

U.S. Customs and Border Protection

19 CFR PARTS 4 and 24

[CBP Dec. 12-04; USCBP-2008-0085]

RIN 1515-AD74

INTEREST ON UNTIMELY PAID VESSEL REPAIR DUTIES

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the proposed amendments to the CBP regulations that provide that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest. The purpose of this document is to ensure that the CBP regulations reflect that CBP collects interest as part of its inherent revenue collection functions in situations where an owner or master of a vessel fails to pay the vessel repair duties determined to be due within 30 days of CBP issuing the bill.

EFFECTIVE DATE: April 25, 2012.

FOR FURTHER INFORMATION CONTACT: George F. McCray, Chief, Cargo Security, Carriers and Immigration Branch, Regulations and Rulings, Office of International Trade, (202) 325-0082.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 2011, U.S. Customs and Border Protection (CBP) published in the **Federal Register** (76 FR 18132) a proposal to amend title 19 of the Code of Federal Regulations (19 CFR) regarding the payment of interest on untimely paid vessel repairs. Specifically, CBP

proposed amendments to the regulations to provide that where an owner or master of a vessel documented under the laws of the United States fails to timely pay the duties determined to be due to CBP that are associated with the purchase of equipment for, or repair to, the vessel while it is outside the United States, interest will accrue on the amounts owed to CBP and that person will be liable for interest.

CBP solicited comments on the proposed rulemaking.

Discussion of Comment

One commenter responded to the solicitation of public comment in the proposed rule. The comment was favorable and recommended adoption of the proposed amendments as a final rule.

Conclusion

In light of the fact that a single favorable comment was submitted in response to CBP's solicitation of public comment, CBP has determined to adopt as final the proposed rule published in the **Federal Register** (76 FR 18132) on April 1, 2011 without change.

The Regulatory Flexibility Act and Executive Order 12866

Because these amendments merely reflect the agency's revenue collection functions and rights, and impose no additional regulatory burden on the importing public, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Further, these amendments do not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Paperwork Reduction Act

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

Signing Authority

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

List of Subjects

19 CFR Part 4

Administrative practice and procedure, Cargo vessels, Customs duties and inspection, Entry, Passenger vessels, Penalties, Repairs, Reporting and recordkeeping requirements, Shipping, Vessels.

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

Amendments to the Regulations

For the reasons set forth in the preamble, parts 4 and 24 of title 19 of the CFR (19 CFR Parts 4 and 24) are amended as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADE

■ 1. The general authority citation for part 4 continues, and the specific authority citation for § 4.14 is revised, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.14 also issued under 19 U.S.C. 1466, 1498; 31 U.S.C. 9701.

* * * * *

■ 2. In § 4.14:

■ a. The section heading is revised;

■ b. Paragraph (i)(3) is redesignated as paragraph (i)(4) and a new paragraph (i)(3) is added; and

■ c. Paragraph (j)(1) is amended by adding a new third sentence.

The revisions and additions read as follows:

§ 4.14 Equipment purchases for, and repairs to, American vessels.

* * * * *

(i) * **

(3) *Application for Relief; failure to file or denial in whole or in part.* If no Application for Relief is filed, or if a timely filed Application for Relief is denied in whole or in part, the VRU will determine the amount of duty due and issue a bill to the party who filed the vessel repair entry. If the bill is not timely paid, interest will accrue as provided in § 24.3a(b)(1) of this chapter.

(j) * * *

(1) * * * The owner or master of the vessel who fails to timely pay the duty determined to be due is liable for interest as provided in § 24.3a(b)(1) of this chapter.

* * * * *

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 3. The general authority citation for part 24 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States, 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 3717, 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

* * * * *

■ 4. Section 24.3a is amended:

■ a. By revising the section heading;

■ b. In paragraph (a): by adding, after the parenthetical phrase that ends with the word “reliquidation”, the language “, or vessel repair duties,”; and by removing the words “shall be” and adding in their place the word “are”;

■ c. In the heading text to paragraph (b)(1), by adding after the word “for” the words “vessel repair duties,”;

■ d. In paragraph (b)(2)(i) introductory text, by removing the word “shall” and adding in its place the word “will”;

■ e. In paragraph (b)(2)(i)(A), by removing the word “shall” and adding in its place the word “will”;

■ f. In paragraph (b)(2)(i)(B) introductory text, by removing the word “shall” and adding in its place the word “will”;

■ g. In paragraph (b)(2)(i)(B)(1), by removing the word “shall” and adding in its place the word “will”;

■ h. In paragraph (b)(2)(i)(B)(2), by removing the word “shall” and adding in its place the word “will”;

■ i. In paragraph (b)(2)(i)(B)(3), by removing the word “shall” wherever it appears and adding in each place the word “will”;

■ j. In paragraph (b)(2)(i)(B)(4), by removing the word “shall” and adding in its place the word “will”;

■ k. In paragraph (b)(2)(i)(C), by removing the word “shall” and adding in its place the word “will”;

■ l. In paragraph (b)(2)(ii), by removing the word “shall” wherever it appears and adding in each place the word “will”; and

■ m. In paragraph (c)(1), by removing the words “CBP Office of Finance, Indianapolis, Indiana” and adding in their place the language “CBP’s Revenue Division, Office of Administration”.

The revision reads as follows:

§ 24.3a CBP bills; interest assessment on bills; delinquency; notice to principal and surety.

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

Dated: March 21, 2012.

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

[Published in the Federal Register, March 26, 2012 (77 FR 17331)]

CBP Dec. No. 12-05

EXPANSION OF GLOBAL ENTRY TO ADDITIONAL AIRPORTS

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

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) has established an international trusted traveler program, referred to as Global Entry, at twenty major U.S. airports. Global Entry allows pre-approved, low-risk participants expedited entry into the United States using Global Entry kiosks located at designated airports. This document announces the expansion of the program to include four additional airports.

DATES: Global Entry will be available at all four airport locations on or before September 22, 2012. The exact starting date for each airport location will be announced on the Web site at <http://www.globalentry.gov>.

