

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 142

[T.D. 98-25]

RIN 1515-AB27

Publication of Filer Codes

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for the availability by electronic means of the code assigned by Customs to identify frequent entry filers. This action is expected to assist port authorities, sureties, carriers, customs brokers, bonded warehouse operators, and others involved with import transactions in identifying those who enter merchandise into the United States so that they can expedite their services regarding the importations. It is anticipated that the adoption of this amendment will eliminate paperwork burdens on those involved with import transactions by identifying who is responsible for the specific importation.

EFFECTIVE DATE: April 16, 1998.

FOR FURTHER INFORMATION CONTACT: For Operational matters: Angela Downey, Office of Trade Compliance, Office of Field Operations, (202) 927-1082; For Legal matters: Jerry Laderberg, Entry Procedures & Carriers Branch, Office of Regulations and Rulings, (202) 927-2269.

SUPPLEMENTARY INFORMATION:**Background**

On January 13, 1993, in a document published in the **Federal Register** (58 FR 4113), Customs announced in an Advanced Notice of Proposed Rulemaking (ANPRM) that it was considering the amendment of the Customs Regulations to provide for the publication of a list of filer codes and the identity of the individuals, companies, licensed customs brokers, or importers assigned the specific filer codes. After analyzing comments received on the ANPRM, on April 22, 1997, Customs published a notice of proposed rulemaking in the **Federal Register** (62 FR 19534) that proposed to amend the Customs Regulations to provide for the availability by electronic means of the code assigned by Customs to identify frequent entry filers. This action was proposed to assist port authorities, sureties, carriers, customs brokers, bonded warehouse operators, and others involved with import transactions in identifying those who

enter merchandise into the United States so that they can expedite their services regarding the importations. It was expected that the proposal would eliminate paperwork burdens on those involved with import transactions by identifying the party responsible for the importation of specific merchandise. As the proposal set forth Customs' intention no longer to consider filer codes confidential, it was expected that the proposal, if adopted, would also relieve Customs of the administrative burden of entertaining requests of importers for confidential treatment of their filer codes. The notice proposed to amend § 142.3a of the Customs Regulations (19 CFR 142.3a) by adding a new paragraph that would allow Customs to make available electronically a listing of the filer codes and identifying information regarding the importers, consignees, and customs brokers assigned those codes, and solicited comments concerning this action.

The comment period closed on June 23, 1997. Five comments were received, one from an importer and four from entities involved in the importation, movement, or insurance of imported merchandise. The comments received and Customs' responses are discussed below.

Analysis of Comments

Comment—The customs brokers who commented and the brokers association that commented indicated their approval of the proposal stating that identifying filers with their filer codes would facilitate and expedite the release of goods. It was also suggested that this filer code information be made available on the Customs Internet site.

Customs response—Customs agrees that the publication of the filer code information will facilitate the flow of importations and expedite the release of goods. Customs also agrees that it would be useful for the filer code information to be made available electronically. Accordingly, Customs will make the filer code information available periodically on the Customs Electronic Bulletin Board ((703) 440-6155) and its Internet web site (www.customs.ustreas.gov).

Comment—Two carrier/transportation companies supported the proposal stating that the publication of filer code information will improve notification procedures regarding the arrival of in-bond shipments. Further, it was stated that publication of filer code information would be useful in coordinating the release of all shipments, would facilitate the notification of parties in interest to

resolve discrepancies or other problems or questions, and should enhance the efficiency and speed of import transactions.

Customs response—Customs agrees with these expectations, which are consistent with the purpose for the publication of the filer code information.

Comment—The sureties and surety associations stated that they are in favor of the proposal as the publication of the filer code information will be beneficial to the trade community.

Customs response—Again, Customs agrees with this expectation.

Comment—An importer opposed the proposal stating that publication of the filer code information will make proprietary business information known to competitors. The commenter further states that Customs should provide that importers can request confidentiality of this information.

Customs response—As stated in the Notice of Proposed Rulemaking, after a comprehensive review of the operational situation in the commercial environment, Customs has concluded that filer code information is not proprietary and, therefore, not confidential. Information that is proprietary, such as entry-specific information, will continue to enjoy confidential treatment. Because Customs no longer considers the identity of filer code holders proprietary information, Customs believes there is no reason to allow importers to request confidentiality of this information or for Customs to assume the administrative burden of processing such requests.

