

Interested parties had until October 1, 1984, to submit comments on the proposal. After analysis of the comments received and further consideration of the matter, the amendment is being adopted, as proposed, with certain non-substantive changes. The amendment as proposed was based upon the definition of commercial aircraft appearing in the regulations of the Department of Transportation (DOT), (14 CFR Part 121). These regulations have been amended. The amendment, as published in this document, reflects the present DOT regulations set forth in 14 CFR Part 298, but makes no substantive changes from our earlier proposal.

Discussion of Comments

Three commenters expressed concern over anticipated increases in expenses for certain commercial operators as a result of the amendment.

Considering the high smuggling risk found to exist in certain commercial air operations, the present practice could be said to be discriminatory to non-commercial operators and owners. Any added costs will become part of normal commercial operating expenses. Relief from the requirements is available in extreme cases under existing overflight exemption procedures (see 19 CFR 6.14(f)).

One commenter was concerned about the impact of the regulations on international commuter flights.

Such carriers must satisfy certain criteria in order to be certified as commuter flights, including the publication of a flight schedule, which exempts them from the special landing and reporting requirements.

One commenter submitted an alternative definition of private aircraft.

Customs has determined that the definition cannot be adopted because it exempts the very segment of the aviation community that the regulations are intended to include (non-scheduled commercial operations).

One commenter suggested that the expansion of the definition of private aircraft to include certain commercial aircraft would cause confusion among Customs inspection personnel. It was suggested that the expanded requirements be implemented separately, and not included in the definition of private aircraft. It also was suggested that the special U.S./Mexican border requirements be made applicable to all aircraft operations, with specific exemptions stated separately.

By amending the definition of private aircraft, Customs is able to achieve the desired result with an amendment to a single paragraph of the regulations. The

suggested alternative would require much more comprehensive amendments. Further, the amendment applies special requirements to all aircraft operations, with certain identified exceptions, as suggested by the commenter.

The remaining two commenters suggested that all unscheduled commercial aircraft be included in the requirements, regardless of payload or passenger capacity. We believe the stated limits are practical and desirable in light of staffing levels, inspection facility limitations, and smuggling threat estimates.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (Pub. L. 96-353, 5 U.S.C. 301 et seq.), it is hereby certified that the regulations set forth in this document 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.

Paperwork Reduction Act

The collection of information requirements contained in this document were submitted to the Office of Management and Budget pursuant to section 3504(h) of the Paperwork Reduction Act of 1980. These requirements were approved by OMB (control number 1515-0098).

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 6

Air carriers, Air transportation, Aircraft, Airports.

Amendments to the Regulations

Part 6, Customs Regulations (19 CFR Part 6), is amended in the following manner:

PART 6—AIR COMMERCE REGULATIONS

Section 6.14(e) is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the United States.

* * * * *

(e) *Private aircraft defined.* For the purpose of this section, "private aircraft" means all aircraft except public aircraft and those aircraft operated, on a regularly published schedule, pursuant to a certificate of public convenience and necessity or foreign aircraft permit issued by the Civil Aeronautics Board, or its successor, the Department of Transportation, authorizing interstate, overseas air transportation, and those aircraft with a seating capacity of more than 30 passengers or a maximum payload capacity of more than 7,500 pounds which are engaged in air transportation for compensation or hire on demand. (See 49 U.S.C. 1372 and 14 CFR Part 298).

(R.S. 251, as amended, sec. 624, 46 Stat. 759, sec. 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624; 49 U.S.C. 1509))

William von Raab,

Commissioner of Customs.

Approved: November 9, 1984.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-31279 Filed 11-28-84; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 152

[T.D. 84-235]

Customs Regulations Amendment Relating to Valuation of Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by excluding from the price paid or payable for imported merchandise, the costs for foreign inland freight and other services incident to the international shipment of merchandise which occur after the goods have been sold for export to the United States and are placed with a carrier for through shipment. Evidence of sale for export and placement for through shipment shall be established by means of a through bill of lading to be presented to the district director of Customs. This change is necessary to conform the Customs Regulations to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade, which requires the inclusion in, or the exclusion from, the Customs value of the cost of transport of the imported goods to the port or place of importation.