FOR FURTHER INFORMATION CONTACT: Larry Panetta, Office of Field Operations, (202) 344-1253, Larry.Panetta@dhs.gov.

SUPPLEMENTARY INFORMATION:**Background***Global Entry Program*

Global Entry is a voluntary program that allows for the expedited clearance of pre-approved, low-risk travelers arriving in the United States at Global Entry kiosks located at designated airports. The Global Entry final rule, published on February 6, 2012, promulgated the regulation to establish Global Entry as a permanent regulatory program and contains a detailed description of the program, the eligibility criteria, the application and selection process, and the initial airport locations. *See* 77 FR 5681 and 8 CFR 235.12. Travelers who wish to participate in Global Entry must apply via the CBP Global Entry Web site, <http://www.globalentry.gov> or through the Global On-Line Enrollment System (GOES) Web site, <https://goes-app.cbp.dhs.gov>. Applications must be completed and submitted electronically.

The twenty airports initially chosen for Global Entry were those facilities which typically experience the largest numbers of travelers arriving from outside of the United States. They include:

- John F. Kennedy International Airport, Jamaica, New York (JFK);
- The George Bush Intercontinental Airport, Houston, Texas (IAH);
- The Washington Dulles International Airport, Sterling, Virginia (IAD);
- Los Angeles International Airport, Los Angeles, California (LAX);
- Hartsfield-Jackson Atlanta International Airport, Atlanta, Georgia (ATL);
- Chicago O'Hare International Airport, Chicago, Illinois (ORD);
- Miami International Airport, Miami, Florida (MIA);
- Newark Liberty International Airport, Newark, New Jersey (EWR);
- San Francisco International Airport, San Francisco, California (SFO);
- Orlando International Airport, Orlando, Florida (MCO);

- Detroit Metropolitan Wayne County Airport, Romulus, Michigan (DTW);
- Dallas Fort Worth International Airport, Dallas, Texas (DFW);
- Honolulu International Airport, Honolulu, Hawaii (HNL);
- Boston—Logan International Airport, Boston, Massachusetts (BOS);
- Las Vegas—McCarran International Airport, Las Vegas, Nevada (LAS);
- Sanford—Orlando International Airport, Sanford, Florida (SSB);
- Seattle—Tacoma International Airport-SEATAC, Seattle, Washington (STT);
- Philadelphia International Airport, Philadelphia, Pennsylvania (PHL);
- San Juan—Luis Munos Marin International Airport, San Juan, Puerto Rico (SAJ);
- Ft. Lauderdale Hollywood International Airport, Fort Lauderdale, Florida (FLL), including the General Aviation Facility private aircraft terminal.

The preamble to the final rule states that when CBP is ready to expand Global Entry to additional airports and has selected the airports, CBP will publish an announcement in the **Federal Register** and in a posting on the Web site, <http://www.globalentry.gov>.

Expansion of Global Entry Program to Additional Airports

CBP is expanding the Global Entry program to include the following four additional airports: St. Paul International Airport, Minneapolis, Minnesota (MSP); Charlotte Douglas International Airport, Charlotte, North Carolina (CLT); Phoenix Sky Harbor International Airport, Phoenix, Arizona (PHX); and Denver International Airport, Denver, Colorado (DEN). Global Entry will become operational at all four airports on or before September 22, 2012. The exact starting dates of the expansion of Global Entry to each airport location will be announced on the Web site at <http://www.globalentry.gov>.

Dated: March 21, 2012.

KEVIN K. McALEENAN,
*Acting Assistant Commissioner,
Office of Field Operations.*

19 CFR Part 111**[USCBP-2010-0038]****RIN 1651-AA80****PERMISSIBLE SHARING OF CLIENT RECORDS BY
CUSTOMS BROKERS**

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

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking, published in the **Federal Register** on October 27, 2010, that proposed amendments to the Customs and Border Protection (CBP) regulations that would allow brokers, upon the client's consent in a written authorization, to share client information with affiliated entities related to the broker so that these entities may offer non-customs business services to the broker's clients. Although the proposed rule was prepared in response to a request from a member of the broker community seeking to allow brokers to share clients' information for marketing purposes, there was opposition to the proposal from brokers due to the condition on sharing the information that CBP included in the document to protect importers' proprietary information. The notice is being withdrawn to permit further consideration of the relevant issues involved in the proposed rulemaking.

DATES: Effective March 26, 2012, the proposed rule published October 27, 2010, (75 FR 66050), is withdrawn.

FOR FURTHER INFORMATION CONTACT: Anita Harris, Chief, Broker Compliance Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6069.

SUPPLEMENTARY INFORMATION:**Background**

On October 27, 2010, Customs and Border Protection (CBP) published a notice of proposed rulemaking in the **Federal Register** (75 FR 66050) pertaining to the obligations of customs brokers to keep clients' information confidential. The proposed amendment would allow brokers, upon the client's written consent, to share client information with affiliated entities related to the broker so that these entities may offer non-customs business services to the broker's clients. The proposed amendment would also allow customs brokers to use a third-party to perform photocopying, scanning, and delivery of

client records for the broker. These proposed changes were intended to update the regulations to reflect modern business practices, while protecting the confidentiality of client (importer) information. The comment period ended on December 27, 2010.

CBP received public comment on the proposed rulemaking. The majority of commenters expressed concern that the proposed rule did not serve the interests of the importing public. Specifically, there was opposition to the proposal from brokers due to the condition on sharing the information that CBP included in the document to protect importers' proprietary information.

Withdrawal of Notice of Proposed Rulemaking

CBP is withdrawing the notice published in the **Federal Register** (75 FR 66050) on October 27, 2010, pending further consideration of the relevant issues involved in the proposed rulemaking.

Dated: March 21, 2012.

