

Rules and Regulations

Federal Register

Vol. 78, No. 165

Monday, August 26, 2013

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1210

Safety Standard for Cigarette Lighters; Adjusted Customs Value for Cigarette Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission has a safety standard requiring that disposable and novelty lighters meet specified requirements for child resistance. The standard defines “disposable lighters,” in part, as refillable lighters that use butane or similar fuels and have a Customs Value or ex-factory price below a threshold value (initially set at \$2.00 in 1993). The standard provides that the initial \$2.00 value adjusts every 5 years for inflation, as measured by the percentage change since June 1993, in the monthly Producer Price Index (PPI) for Miscellaneous Fabricated Products. The adjustment is rounded to the nearest \$0.25 increment. The price adjusted in November 2003, when changes in the PPI from June 1993 to June 2003 indicated a revised Customs Value or ex-factory price of \$2.25. Due to an increase in the PPI, the Customs Value or ex-factory price has recently adjusted to \$2.50. This rule revises the cigarette lighter standard to state that the import value has adjusted to \$2.50 based on the change to the PPI.

DATES: This rule is effective August 26, 2013.

FOR FURTHER INFORMATION CONTACT: Julio Alvarado, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-7418; email: jalvarado@cpsc.gov.

SUPPLEMENTARY INFORMATION:

Background

In 1993, the Commission issued a standard that required disposable and novelty lighters to meet certain requirements for child resistance. The standard, as originally written, defines “disposable lighters” as those that are either: (1) Non-refillable, or (2) use butane or similar fuels and have “a Customs Valuation or ex-factory price under \$2.00, as adjusted every 5 years, to the nearest \$0.25, in accordance with the percentage changes in the monthly Wholesale Price Index from June 1993.” 58 FR 37584 (July 12, 1993). The name of the Wholesale Price Index has changed to the Producer Price Index (PPI). The specific PPI that includes cigarette lighters is the PPI for “Miscellaneous Fabricated Products.”

Thus, the standard provides for the \$2.00 threshold to adjust in accordance with inflation and for the adjustment to be rounded to the nearest 25 cents. Adjustment did not occur in 1998 because the change in the PPI since June 1993 was not sufficient to warrant an adjustment. Adjustment did occur in 2003 (to \$2.25). Accordingly, the Commission revised the cigarette standard to state the adjusted amount. 69 FR 19763 (April 14, 2004). At that time, we also revised the reference to the Wholesale Price Index to refer instead to the Producer Price Index. No adjustment was made in 2008.

CPSC staff has calculated that the PPI for Miscellaneous Fabricated Products increased by approximately 29 percent from June 1993 to June 2013, as finalized in July 2013. Under section 1210.2(b)(2)(ii), this increase in the PPI merits an adjustment in the Customs Value or ex-factory price to \$2.50 as the threshold for determining whether refillable lighters are within the scope of the cigarette lighter standard. The approximately 29 percent increase in the PPI (from 124.7 in June 1993 to 160.9 in June 2013) yielded an adjustment to \$2.58 per lighter, which rounds to \$2.50. Thus, refillable lighters with a Customs Value or ex-factory price under \$2.50 are subject to the standard.

As the cigarette lighter standard is written, the Customs Value or ex-factory price adjusts automatically based on the PPI, and no change in the language of the rule is required to implement this change. However, we are revising the standard so that the CFR will state the

appropriately adjusted \$2.50 [c]ustoms [v]alue and the public will have notice of the adjustment.

The Administrative Procedure Act

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes an agency to dispense with notice and comment procedures when the agency, for good cause, finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” This amendment informs the public of an adjustment to the cigarette lighter regulatory standard that has occurred automatically according to the terms of the cigarette lighter regulation. Because the adjustment occurs by terms of the regulation, the Commission could not alter the adjustment based on any public comments the Commission received. Accordingly, the Commission finds that notice and comment is unnecessary.

The APA also authorizes an agency, “for good cause found and published with the rule,” to dispense with the otherwise applicable requirement that a rule be published in the **Federal Register** at least 30 days before its effective date. 5 U.S.C. 553(d)(3). The Commission hereby finds that a 30-day delay of the effective date is unnecessary because this amendment informs the public of an adjustment that already has occurred in accordance with the existing regulatory requirements of the cigarette lighter standard.

List of Subjects in 16 CFR Part 1210

Cigarette lighters, Consumer protection, Fire prevention, Hazardous materials, Infants and children, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Accordingly, 16 CFR part 1210 is amended as follows:

PART 1210—SAFETY STANDARD FOR CIGARETTE LIGHTERS

■ 1. The authority citation for part 1210 continues to read as follows:

Authority: 15 U.S.C. 2056, 2058, 2079(d).

■ 2. Revise § 1210.2(b)(2)(ii) to read as follows:

§ 1210.2 Definitions.