DATES: Effective November 29, 1984. The amendment will be applicable to all entries of merchandise for which liquidation was not final on November 29, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce N. Shulman Value and Special Classification Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 96-39, the Trade Agreements Act of 1979, incorporated into U.S. law the trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. Title II of this act, "Customs Valuation," implemented the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the "Valuation Agreement"). Title II made significant changes in the laws administered by Customs relating to the valuation of imported merchandise by amending section 402, Tariff Act of 1930, as amended (the "Act") (19 U.S.C. 1401a). The Customs Regulations issued to administer the new statutory valuation scheme are contained in Subpart E, Part 152, §§ 152.100-152.108 (19 CFR 152.100-152.108).

Present section 402 of the Act provides five bases for determining value, presented in order of precedence of application. The first and primary basis of value is transaction value. Only if transaction value cannot be determined, or cannot be used, may another basis of value be used. The transaction value of imported merchandise, essentially, is the "price actually paid or payable" for the merchandise when sold for exportation to the United States. The term "price actually paid or payable" is defined in the Act as the total payment (whether direct or indirect, and *exclusive* of any costs, charges, or expenses incurred for transportation, insurance, and related services *incident to the international shipment of the merchandise* from the country of exportation to the place of importation in the United States) made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller (section 402(b)(4)(A)) (emphasis supplied). It is clear, then, that any costs for insurance, freight, *etc.*, involved in the international movement of merchandise are to be excluded from the dutiable value of imported merchandise appraised using the transaction value basis. However, in many cases, another significant cost to

an importer is the expense related to foreign inland freight charges, especially where the seller quotes prices on a C.I.F. (delivered) method.

Note.—Costs incurred in the transportation of imported merchandise in the U.S., if identified separately, also are excluded from the transaction value.

Customs current interpretation of the Act in regard to foreign inland freight, as stated in section 152.103(a)(5), is to include that cost in the transaction value if it is indeed reflected in the price actually paid or payable to the seller, *e.g.*, in a C.I.F. price quotation. On the other hand, if the price actually paid or payable to the seller does not include the cost of foreign inland freight, *e.g.*, in an ex-factory price quotation, that cost will not be added to the price if paid to a freight forwarder unrelated to the seller.

Under the above interpretation, no adjustment for foreign inland freight may be made when, as is often the case, the merchandise is purchased from a foreign seller on a C.I.F. basis.

Customs has now reconsidered its previous interpretation of the Act with respect to foreign inland freight and related charges. We have decided to amend the Customs Regulations, to exclude from the price actually paid or payable for imported merchandise, the costs of all foreign inland freight and other services incident to the shipment of this merchandise to the United States provided that: (1) These costs occur after goods have been sold for export to the United States; and (2) the goods have been placed with a carrier for through shipment to the United States. These costs are now to be considered incident to the international shipment of the merchandise within the meaning of section 152.102(f), Customs Regulations (19 CFR 152.102(f)), and are therefore excludable from the price paid or payable for the merchandise.

This new policy is in accord with Article 8.2(a) of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (the Valuation Code) which was implemented in the United States by the Trade Agreements Act of 1979. Article 8.2(a) of this act provides:

In forming its legislation, each Party shall provide for the inclusion in or the exclusion from the Customs value, in whole or in part, of the following: (a) The cost of transport of the imported goods to the port or place of importation . . .

Customs is therefore amending § 152.103(a)(5) to exclude from the dutiable value of imported merchandise as "international freight," certain costs paid to a seller that are now dutiable as foreign inland freight. A notice of

proposed rulemaking on this subject was published in the *Federal Register* on June 17, 1983 (48 FR 27778), inviting public comments. Most of the 37 comments received in response to the notice favored the new policy. However, many commenters pointed out ambiguities and problems with the proposal and recommended changes. These specific comments and our responses are set forth below.