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

[Published in the Federal Register, March 26, 2012 (77 FR 17367)]



19 CFR Part 148

[USCBP-2012-0008]

RIN 1515-AD76

MEMBERS OF A FAMILY FOR PURPOSE OF FILING A CBP FAMILY DECLARATION

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

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to revise its regulations regarding U.S. returning residents who are eligible to file a single customs declaration for members of a family traveling together upon arrival in the United States. Specifically, CBP is proposing to expand the definition of the term "members of a family residing in one household" to allow more U.S. returning residents to file a family customs declaration for articles acquired abroad. CBP anticipates that this proposed change will reduce the amount of paperwork that CBP officers would need to review during inspection and, therefore, facilitate passenger processing. CBP believes that this

proposed change would more accurately reflect relationships between members of the public who are traveling together as a family.

DATES: Written comments must be received on or before May 29, 2012.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via Docket No. USCBP 2012-0008.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street NW., (Mint Annex), Washington, DC 20229-1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. 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 this 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 regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Sophie Galvan, Program Manager, Trusted Traveler Programs, Office of Field Operations, (202) 344-2292.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed 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 proposed rule. Comments that will provide the most assistance to CBP in developing these procedures

will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change. See **ADDRESSES** above for information on how to submit comments.

Background

Individuals entering the United States must declare all articles acquired abroad to CBP at the port of first arrival in the United States. Returning residents and nonresidents arriving in the United States must make a declaration, either oral or written, of the merchandise they are importing and must pay duty on the merchandise unless specifically exempted by law. See 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)). Unless an oral declaration is accepted, a person arriving in the United States must complete a written declaration on CBP Form 6059-B and present the form to the CBP officer at inspection.

Personal Exemptions

Subheadings 9804.00.65, 9804.00.70 and 9804.00.72, Chapter 98, HTSUS, extend, under prescribed circumstances, duty exemptions to certain articles imported by or for the account of any person arriving in the United States who is a returning resident of the United States. The duty exemptions (also known as personal exemptions) set forth in these tariff schedule subheadings specify the aggregate fair retail value of merchandise that a returning resident may bring back to the United States without having to pay duty. As authorized by General Note 3(i), HTSUS, part 148 of title 19 of the Code of Federal Regulations (19 CFR) (CBP regulations) sets forth regulations pertaining to personal declarations and exemptions under subchapter IV (Personal Exemptions Extended to Residents and Nonresidents), Chapter 98, HTSUS.

Family Declarations and Grouping of Exemptions

When members of a family residing in one household travel together on their return to the United States, a responsible family member may make a joint declaration, either oral or written, for all members of the family traveling together. This joint family declaration is contingent upon the value of the articles acquired abroad not exceeding the total amount of the exemption to which the family group is entitled. See 19 CFR 148.14. CBP regulations also allow for the aggregation, or grouping, of exemptions by members of a family for articles acquired abroad and for the aggregation of duty allowances for household goods by members of a family. See 19 CFR 148.14, 148.34, and 148.103. For example, when members of a family residing

in one household travel together on their return to the United States, the \$800 or \$1,600 exemption, which each family member may be entitled to claim, may be grouped together without regard to which member of the family is the owner of the articles.¹ 19 CFR 148.34.

Under the current regulations relating to family declarations, a family may file a single, aggregated customs declaration only if they satisfy the definition of “members of a family residing in one household.” See 19 CFR 148.34(b) and 148.103(b). This definition requires that members of a family traveling together who return to the United States be related “by blood, marriage, or adoption;” live together in the same household at their last permanent residence; and intend to live in the same household after returning to the United States. CBP does not believe that the current definition encompasses other relationships where members of the public travel together as a family. CBP believes that the definition unnecessarily limits the number of individuals who may file a family customs declaration for articles acquired abroad.

Proposed Changes to Family Customs Declarations

This NPRM proposes to expand the definition of “members of a family residing in one household” for purposes of filing a customs declaration for returning U.S. residents to more accurately reflect relationships among members of the public who are traveling together as a family.

By expanding the definition of “members of a family residing in one household,” CBP anticipates that the number of declarations (CBP Form 6059–Bs) will be reduced, which would make the processing of passengers by CBP officers more streamlined and efficient. Additionally, CBP believes the traveling public will benefit because more members of a family traveling together can aggregate their individual personal duty exemptions upon their return to the United States.

Under this NPRM, CBP is proposing to include foster children, stepchildren, half-siblings, legal wards, other dependents, and individuals with an *in loco parentis* or guardianship relationship within the definition of “members of a family residing in one household.” CBP also is proposing that the definition include two adult individuals in a committed relationship wherein the partners share financial assets and obligations, and are not married to, or a partner of, anyone else, including, but not limited to, long-time companions, and couples

¹ A group exemption, however, cannot include an exemption for a family member who is not entitled to it in his own right, nor can a group exemption apply to any property of such a member. For example, the exemption of a family member who has not attained the age of 21 regarding the number of permitted duty-free liters of alcoholic beverages cannot be applied under the group exemption.

in civil unions or domestic partnerships. This NPRM proposes to add these relationships to the definition of “members of a family residing in one household” and refer to them as “domestic relationships.” The proposed term “domestic relationship” would not extend to roommates or other cohabitants not otherwise meeting the above definition. Additionally, the proposed changes would not alter the residency requirements that, in order to file a family declaration, members of a family residing in one household must live together in one household at their last permanent residence and intend to live together in one household after their arrival in the United States.

Other Non-Substantive, Changes to the Regulations

This proposal would also remove outdated references to “resident servants” of a family and state instead that individuals employed by the household but not related by blood, marriage, domestic relationship, or adoption cannot be included in the family declaration.

Finally, this NPRM proposes to remove the phrase “regardless of age” where it currently appears in the introductory text of §§ 148.34(b) and 148.103(b), because it would not be consistent with the proposed definition of “domestic relationships,” which is limited to adults.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 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 has been designated a “significant regulatory action” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this rule.

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. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), which requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (i.e., small business,

small organizations, and small governmental jurisdictions) when the agency is required to publish a general notice of proposed rulemaking for any proposed rule.

This rule directly regulates individuals and families, and these are not considered small entities. Therefore, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities. CBP welcomes any comments on this conclusion.