Conclusion

Having analyzed and discussed the five comments received and upon further consideration of the proposed action, Customs has decided to make the filer code information available electronically on its Internet web site (www.customs.ustreas.gov) and on the Customs Electronic Bulletin Board ((703) 440-6155). Accordingly, that portion of T.D. 88-38 that provides for the confidential treatment of filer code information upon the request of an importer is revoked and § 142.3a of the Customs Regulations is amended to provide for the availability by electronic means of entry filer code information, which will be updated periodically.

Inapplicability of the Regulatory Flexibility Act, and Executive Order 12866

Because this final rule document will confer a benefit on the public by improving access to frequently needed information by the trade industry

without any action being required on its part, pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that the amendment to the Customs Regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Further, this document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Drafting Information: The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 142

Administrative practice and procedure, Confidential business information, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Amendment to the Regulations

For the reasons set forth above, part 142 of the Customs Regulations (19 CFR part 142), is amended as set forth below:

PART 142—ENTRY PROCESS

1. The authority citation for part 142 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. In § 142.3a, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e), respectively; in the first sentence of newly designated paragraph (e) the reference "paragraph (c)" is revised to read "paragraph (d)"; and a new paragraph (c) is added to read as follows:

§ 142.3a Entry numbers.

* * * * *

(c) *Publication of Entry Filer Codes.* Customs shall make available electronically a listing of filer codes and the importers, consignees, and customs brokers assigned those filer codes. The listing will be updated periodically.

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Samuel H. Banks,

Acting Commissioner of Customs.

Approved: February 17, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.
[FR Doc. 98-6880 Filed 3-16-98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 98N-0135]

Revocation of Regulations Under the Tea Importation Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the regulations under the Tea Importation Act. This action is in response to the passage of the Federal Tea Tasters Repeal Act on April 9, 1996, that repealed the Tea Importation Act of 1897. In addition, the agency is withdrawing the proposed rule that announced the agency's intentions to implement the Tea Importation Act in the wake of the agency's appropriation for fiscal year (FY) 1996, which did not provide funds to operate the Board of Tea Experts. The proposal has been rendered moot by the repeal of the Tea Importation Act.

DATES: The regulation is effective April 17, 1998. Comments by April 16, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12430 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hilario R. Duncan, Center for Food Safety and Applied Nutrition (HFS-24), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-8281.

SUPPLEMENTARY INFORMATION: On April 9, 1996, President Clinton signed into law the Federal Tea Tasters Repeal Act of 1996 (Pub. L. 104-128). This act repealed the Tea Importation Act of 1897 (21 U.S.C. 41 *et seq.*), eliminating the Board of Tea Experts and related programs that prohibited the importation of tea that does not meet the standards established by FDA for purity, quality, and fitness for consumption. The regulations implementing the Tea Importation Act of 1897 are codified in part 1220 (21 CFR part 1220).

In view of Congress' repeal of the Tea Importation Act of 1897, the legal authority under which part 1220 was issued, and the elimination of the Board of Tea Experts, the agency has concluded that part 1220 should be revoked. In addition, the agency is withdrawing the proposal published in the **Federal Register** of February 7, 1996

(61 FR 4597). The proposal announced the agency's intentions to implement the Tea Importation Act in the wake of the agency's appropriation for FY 1996, which did not provide funds to operate the Board of Tea Experts. The proposal has been rendered moot by the repeal of the Tea Importation Act.

Therefore, in accordance with the Federal Tea Tasters Repeal Act of 1996, FDA is revoking "Part 1220—Regulations Under the Tea Importation Act."

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA is revoking part 1220 by final rule without first publishing a general notice of proposed rulemaking. A final regulatory analysis under the Regulatory Flexibility Act (5 U.S.C. 601-612) is, therefore, not required. The agency expects the revocation of part 1220 to reduce the burden on small entities. In addition, FDA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866.

Because FDA is revoking regulations that were issued under legal authority that Congress has repealed, the agency for good cause finds that notice and public procedure on this rule is unnecessary and, therefore, not required under 5 U.S.C. 553. See *Hadson Gas Systems, Inc. v. FERC*, 75 F.3d 680 (D.C. Cir. 1996). Under 21 CFR 10.40(e), however, interested persons may, on or before April 16, 1998, submit to the Dockets Management Branch (address above) written comments regarding revocation of this part. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 1220

Administrative practice and procedure, Customs duties and inspection, Imports, Public health, Tea.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1220 is removed.