Discussion of Comments

Comment: The proposed regulation discriminates between contiguous and noncontiguous countries and violates the United States obligations under the GATT Valuation Agreement of the most-favored-nation status accorded to various noncontiguous countries.

Response: This comment was apparently prompted by language in the *Federal Register* notice from which one could conclude that the proposed amendment was designed to benefit only contiguous countries. Because it is our intention, as stated above, to apply the regulations to *all* foreign inland freight, and therefore permit both contiguous and noncontiguous countries to benefit from the change, we have removed any language suggesting the contrary from this document.

Comment: The proposal provides for the exclusion, from the price paid or payable, or all documented foreign inland freight costs which occur subsequent to the placing of the imported merchandise on the exporting carrier. Since the phrase "exporting carrier" is not defined, it is unclear whether the phrase was meant to cover particular types of conveyances, multicarrier shipments, intermodal shipments (combinations of different modes of transportation, *e.g.*, ship, rail, truck, used for one shipment), and shipments of merchandise through reload centers (freight consolidation locations for freight destined for exportation to the United States).

Response: Customs agrees with this comment. Instead of defining the phrase "exporting carrier," however, any reference to it has been deleted. That phrase is too susceptible to being limited to carriers which physically transport foreign merchandise over the U.S. border. To avoid any confusion, it has been determined that in order for foreign inland freight to be deemed incident to the international shipment of merchandise, instead of requiring that freight costs occur subsequent to the placing of imported merchandise on the exporting carrier, the freight costs and other services incident to the shipment of the merchandise must occur after the

goods have been sold for export to the United States and are placed with a carrier for through shipment to the United States. This will cover shipments by more than one mode of transportation, by multiple freight companies, or through reload centers, as long as the merchandise has been sold for export to the United States and placed with a carrier for through shipment to the United States, as evidenced by the presentation to Customs of a through bill of lading. The through bill of lading is necessary to permit Customs officers to verify objectively that the above conditions have been satisfied.

Comment: The proposed amendment does not provide for shipments of goods which are not exported by common carrier, e.g., shipments carried in an exporter's own conveyance, which would not be covered by a through bill of lading and therefore could not qualify for the exclusion of freight costs from the transaction value.

Response: Customs agrees. Accordingly, § 152.103(a)(5), has been revised to include situations where it is clearly impossible to ship merchandise on a through bill of lading. In this case, other documentation satisfactory to the district director, showing a sale for export to the United States and placement for through shipment to the United States, will be acceptable in lieu of a through bill of lading.

Comment: The phrase "if paid to an unrelated seller," which appears in the proposed amendment, should be deleted.

Response: This phrase appears not only in the proposal, but also in current § 152.103(a)(5). It was intended to put related parties on notice that freight payments made by a buyer to its related shipper would be subject to verification in order to ensure that the costs had not been overstated.

Since in many cases, related parties engage in arm's-length transactions, Customs sees no reason to continue to require that the foreign inland freight charge be paid to an unrelated seller in order to qualify for exclusion from the transaction value. Therefore, the phrase "unrelated seller" has been deleted from this amendment. However, a paragraph has been included which reaffirms Customs authority to make appropriate additions to the dutiable value of merchandise in instances where verification of the foreign inland freight charge or other charges for services incident to the international shipment of the merchandise reveals that they have been overstated.

Comment: Other costs which are incident to the international shipment of

merchandise, such as warehousing, lighterage, and insurance, should be included within the scope of the regulation.

Response: Customs agrees and has revised § 152.103(a)(5) to provide for the exclusion from transaction value of other inland charges (besides freight charges) incident to the international shipment of merchandise to the United States so long as these charges occur after goods have been sold for export to the United States and are placed with a carrier for through shipment to the United States. We have also changed the heading of § 152.103(a)(5) from "Foreign inland freight" to "Foreign inland freight and other inland charges incident to the international shipment of merchandise."