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 Office of Management and Budget (OMB). The information collected under 19 CFR part 148 is included under OMB control number 1651-0009. There are no new collections of information proposed in this document. The estimated burden hours related to the completion of the CBP Form 6059-B (Customs Declaration) for OMB control number 1651-0009 by members of the public traveling by air and sea have been updated below to reflect the slight decrease in the number of Customs Declarations that are submitted if the definition of a “member of a family residing in one household” in this proposal is adopted, as follows

Estimated Number of Respondents (Travelers): 1,100,000.

Estimated Time per Response: 4 minutes.

Estimated Total Responses: 1,100,000.

Estimated Total Annual Burden Hours: 2,600.

The Customs Declaration (CBP Form 6059B) is due to expire in February 2014. CBP Form 6059B can be seen on the following Web site: http://www.cbp.gov/xp/cgov/travel/vacation/sample_declaration_form.xml. CBP seeks public comment as to as to whether and how the Customs Declaration form could more clearly inform U.S. residents of the definition of family for the purposes of filling out a customs declaration.

Signing Authority

This 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 in 19 CFR Part 148

Customs duties and inspection, Declarations, Reporting and record-keeping requirements, Taxes.

Amendments to the CBP Regulations

For the reasons set forth above, part 148 of the CBP regulations (19 CFR part 148) is proposed to be amended as set forth below.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority for part 148 continues to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States);

* * * * *

§ 148.14 [Amended]

2. Section 148.14 is amended by removing the last sentence and adding in its place the sentence “Individuals who are employed by the household but not related by blood, marriage, domestic relationship, or adoption will not be included in the family declaration.”

3. In § 148.34:

a. Paragraph (a) is amended by removing the last sentence and adding in its place the sentence “No exemptions allowable to individuals employed by the household and accompanying the family but not related by blood, marriage, domestic relationship, or adoption will be included in the family grouping.”; and

b. By revising paragraph (b) and adding a new paragraph (c).

The additions and revisions to § 148.34 are to read as follows:

§ 148.34 Family grouping of exemptions for articles acquired abroad.

* * * * *

(b) *Members of a family residing in one household.* “Members of a family residing in one household” includes all persons who:

(1) Are related by blood, marriage, domestic relationship, or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live in one household after their arrival in the United States.

(c) *Domestic relationship.* As used in paragraph (b)(1), the term “domestic relationship” includes foster children, stepchildren, half-

siblings, legal wards, other dependents, individuals with an *in loco parentis* or guardianship relationship, and two adults who are in a committed relationship including, but not limited to, long-time companions, and couples in civil unions, or domestic partnerships, wherein the partners share financial assets and obligations, and are not married to, or a partner of, anyone else. The term “domestic relationship” does not extend to roommates or other cohabitants not otherwise meeting this definition.

4. Section 148.103(b) is revised to read as follows:

§ 148.103 Family grouping of allowances.

* * * * *

(b) *Members of a family residing in one household.* “Members of a family residing in one household” includes all persons who:

(1) Are related by blood, marriage, domestic relationship (as defined in § 148.34(c)), or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live in one household after their arrival in the United States.

ALLEN GINA,
Acting Commissioner,
U.S. Customs and Border Protection.

Dated: March 20, 2012.

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

[Published in the Federal Register, March 27, 2012 (77 FR 18143)]

DEPARTMENT OF THE TREASURY
19 CFR Part 12

[Docket No. USCBP-2012-0004]

RIN 1515-AD82

**INADMISSIBILITY OF CONSUMER PRODUCTS AND
INDUSTRIAL EQUIPMENT NONCOMPLIANT WITH
APPLICABLE ENERGY CONSERVATION OR LABELING
STANDARDS**

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the Customs and Border Protection (CBP) regulations to provide that if certain imports do not comply with applicable energy conservation or labeling standards, CBP will refuse admission when so notified by the Department of Energy (DOE) or the Federal Trade Commission (FTC) and CBP may, upon a recommendation from DOE or FTC, conditionally release the goods so that they may be brought into compliance. Specifically, CBP will refuse admission into the customs territory of the United States to consumer products and industrial equipment deemed noncompliant with the Energy Policy and Conservation Act of 1975 (EPCA) and its implementing regulations, and for which CBP has received written notice from the DOE or the FTC that identifies merchandise as noncompliant with applicable EPCA requirements. In lieu of immediate refusal of admission, and upon written or electronic notice by DOE or FTC, CBP may conditionally release under bond to the importer such noncompliant products or equipment for purposes of reconditioning, re-labeling, or other action so as to bring the subject product or equipment into compliance with applicable energy conservation and labeling admissibility standards. If the subject import is not timely brought into compliance, CBP, at the direction of DOE or FTC, will issue a refusal of admission notice to the importer and demand redelivery of the subject products to CBP custody. A failure to comply with a demand for redelivery will result in the assessment of liquidated damages. This proposed regulation, if adopted, will implement the mandate of the EPCA, as amended, to preclude admission into the United States of certain consumer products and industrial equipment that do not meet applicable labeling or energy conservation requirements.

DATES: Comments must be received on or before May 25, 2012.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2012-0004.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW. (Mint Annex), Washington, DC 20229-1179.

Instructions: All submissions received must include the agency name and USCBP docket number for this rulemaking. 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 this 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 regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

FOR FURTHER INFORMATION CONTACT: Mike Craig, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6558. Valarie M. Neuhart, Import Safety & Interagency Requirements Division, Office of International Trade, (202) 863-6223.

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. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Background

General

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94-163 (42 U.S.C. 6291-6309), as amended, established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances. Similarly, Title III, Part C of the EPCA, (42 U.S.C.

6311–6317) as amended, added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering industrial equipment.

Section 6302(a) of title 42 of the United States Code (42 U.S.C. 6302(a)), and its implementing regulations, prescribe the specific energy conservation and labeling standards applicable to manufacturers and, in some instances, private labelers, distributors, and retailers. Sections 6301 and 6316 of title 42 of the United States Code (42 U.S.C. 6301 and 6316) require the Secretary of the Treasury to issue regulations refusing admission into the customs territory of the United States to covered products or covered equipment offered for importation in violation of 42 U.S.C. 6302. The statute also provides the Secretary with the discretion to authorize the importation of covered products or covered industrial equipment under such terms and conditions (including the furnishing of a bond) that ensure that the merchandise will not violate 42 U.S.C. 6302.

