACT: Questions should be addressed to agency-designated personnel below:

CBP: Keith Josephson (571-468-5108).

ICE: Special Agent Nadine Andrews (703-603-3955).

All other information contained in the notice remains unchanged.

Dated: April 9, 2018.

ALICE A. KIPEL,
Executive Director,
Regulations and Rulings, Office of Trade,
U.S. Customs and Border Protection.

[Published in the Federal Register, April 12, 2018 (83 FR 15856)]

**ACCREDITATION AND APPROVAL OF INTERTEK USA,
INC. (SIGNAL HILL, CA) AS A COMMERCIAL GAUGER AND
LABORATORY**

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

ACTION: Notice of accreditation and approval of Intertek USA, Inc. (Signal Hill, CA), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Intertek USA, Inc. (Signal Hill, CA), 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 6, 2017.

DATES: Intertek USA, Inc. (Signal Hill, CA) was approved and accredited as a commercial gauger and laboratory as of June 6, 2017. The next triennial inspection date will be scheduled for June 2020.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, 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 Intertek USA, Inc., 1941 Freeman Ave., Suite A, Signal Hill, CA 90755, 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. Intertek USA, Inc., 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. |
| 12 | Calculations. |
| 17 | Maritime measurement. |

Intertek USA, Inc., 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 |
|-------------|-------|---|
| 27-03 | D4006 | Method for Water in Crude Oil by Distillation. |
| 27-04..... | D95 | Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation. |
| 27-05..... | D4928 | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27-06..... | D473 | Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method. |
| 27-11..... | D445 | Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids. |
| 27-13..... | D4294 | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27-46..... | D5002 | Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer. |
| 27-48..... | D4052 | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |

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 website 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: April 4, 2018.

JAMES D. SWEET,
*Acting Executive Director,
Laboratories and
Scientific Services Directorate.*

[Published in the Federal Register, April 11, 2018 (83 FR 15591)]

AGENCY INFORMATION COLLECTION ACTIVITIES:
**Trusted Traveler Programs and U.S. APEC Business
Travel Card**

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted (no later than June 5, 2018 to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0121 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments: (1) *Email:* Submit comments to: *CBP_PRA@cbp.dhs.gov*. (2) *Mail:* Submit written comments to CBP Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 90 K Street NE, 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border

Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number (202) 325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Trusted Traveler Programs and U.S. APEC Business Travel Card.

OMB Number: 1651-0121.

Form Number: 823S (SENTRI) and 823F (FAST).

Abstract: This collection of information is for CBP's Trusted Traveler Programs, including the Secure Electronic Network for Travelers Rapid Inspection (SENTRI), which allows expedited entry at specified land border ports of entry along the U.S.-Mexico border; the Free and Secure Trade (FAST) Program, which provides expedited border processing for known, low-risk

commercial drivers; and Global Entry, which allows pre-approved, low-risk air travelers expedited clearance upon arrival into the United States.

The purpose of all of these programs is to provide prescreened travelers expedited entry into the United States. The benefit to the traveler is less time spent in line waiting to be processed. These Trusted Traveler Programs are provided for in 8 CFR 235.7, 235.12, and 8 CFR 103.7(b)(1)(ii)(G)and(M).

This information collection also includes the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC) Program, which is a voluntary program that allows U.S. citizens to use fast-track immigration lanes at airports in the 20 other APEC member countries. This program is mandated by the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011, Public Law 112–54, and provided for by 8 CFR 235.13 and 8 CFR 103.7(b)(1)(ii)(N). Pursuant to these laws and regulations, ABTCs could be issued through September 30, 2018. On November 2, 2017, the President signed into law the Asia-Pacific Economic Corporation Business Travel Cards Act of 2017, which makes the ABTC Program permanent. Public Law 115–79. CBP is in the process of updating 8 CFR 235.13 to conform to the new law.

The data is collected on the applications and kiosks for the Trusted Traveler Programs. Applicants may apply to participate in these programs by using the Trusted Traveler Program Systems (TTP Systems) at <https://ttp.cbp.dhs.gov/>. Applicants may also apply for SENTRI and FAST using paper forms (CBP Form 823S for SENTRI and CBP Form 823F for FAST) available at <http://www.cbp.gov> or at Trusted Traveler Enrollment Centers. After arriving at the Federal Inspection Services area of the airport, participants in Global Entry can undergo a self-service inspection process using a Global Entry kiosk. During the self-service inspection, participants have their photograph and fingerprints taken, submit identifying information, and answer several questions about items they are bringing into the United States. When using the Global Entry kiosks, participants are required to declare all articles being brought into the United States pursuant to 19 CFR 148.11.

Current Actions: This submission is being made to extend the expiration date with no change to the information collected. There is an increase to the burden hours.

Type of Review: Extension (without change).

Affected Public: Individuals and Businesses.

SENTRI (Form 823S)

Estimated Number of Annual Respondents: 126,645.

Estimated Number of Total Annual Responses: 126,645.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 84,852.

FAST (Form 823F)

Estimated Number of Annual Respondents: 12,617.

Estimated Number of Total Annual Responses: 12,617.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 8,453.

Global Entry

Estimated Number of Annual Respondents: 1,414,434.

Estimated Number of Total Annual Responses: 1,414,434.

Estimated Time per Response: 40 minutes.

Estimated Total Annual Burden Hours: 947,670.

ABTC

Estimated Number of Annual Respondents: 14,215.

Estimated Number of Total Annual Responses: 14,215.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 2,416.

Global Entry Kiosks

Estimated Number of Annual Respondents: 9,750,212.

Estimated Number of Total Annual Responses: 9,750,212.

Estimated Time per Response: 1 minute.

Estimated Total Annual Burden Hours: 156,003.

Dated: April 3, 2018.

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