Comment: The regulations should be effective with respect to entries which have not been liquidated as of the date of implementation of the regulatory changes.

Response: We agree with this comment and have made the changes applicable to all entries of merchandise for which liquidation was not final on the date this document is published in the **Federal Register**.

After careful analysis of the comments received, and further review of the matter, it has been determined to adopt the proposal with the changes discussed above.

Executive Order 12291

This amendment does not meet the criteria for a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, no regulatory impacts analysis has been prepared.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act, relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this amendment because it will not have a significant economic impact upon a substantial number of small entities.

Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Lists of Subjects in 19 CFR Part 152

Customs inspection and duties, imports, valuation.

Amendment to the Regulations

Part 152, Customs Regulations (19 CFR Part 152), is amended as set forth below.

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

Section 152.103(a)(5) is revised to read as follows:

§ 152.103 Transaction value.

(a) Price actually paid or payable—

(5) *Foreign inland freight and other inland charges incident to the international shipment of merchandise.*

(i) *Ex-factory sales.* If the price actually paid or payable by the buyer to the seller for the imported merchandise does not include a charge for foreign inland freight and other charges for services incident to the international shipment of merchandise (an ex-factory price), those charges will not be added to the price.

(ii) *Sales other than ex-factory.* As a general rule, in those situations where the price actually paid or payable for imported merchandise includes a charge for foreign inland freight, whether or not itemized separately on the invoices or other commercial documents, that charge will be part of the transaction value to the extent included in the price. However, charges for foreign inland freight and other services incident to the shipment of the merchandise to the United States may be considered incident to the international shipment of that merchandise within the meaning of § 152.102(f) if they are identified separately and they occur after the merchandise has been sold for export to the United States and placed with a carrier for through shipment to the United States.

(iii) *Evidence of sale for export and placement for through shipment.* A sale for export and placement for through shipment to the United States under subsection (ii) of this section shall be established by means of a through bill of lading to be presented to the district director. Only in those situations where it clearly would be impossible to ship merchandise on a through bill of lading (e.g., shipments via the seller's own conveyance) will other documentation satisfactory to the district director showing a sale for export to the United States and placement for through shipment to the United States be accepted in lieu of a through bill of lading.

(iv) *Erroneous and false information.* This regulation shall not be construed as prohibiting Customs from making appropriate additions to the dutiable

value of merchandise in instances where verification reveals that foreign inland freight charges or other charges for services incident to the international shipment of merchandise have been overstated.

(R.S. 251, as amended, section 624, 46 Stat. 759, section 201, 93 Stat. 194 (19 U.S.C. 65, 1401a, 1624))

William von Raab,

Commissioner of Customs.

Approved: July 23, 1984.

John M. Walker Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 84-31295 Filed 11-28-84; 8:45 am]

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF-191; Ref: Notice No. 487]

Sales of Firearms and Ammunition by Licensees at Gun Shows

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule amends the regulations to allow a licensee to engage in business at a gun show located in the same State as the address specified on the license. Most of those in favor of the proposed change, and who stated a reason for their position, felt that it was inherently unfair to restrict sales by licensees to their licensed premises, while non-licensees who are not engaged in a firearms business may sell at such gun shows. The proposed regulation would remedy this incongruity. Furthermore, under the proposal the licensee would be generally subject to the same legal requirements to which he is subject to at his business premises, including, in particular, the recordkeeping provisions.

EFFECTIVE DATE: November 29, 1984.

FOR FURTHER INFORMATION CONTACT:

J. Barry Fields, Firearms and Explosives Operation Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave., NW., Washington, DC 20226 (202-566-7591).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms has taken a position since the enactment of the Gun Control Act of 1968 that firearms licenses are not issued to engage in the business at gun shows. This policy is reflected in Revenue Ruling 69-59 which held that the law contemplates licensing of

premises where the applicant regularly intends to engage in the business to be covered by the license rather than temporary locations.