Proposed Regulation

Pursuant to 42 U.S.C. 6301, this document proposes to amend part 12 of title 19 of the Code of Federal Regulations (19 CFR Part 12) by adding a new § 12.50 which provides that CBP will refuse admission into the customs territory of the United States to covered imports that the Department of Energy (DOE) or the Federal Trade Commission (FTC) has determined to be in violation of 42 U.S.C. 6302, upon receipt of written or electronic notice from the DOE or FTC, as appropriate. The notice will identify a named regulated party as being in violation of 42 U.S.C. 6302 and will describe the subject product or equipment in a manner sufficient to enable CBP to identify the articles.

While refusal of admission will be the norm, there may be instances where reconditioning, re-labeling, or other modification may bring an import into compliance with applicable energy conservation or labeling admissibility standards. Accordingly, this rule proposes a procedure to allow CBP to conditionally release noncompliant imports to the importer under a CBP basic importation and entry bond for purposes of bringing the merchandise into conformity with the applicable standards, upon a recommendation by the DOE or FTC. In any case involving conditional release of a covered import under bond, the CBP port director always retains the discretion to require additional security in any case where he believes that acceptance of a continuous bond would hamper the enforcement of the law. *See* 19 CFR 113.13(d). An initial conditional release period of 30 days is proposed to be established by this rulemaking.

If the DOE or FTC notifies CBP that the subject imports have been brought into compliance with applicable energy conservation and labeling admissibility standards before the conclusion of the 30-day conditional release period, or any authorized extension thereof, CBP may release the subject goods into the commerce and entry may be completed.

If attempts at modification fail within the 30-day conditional release period, or any authorized extension thereof, the DOE or FTC will notify CBP of that fact, and CBP will issue a notice of refusal of admission to the importer concurrent with a demand for redelivery under the terms and conditions of the CBP bond. A failure to comply with the demand for redelivery will result in the assessment of liquidated damages equal to three times the value of the imports at issue. Moreover, covered imports that are conditionally released will be under the concurrent jurisdiction of DOE and/or FTC.

The proposed amendments are consistent with § 429.5(b) of title 10 of the Code of Federal Regulations (10 CFR 429.5(b)), which is a DOE regulation that further notifies the importing public that any covered product or equipment offered for importation that does not meet the applicable energy conservation standards set forth in 42 U.S.C. 6291–6317 will be refused admission into the customs territory of the United States under CBP issued regulations.

Executive Order 12866

Executive Orders 13563 and 12866 direct agencies to assess 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 has been designated a “significant regulatory action” although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

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 proposed rule, if finalized, will establish a procedure whereby the DOE or the FTC will notify CBP of any imported article that is in violation of 42 U.S.C 6302 and its implementing regulations. Upon notification, CBP will refuse these articles admission into the commerce of the United States. Upon a recommendation by the DOE or FTC, however, CBP will conditionally release noncompliant imported articles under a CBP basic importation and entry bond for the purpose of bringing the merchandise into compliance with 42 U.S.C. 6302 and its implementing regulations. This conditional release is valid for a period of 30 days, but it may be extended by the DOE or FTC.

The DOE has identified only a small number of businesses importing noncompliant articles, of which fewer than five were small entities. When notified of their noncompliance, each of these businesses ceased importation of these articles. Given the small number of small entities identified by DOE as having been noncompliant and that the law prohibiting the importation of these noncompliant articles within the United States was enacted in 1975, CBP does not anticipate a significant number of small entities attempting to import articles which violate 42 U.S.C 6302 and its implementing regulations. If a small entity does import an article in violation of 42 U.S.C 6302 and its implementing regulations, the small entity can request the DOE or the FTC allow CBP to grant the imported article a conditional release. CBP believes that cost associated with this conditional release to be negligible because this request is virtually costless to the small entity and the importer is already required to maintain a CBP basic importation and entry bond.

Accordingly, CBP does not believe this rule will have a significant impact on a substantial number of small entities. CBP welcomes any comments regarding this assessment. If CBP does not receive any comments contradicting this finding, CBP will certify that this rule will not have a significant economic impact on a substantial number of small entities at the final rule stage.

Paperwork Reduction Act

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

Signing Authority

This proposed regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or

that of his delegate) to approve regulations related to certain customs revenue functions.

List of Subjects in 19 CFR Part 12

Customs duties and inspection, Electronic products, Entry of merchandise, Imports, Prohibited merchandise, Reporting and record-keeping requirements, Restricted merchandise, Seizure and forfeiture.

Proposed Amendments to the CBP Regulations

For the reasons stated above, it is proposed to amend part 12 of title 19 of the Code of Federal Regulations (19 CFR Part 12) as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 continues to read as follows and the specific authority citation is added 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;

* * * * *

Section 12.50 also issued under 42 U.S.C. 6301;

* * * * *

2. A new center heading and new § 12.50 are added to read as follows:

Consumer Products and Industrial Equipment Subject to Energy Conservation or Labeling Standards

§ 12.50 Consumer products and industrial equipment subject to energy conservation or labeling standards.

(a) *Definitions.* For purposes of this section, the following terms have the meanings indicated:

Covered import. The term “*covered import*” means a consumer product or industrial equipment that is classified by the Department of Energy as covered by an applicable energy conservation standard, or by the Federal Trade Commission as covered by an applicable energy labeling standard, pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6291–6317), and that is imported or attempted to be imported.

DOE. The term “*DOE*” means the Department of Energy.

Energy conservation standard. The term “*energy conservation standard*” means any standard meeting the definitions of that term in 42 U.S.C. 6291(6) or 42 U.S.C. 6311(18).

FTC. The term “*FTC*” means the Federal Trade Commission.

Noncompliant covered import. The term “*noncompliant covered import*” means a covered import that the Department of Energy (DOE) or the Federal Trade Commission (FTC) has determined to be in violation of 42 U.S.C. 6302.