* * * * *

(b) * * *

(2) * * *

(ii) It has a Customs Valuation or ex-factory price under \$2.00, as adjusted every 5 years, to the nearest \$0.25, in accordance with the percentage changes in the appropriate monthly Producer Price Index (Producer Price Index for Miscellaneous Fabricated Products) from June 1993. The adjusted figure, based on the change in that Index since June 1993, as finalized July 2013, is \$2.50.

* * * * *

Dated: August 21, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013-20747 Filed 8-23-13; 8:45 am]

BILLING CODE 6355-01-P

DEPARTMENT OF STATE

22 CFR Parts 120, 122, 126, 127, 128, and 129

RIN 1400-AC37

[Public Notice 8437]

Amendment to the International Traffic in Arms Regulations: Registration and Licensing of Brokers, Brokering Activities, and Related Provisions

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: The Department of State is issuing this interim final rule amending the International Traffic in Arms Regulations (ITAR) relating to brokers and brokering activities and to related provisions of the ITAR. These amendments clarify registration requirements, the scope of brokering activities, prior approval requirements and exemptions, procedures for obtaining prior approval and guidance, and reporting and recordkeeping of such activities. Conforming and technical changes are made to other parts of the ITAR that affect export as well as brokering activities. The revisions contained in this rule are part of the Department of State's retrospective plan under E.O. 13563 completed on August 17, 2011.

DATES: This rule is effective October 25, 2013. Interested parties may submit comments on this rule by October 10, 2013. The Department will publish a final rule notifying of any changes to the rule pursuant to public comment assessment.

ADDRESSES: Interested parties may submit comments within 45 days of the date of publication by one of the following methods:

- *Email:* DDTCResponseTeam@state.gov with the subject line, "Brokering Rule."

- *Internet:* At www.regulations.gov, search for this document by using this document's RIN (1400-AC37).

Comments received after that date will be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at www.pmddtc.state.gov. Parties who wish to comment anonymously may do so by submitting their comments via www.regulations.gov, leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via www.regulations.gov are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah J. Heidema, Acting Director, Office of Defense Trade Controls Policy, U.S. Department of State, telephone (202) 663-2809, or email DDTCResponseTeam@state.gov. ATTN: Brokering Rule. The Department of State's full retrospective plan can be accessed at <http://www.state.gov/documents/organization/181028.pdf>.

SUPPLEMENTARY INFORMATION: This rule makes changes to part 129 and related sections of the ITAR that regulate brokers and brokering activities and implement the brokering amendment to the Arms Export Control Act (AECA) (section 38(b)(1)(A)(ii) of the AECA, 22 U.S.C. 2778(b)(1)(A)(ii)).

The AECA was amended in 1996 (Pub. L. 104-164) to provide for the regulation of brokering activities. The following year, implementing regulations were added to the ITAR in part 129. These regulations have remained unchanged except for two minor technical changes.

In 2003, in a report to Congress, the Department of State noted that it was beginning a review of the brokering regulations. The purpose of the review was to assess the need to modify the regulations in light of the experience gained in administering them. Based on this experience as well as comments received from other agencies and industry, including the Defense Trade Advisory Group, a Department of State Federal advisory committee, the

Department published a proposed rule on December 19, 2011 (see "Amendment to the International Traffic in Arms Regulations: Registration and Licensing of Brokers, Brokering Activities, and Related Provisions," 76 FR 78578) modifying the provisions relating to brokering and brokering activities. The comment period ended February 17, 2012. Thirty-one parties filed comments recommending changes, which were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations follows.

The Department received numerous comments and recommendations regarding the definitions for terms and provisions set forth in ITAR part 129. The Department reviewed and considered these comments, and where the recommendations were in conformance with the requirements for brokering as set forth in the AECA, and clarified the regulation, the Department has made amendments accordingly.

Twenty-seven commenting parties expressed concerns regarding the scope of "broker" and "brokering activities," and that the revised definition of "broker" in conjunction with the revised definition of "brokering activities" would result in a greatly increased number of persons requiring to register as brokers. In conformance with the statutory requirements for the brokering of defense articles and services, the Department has revised the proposed changes to these definitions to clarify their scope. In particular, the Department has clarified that foreign persons that are required to register as brokers are those that are in the United States and those foreign persons outside the United States that are owned/controlled by a U.S. person. And the Department has removed from the definition of "brokering activities" the activities of any foreign person located outside the United States acting on behalf of a U.S. person.

One commenting party requested clarification on whether the addition of "or are otherwise charged" to ITAR § 120.1(c)(2) would preclude any person charged with any export violation from applying for, obtaining, or using export control documents, and recommended the Department identify such ineligible parties to prevent applicants from including the ineligible parties on export license applications and other submissions. The Department confirms that any person charged with a violation of the U.S. criminal statutes enumerated in ITAR § 120.27 is generally ineligible