Advance Notice of Proposed Rulemaking

The Bureau published an advance notice of proposed rulemaking on April 22, 1980, (45 FR 26982) requesting comments on changing regulations in 27 CFR Part 178 to allow sales of firearms by licensees at organized gun shows located in the same State as the address specified on the license. The comment period ended June 23, 1980, with a total of 1,537 letters and four petitions with 211 signatures received. The comments in favor were 1,371 (including the four petitions) and the comments opposed were 145. There were 25 comments not relevant to the gun show proposal. About 80 percent of all comments received were from licensees or former licensees.

Notice of Proposed Rulemaking

Based upon the above, the Bureau published a notice of proposed rulemaking on September 27, 1983, (48 FR 44088), proposing to amend the regulations to allow licensees to engage in business at gun shows held within the same State as the licensed premises.

Comments

During the 120 day comment period (the original comment period of 60 days was extended 60 days by publication of Notice No. 496 on December 12, 1983, (48 FR 55298)) 1103 written comments with 1145 signatures were received. Six hundred and forty seven, approximately 56%, favored adoption of the proposal, while 475 individuals, approximately 41%, were against adoption. Twenty three individuals who commented were not responsive to the issue.

The majority of those who commented on the proposal, whether they were for or against adoption, simply stated their position without giving a reason for it.

A strong underlying reason of many of those who expressed opposition to adoption of their proposal was that the proposal would seriously jeopardize or destroy the gun show as they understood it. Many individuals see the gun show as a social event of major importance devoted to educational and historical values which would be diluted by the admission of licensees selling modern firearms. This commercialization of the gun show would, in their view, be tantamount to the destruction of the gun show.

Also expressed was the fear that the closed gun show (open to members only) will be destroyed if the regulations are

changed to allow licensees to engage in business at gun shows. By removing the existing restriction concerning licensee sales at gun shows, these commenters feel that they will lose the power to control admission to their closed shows and this will in turn destroy the perceived purpose of their shows.

Because this position was voiced so strongly by so many commenters, the Bureau has not lightly dismissed it in its evaluation. We have concluded, however, that this fear of the end of the closed gun show is unfounded. While licensees will be given the opportunity to engage in business at gun shows, this would not entitle them to enter gun shows that are closed to them by the organizers of the gun show. The organization's ability to determine who may participate at a particular gun show will not be affected by the adoption of this proposal.

Some of those who objected to the adoption of the proposal felt that the licensee who came from other areas of the State would not be familiar with the requirements of the local jurisdiction in which the gun show was being held. Because of the likelihood that sales could be made in violation of local requirements, such as the payment of local license fees and local taxes, outside licensees would have an unfair advantage over local licensees who were familiar with, and abided by, local ordinances. While this is a possibility, the Bureau cannot assume that licensees would not conduct their business in compliance with applicable laws.

Some commenters objected to the adoption of the proposal on the grounds that ATF will not have the forces necessary to monitor all gun shows. We do not consider this a particularly relevant issue because the vast majority of licensed dealers have demonstrated their desire to abide by the law and regulations. We do not anticipate any impact upon ATF's resources solely because of this change in the regulations.

Most of those in favor of the proposed change, and who stated a reason for their position, felt that it was inherently unfair to restrict sales by licensees to their licensed premises, while non-licensees who are not engaged in a firearms business may sell at such gun shows. The proposed regulation would remedy this incongruity. Furthermore, under the proposal the licensee would be generally subject to the same legal requirements to which he is subject to at his business premises, including, in particular, the recordkeeping provisions.

Licensees and non-licensees alike expressed deep dissatisfaction about the

disadvantage of not being able to buy firearms at a gun show from a licensee. Non-licensees complained that they were frequently prevented from buying a displayed firearm because they would have to travel, in some cases, many miles from the gun show, to pick up the firearm of their choice at the licensee's premises. This added expense and loss of time frequently made an otherwise desirable purchase impossible.