(b) *CBP action.* If a covered import does not comply with applicable energy conservation or labeling admissibility standards, the DOE or FTC may direct CBP to either refuse admission of the covered import pursuant to paragraph (c) of this section or recommend conditional release of the covered import to be brought into compliance pursuant to paragraph (d) of this section.

(c) *Refusal of admission.* CBP will refuse admission into the customs territory of the United States to any noncompliant covered import upon receipt of written or electronic notice from the DOE (*see also* 10 CFR 429.5) or FTC that identifies the importer of the noncompliant covered import and describes the subject import in a manner sufficient to enable CBP to identify the article.

(d) *Conditional release.* In lieu of immediate refusal of admission into the customs territory of the United States, CBP, upon a recommendation from the DOE or FTC, may permit the release of a noncompliant covered import to the importer of record for purposes of reconditioning, re-labeling, or other modification. The release from CBP custody of any such covered import will be deemed conditional and subject to the bond conditions set forth in § 113.62 of this Chapter. Note: Conditionally released covered imports will also be subject to the jurisdiction of DOE and/ or FTC.

(1) *Duration.* Unless extended in accordance with paragraph (d)(2) of this section, the conditional release period will terminate upon the earliest occurring of the following events:

(i) The date that CBP issues a notice of refusal of admission pursuant to paragraph (c) of this section;

(ii) The date that the DOE or FTC issues a notice to CBP stating that the covered import is in compliance and may proceed; or

(iii) At the conclusion of the 30-day period following the date of release.

(2) *Extension.* The conditional release period may be extended if both CBP and the importer of record receive, within the initial 30-day conditional release period or any subsequent authorized extension thereof, a written or electronic notice from the DOE or FTC stating the reason for and anticipated length of the extension.

(3) *Issuance of a redelivery notice and demand for redelivery.* If the noncompliant covered import is not timely brought into compliance, and if so directed by DOE or FTC, CBP will issue a refusal of admis-

sion notice to the importer pursuant to paragraph (c) of this section and, in addition, CBP will demand the redelivery of the specified covered product to CBP custody. The demand for redelivery may be made concurrently with the notice of refusal of admission.

(4) *Liquidated damages.* A failure to comply with a demand for redelivery made under this paragraph (d) will result in the assessment of liquidated damages equal to three times the value of the covered product. Value as used in this provision means value as determined under 19 U.S.C. 1401a.

Dated: March 20, 2012.

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

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

[Published in the Federal Register, March 26, 2012 (77 FR 17364)]



**U.S. CUSTOMS AND BORDER PROTECTION 2012 WEST
COAST TRADE SYMPOSIUM: “TRANSFORMING TRADE
FOR A STRONGER ECONOMY”**

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

ACTION: Notice of trade symposium; correction.

SUMMARY: U.S. Customs and Border Protection (CBP) published a document in the **Federal Register** on March 19, 2012, announcing that it will be holding two trade symposia this year. One trade symposium will be held on the West Coast on May 10, 2012, and the other will be on the East Coast later in the year. This document corrects that March 19 document to note that the theme of this year’s symposia has been changed to “Transforming Trade for a Stronger Economy”; and to inform the public that the fees have changed for both attendance at the Long Beach Convention and Entertainment Center and for access to the live web-casting of the event; that the trade symposium will now be one hour longer, running from 8:30 a.m. until 4 p.m.; and that registration will open to the public on or about March 20, 2012.

DATES: Thursday, May 10, 2012, 8:30 a.m. to 4 p.m.

ADDRESSES: The CBP 2012 West Coast Trade Symposium will be held at the Long Beach Convention and Entertainment Center in the Grand Ballroom at 300 E. Ocean Boulevard, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: The Office of Trade Relations at (202) 344-1440, or at *tradeevents@dhs.gov*. To obtain the latest information on the Symposium and to register online, visit the CBP web site at *http://www.cbp.gov*. Requests for special needs should be sent to the Office of Trade Relations at *tradeevents@dhs.gov*.

SUPPLEMENTARY INFORMATION: CBP will be holding two trade symposia this year, one on the West Coast and one on the East Coast. This year's theme for the Trade Symposium is "Transforming Trade for a Stronger Economy." This document corrects a previous announcement published in the **Federal Register** (77 FR 16048) on March 19, 2012, about the West Coast trade symposium which will be held in Long Beach, California on May 10, 2012.

The corrections involve: the theme of the symposia (now called "Transforming Trade for a Stronger Economy"); the costs for both attending the West Coast symposium live and having live webcast access to the symposium; the hours of the symposium; and when registration opens to the public. The cost for attending the symposium has been changed to \$160 and the cost for the webcast has been changed to \$47. Also, the trade symposium is now scheduled to be one hour longer than was originally stated, running from 8:30 a.m. until 4 p.m. Registration will open to the public on or about March 20, 2012. All other information in the March 19, 2012 notice is unchanged.

The format of this year's West Coast symposium will be held in a general session; there will be no breakout sessions. Discussions will be held regarding CBP's role in international trade initiatives and programs.

The agenda for the 2012 West Coast Trade Symposium and the keynote speakers will be announced at a later date on the CBP Web site (*http://www.cbp.gov*). The registration fee is \$160.00 per person. Interested parties are requested to register early, as space is limited. Registration will open to the public on or about March 20, 2012. All registrations must be made on-line at the CBP web site (*http://www.cbp.gov*) and will be confirmed with payment by credit card only.

Due to the overwhelming interest to attend past symposia, each company is requested to limit their company's registrations to no

more than three participants, in order to afford equal representation from all members of the international trade community. If a company exceeds the limitation, any additional names submitted for registration will automatically be placed on the waiting list.

As an alternative to on-site attendance, access to live webcasting of the event will be available for a fee of \$47.00. This includes the broadcast and historical access to recorded sessions for a period of time after the event. Registration for this is on-line as well.

Please note that the 2012 East Coast Trade Symposium will be held later in the year.

Hotel accommodations will be announced at a later date on the CBP Web site (<http://www.cbp.gov>).

Dated: March 20, 2012

MINDY J. WALLACE,
*Senior Management and Program Analyst,
Office of Trade Relations.*

[Published in the Federal Register, March 23, 2012 (77 FR 17086)]



**QUARTERLY IRS INTEREST RATES USED IN
CALCULATING INTEREST ON OVERDUE ACCOUNTS AND
REFUNDS ON CUSTOMS DUTIES**

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

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning April 1, 2012, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: April 1, 2012.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614-4516.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2012-8, the IRS determined the rates of interest for the calendar quarter beginning April 1, 2012, and ending on June 30, 2012. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning July 1, 2012, and ending September 30, 2012.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (Eff. 1-1-99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (Eff. 1-1-99) (percent)
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4

Beginning date	Ending date	Under payments (percent)	Over payments (percent)	Corporate overpayments (Eff. 1-1-99) (percent)
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	063012	3	3	2

Dated: March 21, 2012.

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

[Published in the Federal Register, March 27, 2012 (77 FR 18256)]

ACCREDITATION AND APPROVAL OF INTERTEK USA, INC., 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 Caleb Brett as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 151.12 and 19 CFR 151.13, Intertek Caleb Brett, 6050 Egret Court, Benicia, CA 94510, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. 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, inquires 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 cbp.labhq@dhs.gov. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories.

http://cbp.gov/linkhandler/cgov/trade/automated/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf

DATES: The accreditation and approval of Intertek USA, Inc., as commercial gauger and laboratory became effective on October 12, 2011. The next triennial inspection date will be scheduled for October 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Mike McCormick, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, 202-344-1060.

Dated: March 21, 2012.

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

[Published in the Federal Register, March 28, 2012 (77 FR 18848)]

[CBP Dec. No. 12-06]

**AUTOMATED COMMERCIAL ENVIRONMENT REQUIRED
FOR THE TRANSMISSION OF ADVANCE OCEAN AND RAIL
CARGO INFORMATION**

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

ACTION: Notice.

SUMMARY: Various U.S. Customs and Border Protection (CBP) regulations require the transmission of advance cargo information to CBP through a CBP-approved electronic data interchange (EDI) system. CBP recently completed the testing of the Automated Commercial Environment (ACE) for the transmission of advance ocean and rail cargo information. This notice announces that, after a six month transition period, ACE will be the only CBP-approved EDI for submitting required advance information for ocean and rail cargo.

DATES: On September 29, 2012, ACE will be the only CBP-approved EDI for transmitting to CBP required advance information for ocean and rail cargo.

FOR FURTHER INFORMATION CONTACT: Susan Maskell, Office of International Trade, *Susan.Maskell@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

Section 343(a) of the Trade Act of 2002, as amended by the Maritime Transportation Security Act of 2002 (19 U.S.C. 2071 note) (referred to in this notice as the Trade Act), directed U.S. Customs and Border Protection (CBP) to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation (ocean, air, rail or truck). The required cargo information is that which is reasonably necessary to enable high-risk shipments to be identified for purposes of ensuring cargo safety and security and preventing smuggling pursuant to the laws enforced and administered by CBP. To effectuate the provisions of the Trade Act, CBP published a final rule in the **Federal Register** in 2003, requiring the advance electronic transmission of information pertaining to cargo prior to its being brought into, or sent from, the United States by sea, air, rail or truck. *See* Required Advance Electronic Presentation of Cargo Information, 68 FR 68140, December 5, 2003.¹

Section 203 of the Security and Accountability for Every Port Act of 2006, Public Law 109-347, 120 Stat. 1884 (SAFE Port Act) directed the Secretary of Homeland Security, acting through the Commissioner of CBP, to promulgate regulations to require the electronic transmission to the Department of Homeland Security of additional data elements for improved high-risk targeting, including appropriate security elements of entry data, as determined by the Secretary. This additional data was to be provided as advanced information with respect to cargo destined for importation into the United States prior to loading of such cargo on vessels at foreign seaports. In 2008, pursuant to the Trade Act and the SAFE Port Act, CBP published an interim final rule in the **Federal Register** requiring importers and carriers to submit additional information pertaining to maritime cargo before the cargo is brought into the United States by means of

¹ The Trade Act, enacted on August 6, 2002, was amended by the Maritime Transportation Security Act of 2002, enacted on November 25, 2002. On October 31, 2002, CBP published a final rule to require the advance and accurate presentation of certain manifest information before cargo is laden aboard a vessel at a foreign port. This rule was promulgated under the authority of 19 U.S.C. 1431. CBP encouraged the presentation of this information electronically. *See* 67 FR 66318. This final rule is known to the trade as the "24 hour rule."

a CBP-approved electronic interchange system. See *Importer Security Filing and Additional Carrier Requirements*, 73 FR 71730, November 25, 2008. The interim final rule is known to the trade as the “Importer Security Filing” (ISF) or “10 + 2” rule.

Advance Ocean and Rail Cargo Data

The CBP regulations pertaining to the submission of the data required in advance of arrival for ocean and rail cargo are set forth in title 19 Code of Federal Regulations (CFR) Parts 4, 123, and 149.² Sections 4.7(b)(2), 4.7(b)(3)(i), 123.91(a), and 149.2 pertain to the method of transmission of the advance ocean and rail data relevant to this notice. They generally require the transmission of the advance data through the EDI system approved by CBP.

Section 4.7(b)(2), pertaining to vessels, provides that the electronic cargo declaration information must be transmitted through the CBP Automated Manifest System (AMS) or any electronic data interchange system approved by CBP to replace the AMS system for this purpose. Section 4.7(b)(3)(i), also pertaining to vessels, provides that a non-vessel operating common carrier (NVOCC) must electronically transmit the corresponding required cargo declaration information directly to CBP through the vessel AMS system (or other system approved by CBP for this purpose), or in the alternative, fully disclose and present the required cargo declaration information for the related cargo to the vessel carrier which is required to present this information to CBP via the vessel AMS system (or other CBP approved system).

Section 123.91(a) requires rail carriers to use a CBP-approved electronic data interchange system to submit the required advance information.

Section 149.2, pertaining to maritime cargo, requires the Importer Security Filing data elements to be submitted through a CBP-approved electronic interchange system.