Regulation Change

This Treasury decision changes the regulations to allow licensees to sell firearms and ammunition at gun shows under the same license issued for their permanent address. Any sales will be restricted to gun shows located in the same State as the address specified on the license. The recordkeeping requirements of existing regulations must be complied with for sales at gun shows. Further, all transactions must be entered in the licensee's required records and retained on the premises specified on the license.

A gun show is defined as an event sponsored by any national, State or local organization, or an affiliate of such organization, devoted to the collection, competitive use or other sporting use of firearms, or an organization or association that sponsors events devoted to the collection, competitive use or other sporting use of firearms in the community. We believe this definition is sufficiently broad to include gun shows currently being held.

Drafting Information

The principal author of this document is J. Barry Fields, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment,

investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The rule is intended to allow licensed dealers to sell firearms and ammunition at gun shows as is now done by non-licensees. The rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact nor compliance burden on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this practice because no requirement to collect information is proposed.

Authority and Issuance

Accordingly, under the authority in 18 U.S.C. 926 (82 Stat. 1226), 27 CFR Part 178 is amended as follows:

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The table of sections in 27 CFR Part 178, Subpart F, is amended to add a new § 178.100 and the existing § 178.101 is redesignated as § 178.101 to read as follows:

Subpart F—Conduct of Business

Sec.

- * * * * *
- 178.100 Conduct of Business away from licensed premises
- 178.101 Record of transactions.
- * * * * *

Par. 2. Section 178.41(b) is amended to provide for an exception for conducting business at gun shows. Paragraph (b) is revised to read as follows:

§ 178.41 General.

(b) Each person intending to engage in business as a firearms or ammunition

importer, manufacturer, or dealer shall file an application, with the required fee (see § 178.42), with the District Director for the internal revenue district in which the premises are to be located, and, pursuant to § 178.47, receive the license required for such business from the Regional Director (Compliance). Except as provided in § 178.50, a license must be obtained for each business and each place at which the applicant is to do business. Such license shall, subject to the provisions of the Act and other applicable provisions of law, entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce and to engage in the business specified by the license, at the location described on the license, and for the period stated on the license: *Provided*, That it shall not be necessary for a licensed importer or a licensed manufacturer to also obtain a dealer's license in order to engage in business on his licensed premises as a dealer in the same type of firearms or ammunition authorized by his license to be imported or manufactured: *Provided further*, That payment of the license fee as an importer or manufacturer of, or a dealer in, destructive devices or ammunition for destructive devices includes the privilege of importing, manufacturing or dealing in, as the case may be, firearms other than destructive devices and ammunition for other than destructive devices by such a licensee at his licensed premises.

Par. 3. Section 178.50 is amended to allow sales of firearms and ammunition by licensees at gun shows. Section 178.50 is revised to read as follows:

§ 178.50 Locations covered by license.

The license covers the class of business or the activity specified in the license at the address specified therein. A separate license must be obtained for each location at which a firearms or ammunition business or activity requiring a license under this part is conducted except:

(a) No license is required to cover a separate warehouse used by the licensee solely for storage of firearms or ammunition if the records required by this part are maintained at the licensed premises served by such warehouse;

(b) A licensed collector may acquire curios and relics at any location, and dispose of curios or relics to any licensee or to other persons who are residents of the State where the collector's license is held and the disposition is made; or

(c) A licensee may conduct business at a gun show pursuant to the provision of § 178.100.

Par. 4. A new § 178.100 is added to specifically allow sales of firearms and ammunition at gun shows and existing § 178.100 is redesignated as § 178.101. As added, § 178.100 reads as follows:

§ 178.100 Conduct of business away from licensed premises.

(a) A licensee may conduct business temporarily at a gun show if the gun show is located in the same State specified on the license. The premises of the gun show at which the licensee conducts business shall be considered part of his licensed premises. Accordingly, no separate fee or license is required for the gun show locations. However, licensees shall comply with the provisions of § 178.91 relating to posting of licenses (or a copy thereof) while conducting business at the gun show.