M1 Test for Ocean and Rail Data Transmission

CBP recently conducted a National Customs Automation Program (NCAP) test, known as M1, concerning the transmission of required advance ocean and rail data through ACE. The test was announced in

² For specific information about the requirements to provide advance cargo information to CBP, please see the following sections of title 19 CFR: 4.7 Inward foreign manifest, production on demand, contents and form, advance filing of cargo declaration; 4.7a Inward manifest, information required, alternative forms; 4.7c Vessel stow plan; 4.7d Container status messages; 123.91 Electronic information for rail cargo required in advance of arrival; and Part 149 Importer Security Filing.

two **Federal Register** notices (M1 notices). See 75 FR 64737, October 20, 2010 and 76 FR 42721, July 19, 2011.

CBP sought participants that were transmitting the required advance ocean and rail data to CBP in different formats to facilitate their transition to ACE in a controlled environment.³ M1 test participants were chosen based on the specific type of software format they used to transmit the required advance data. The goal of the M1 test was to ensure that each transmission format was fully compatible with ACE. By working with this select group of participants, CBP was able to verify that each transmission format functioned properly with ACE and to develop effective processes and guidelines. These processes and guidelines will enable the rest of the affected trade community to quickly and efficiently transition to ACE. The M1 participants began submitting live data through ACE on November 30, 2011.

CBP stated in the M1 notices that upon the successful completion of the M1 test, CBP would publish another notice to announce that after a transition period, ACE would be the only CBP-approved EDI for transmitting required advance data for ocean and rail cargo.

M1 Test Results

The M1 test has been successfully completed. To date, 24 trade participants have completed the certification testing described in the M1 test notice and are transmitting their advance ocean and rail cargo information in ACE. Another 11 trade participants are currently involved in certification testing. The port of Baltimore, Maryland began utilizing ACE for processing ocean cargo on November 30, 2011. The ports of Buffalo, New York and Brownsville, Texas began using ACE for processing ocean and rail cargo on December 5, 2011. To date, 91 ports are using ACE for ocean and/or rail processing.

CBP verified that all electronic data interchanges are compatible with ACE and has prepared ACE Implementation Guidelines, which are posted at www.CBP.gov. The ACE Implementation Guidelines include the appropriate standards needed for each referenced type of software to work with ACE. These standards will enable transmitters to conform their own software to ACE or to acquire new software that is compatible with ACE. In addition to the ACE Implementation Guidelines, CBP has posted informational notices, user guides, and Web-based training at www.CBP.gov.

³ For more information on the types of compatible software utilized to transmit the required advance data, please see the *Implementation of the Test* section of the October 20, 2010 M1 notice (75 FR 64737 at 64738).

ACE as the Only CBP-Approved EDI for Required Advance Ocean and Rail Cargo Information

For purposes of sections 4.7(b)(2), 4.7(b)(3)(i), 123.91(a), and 149.2 of title 19 CFR, beginning on September 29, 2012, ACE will be the only CBP-approved EDI for transmitting the required advance information for ocean and rail cargo. Until this date, a transition period is in effect during which ACE or AMS may be used to transmit the required advance information for ocean and rail cargo.

CBP will continue to work with the affected trade community to ensure a complete and efficient transition to ACE. CBP encourages all transmitters to undergo the ACE certification process described in the M1 notices during the transition period to ensure total ACE functionality.⁴ Total ACE functionality means that the transmitter will retain all of the existing functionality currently available as well as the new functionalities only available through ACE.⁵ Transmitters should contact the Client Representative Branch at 571-468-5500 to make arrangements to begin the ACE certification process.

Although AMS will continue to operate during the transition period and may still be used in the normal course of business for other purposes, it will no longer be available for purposes related to transmitting to CBP required advance ocean and rail cargo information beginning on September 29, 2012.

Dated: March 26, 2012.

THOMAS WINKOWSKI,
Acting Commissioner,
U.S. Customs and Border Protection.

[Published in the Federal Register, March 29, 2012 (77 FR 19030)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Certificate of Registration

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.

⁴ Participants were required to undergo the certification process, described in detail in the October 20, 2010 M1 notice, as a prerequisite for participating in the M1 test. *See* 75 FR 64737 at 64739.

⁵ For more information on the additional functionalities available through ACE, please *see* the *ACE Functionality* section of the October 20, 2010 M1 notice (75 FR 64737 at 64739).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Registration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Written comments should be received on or before May 29, 2012, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street NW., 5th Floor, Washington, DC 20229–1177.

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

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). 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 cost burden 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 Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: CBP Forms 4455 and 4457.

Abstract: Travelers who do not have proof of prior possession in the United States of foreign made articles and who do not want

to be assessed duty on these items can register them prior to departing on travel. In order to register these articles, the traveler completes CBP Form 4457, *Certificate of Registration for Personal Effects Taken Abroad*, and presents it at the port at the time of export. This form must be signed in the presence of a CBP official after verification of the description of the articles is completed. CBP Form 4457 is accessible at: http://forms.cbp.gov/pdf/CBP_Form_4457.pdf.

CBP Form 4455, *Certificate of Registration*, is used primarily for the registration, examination, and supervised lading of commercial shipments of articles exported for repair, alteration, or processing, which will subsequently be returned to the United States either duty free or at a reduced duty rate. CBP Form 4455 is accessible at: http://forms.cbp.gov/pdf/CBP_Form_4455.pdf.

CBP Forms 4457 and 4455 are used to provide a convenient means of showing proof of prior possession of a foreign made item taken on a trip abroad and later returned to the United States. This registration is restricted to articles with serial numbers or unique markings. These forms are provided for by 19 CFR 148.1.

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the burden hours as a result of a revised estimate to complete CBP Form 4455 from 3 minutes to 10 minutes. There are no changes to the information collected or to CBP Forms 4455 and 4457.

Type of Review: Extension (with change).

Affected Public: Businesses.

CBP Form 4455

Estimated Number of Respondents: 60,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 9,960.

CBP Form 4457

Estimated Number of Respondents: 140,000.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 7,000.

Dated: March 22, 2012.

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