(b) A gun show is an event sponsored by any national, State, or local organization, or affiliate of such organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors events devoted to the collection, competitive use or other sporting use of firearms in the community.

(c) Licensees conducting business at gun shows shall maintain firearms and ammunition records in the form and manner prescribed by Subpart H of this part. In addition, records of receipt and disposition of firearms transactions conducted at gun shows shall include the location of the sale or other disposition and be entered in the required records of the licensee and retained on the premises specified on the license.

Par. 5. Section 178.121 is amended by adding a new paragraph (d) to provide a cross-reference to the recordkeeping requirements for sales by licensees at gunshow. As added, § 178.121(d) reads as follows:

Subpart H—Records

§ 178.121 General.

(d) For recordkeeping requirements for sales by licensees at gun shows see § 178.100(c).

Signed: October 19, 1984.

Stephen E. Higgins,
Director.

Approved: November 5, 1984.

John M. Walker, Jr.,

Assistant Secretary (Enforcement and Operations).

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DEPARTMENT OF THE INTERIOR

Minerals Management Service

Bureau of Land Management

30 CFR Part 253

43 CFR Part 6220

Protection and Management of Viable Coral Communities; Transfer of Regulations

AGENCIES: Minerals Management Service, and Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This document transfers regulations concerning protection and management of viable coral communities previously administered by the Bureau of Land Management (BLM) at 43 CFR Subpart 6220, redesignates them Minerals Management Service (MMS) regulations at 30 CFR Part 253, and removes the newly redesignated 30 CFR Part 253.

This action is being taken in response to a court decision which determined that those regulations were beyond the authority of the Department of the Interior (DOI) under the Outer Continental Shelf Lands Act (Act.)

EFFECTIVE DATE: December 31, 1984.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; 12203 Sunrise Valley Drive; Minerals Management Service; Reston, Virginia 22091; telephone (703) 860-7916.

SUPPLEMENTARY INFORMATION: On May 10, 1982, the Secretary of the Interior issued Amendment No. 1 to Secretarial Order No. 3071, consolidating all DOI Outer Continental Shelf (OCS) related functions in MMS. This Final Rule transfers regulations concerning protection and management of viable coral communities previously promulgated by BLM at 43 CFR Subpart 6220 and redesignates them at 30 CFR Part 253.

The regulations concerning the protection and management of coral were promulgated under the authority of section 5 of the Act. The U.S. Court of Appeals for the Fifth Circuit has

determined that the Act did not provide the DOI with authority to promulgate conservation measures in areas not related to mineral leases. *United States v. Alexander*, 602 F.2d 1228 (1979). Since the regulations concerning the protection and management of viable coral communities were found to be beyond the authority of the DOI under the Act, this document removes the regulations which were newly redesignated at 30 CFR Part 253.

Publication of this rule as a proposed rule is unnecessary since one change is solely a redesignation and the other change is a removal of a rule which cannot be enforced. This change must be accomplished regardless of public comment.

The DOI has determined that the redesignation and the removal are not major rules under Executive Order 12291. Since the U.S. Court of Appeals has rendered the rules unenforceable, the removal will have no economic effect on the industry. The DOI certifies that this rule will not have any significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). This is because there has been no enforcement of these regulations for the past 5 years. For the same reasons, this rule is not likely to result in an annual effect on the economy of \$100 million or more, a major increase in costs to consumers or others, or significant adverse effects.

Paperwork Reduction Act

The redesignation and removal of the regulations will not effect any information collection requiring approval under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Author

This document was prepared by John V. Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 253 and 43 CFR Part 6220

Continental shelf, Marine resources, Penalties, Surety bonds, Wildlife.

(43 U.S.C. 1334)

Dated: November 9, 1984.

Garrey E. Carruthers,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, Subpart 6224 of Title 43 of the Code of Federal Regulations is redesignated and amended as follows: