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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141, 143, 145, and 148

[T.D. 89-82]

Customs Regulations Amendments Changing the Maximum Amount for Informal Entries to \$1250

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

ACTION: Final rule.

SUMMARY: Under current Customs Regulations, a shipment must generally be valued at \$1000 or less to qualify for informal entry procedures. This document amends various parts of the Customs Regulations to raise the \$1000 ceiling to \$1250.

Public Law 98-573, dated October 30, 1984, amended 19 U.S.C. 1498(a)(1) by granting the Secretary of the Treasury the authority to increase the informal entry limit from \$250 to \$1250. When the Customs Service originally implemented the statutory change in 1985, it decided to set the maximum for informal entry at \$1000, reserving the option to raise the limit to the statutory maximum at a subsequent time. Customs has now determined that in order to devote its resources to higher priority, higher valued shipments, it is appropriate to raise the limit for informal entry to the statutory maximum.

DATE: These regulatory amendments are effective October 1, 1989.

FOR FURTHER INFORMATION CONTACT: *Operational Aspects*—Esther Mandelay, Office of Inspection and Control, (202) 566-8151; *Legal Aspects*—Norman King, Entry Rulings Branch, (202) 566-5856.

SUPPLEMENTARY INFORMATION:

Background

All merchandise which is imported into the customs territory of the United

States is subject to entry and clearance procedures. Section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), provides that the "importer of record" of imported merchandise or his agent shall make entry by filing such documentation as is necessary to enable the Customs officer to determine whether the merchandise may be released from Customs custody and to ascertain properly the duties on the merchandise as well as whether other legal requirements are met. Part 142, Customs Regulations (19 CFR part 142), implements section 484, and prescribes procedures applicable to most Customs entry transactions. These procedures, known as formal entry procedures, generally require the filing of Customs forms as well as commercial documents pertaining to the transaction.

Section 498, Tariff Act of 1930, as originally enacted, authorized the Secretary to prescribe rules and regulations for, among other things, the declaration and entry of shipments the aggregate value of which did not exceed \$250. Regulations setting forth procedures for such shipments were issued in subpart C of part 143, Customs Regulations (19 CFR part 143, subpart C), entitled "Informal Entries". Informal entry procedures are less burdensome than their formal counterparts. For example, with the assent of the district director of Customs, merchandise eligible for informal entry may be entered simply by means of a commercial invoice which contains a signed declaration by the importer.

Section 206 of Public Law 98-573, dated October 30, 1984, amended section 498, Tariff Act of 1930, as amended (19 U.S.C. 1498), by granting, with certain exceptions, the Secretary of the Treasury the authority to raise to \$1250 the maximum amount for informal entry status. On July 23, 1985, Customs published a number of conforming amendments in the *Federal Register* (50 FR 29949), including one raising the limit for which informal entries could be filed. However, Customs raised the limit to only \$1000 and preserved the option of raising the limit further until after it could evaluate the operational effect of this increase.

On December 16, 1987, Customs published a proposal in the *Federal Register* (52 FR 47729), to change the procedures for the clearance of cargo carried by express consignment

operators or carriers. One purpose of that proposal, which was published as a final rule in the May 8, 1989, *Federal Register* (54 FR 19561), and was effective June 7, 1989, was to provide more expedited clearance procedures for processing of such cargo. In that document, the limit for which informal entry procedures could be used for cargo carried by express consignment operators or carriers was raised from \$1000 to \$1250.

On January 24, 1989, Customs published a proposal in the *Federal Register* (54 FR 3492), to increase the informal entry limit for all other entry filers from \$1000 to \$1250. In that proposal it was noted that the informal entry procedures were less burdensome to Customs and the importing public and that they should be uniformly set at the statutory limit for all importers.

Since publication of the proposed rule it was noted that the informal entry procedures in § 148.23(c), Customs Regulations (19 CFR 148.23(c)), related to the clearance of articles accompanying persons arriving in the United States and properly listed on their baggage declaration, were inadvertently omitted from the proposed rule. In order to conform that provision to the other informal entry provisions, an appropriate regulatory amendment is included herein. Inasmuch as this amendment merely conforms the cited provision to other related provisions which were specifically noted in the proposed rule and is procedural in nature, notice and public procedure are deemed unnecessary, pursuant to 5 U.S.C. 553(b)(3), and a delayed effective date relative thereto, is not required, pursuant to 5 U.S.C. 553(d)(3).

Analysis of Comments

Ten comments were received in response to the notice published in the *Federal Register* on January 24, 1989 (54 FR 3492). Eight of the commenters supported increasing the monetary limit for informal entries. Some of these commenters favored increasing the monetary limit to \$2500 and introducing such change at the beginning of a calendar quarter. One of these commenters also noted that items covered by import alerts may not be subject to the same scrutiny under the change as they previously were. In addition, the two commenters that did not support the proposal, expressed

concern that the change would increase Customs paperwork burden, would be contrary to the automation efforts of Customs and Customs brokers, and would weaken safeguards to assure compliance.

Based on our review of the comments, we note the following:

1. The suggestion to raise the informal entry monetary limit above \$1,250 would require additional statutory authority.

2. The suggestion to introduce the change at the beginning of a calendar quarter, which would provide a clean break for data comparison purposes, has been incorporated herein.

3. We agree that the interception of commodities subject to import alerts is a matter of concern. We, however, do not believe that the increase in the informal entry monetary limit will alter the need for scrutiny regarding these matters. The import alert information can be placed in the Customs Automated Commercial System (ACS) which is currently being utilized by many entry filers for informal entry purposes. Also, district directors of Customs, as currently authorized, may require merchandise to be covered by a formal entry, with an appropriate bond, if deemed necessary for import admissibility enforcement purposes.

4. The extension of the informal entry provision will not conflict with automation efforts. Currently, many entry filers are using ACS to file informal entries. We are working toward further automation of the informal entry procedures. We believe this will result in greater reconciliation of entries and bills of lading/air waybills. Compliance safeguards would not be weakened since the enforcement cargo selectivity system for informal entries will provide a sound basis for Customs to deal with these areas. We previously noted in T.D. 86-143 and T.D. 89-53, when responding to similar comments, that audits and intensive examinations have been successful in insuring compliance with laws and regulations.

Determination

After carefully analyzing the comments received and further consideration of the matter, it has been determined to adopt the regulatory changes as proposed with the modifications noted.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) it is certified that, if adopted, the proposed amendment will not have a significant 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.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Arnold L. Sarasky, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 141

Customs duties and inspection, Imports

19 CFR Part 143

Customs duties and inspection, Imports

19 CFR Part 145

Customs duties and inspection, Imports, Postal service

19 CFR Part 148

Customs duties and inspection, Imports

Amendments

Parts 141, 143, 145 and 148 (19 CFR parts 141, 143, 145, and 148) are amended as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for part 141 continues to read as follows:

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

* * * * *

Subpart F is also issued under 19 U.S.C. 1481.

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§ 141.82 [Amended]

2. Section 141.82 is amended by removing "\$1000", where it appears in paragraph (d), and inserting in its place "\$1250".

PART 143—CONSUMPTION, APPRAISEMENT AND INFORMAL ENTRIES

1. The general authority citation for part 143 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

§ 143.21 [Amended]

2. Section 143.21 is amended by removing "\$1000", where it appears in paragraphs (a), (b), (c), (f), (g) and (l), and inserting in its place "\$1250".

§ 143.22 [Amended]

3. Section 143.22 is amended by removing "\$1000" and inserting in its place "\$1250".

§ 143.23 [Amended]

4. Section 143.23 is amended by removing "\$1000", where it appears in paragraph (d), and inserting in its place "\$1250".

§ 143.29 [Amended]

5. Section 143.29 is amended by removing "\$1000" where it appears in the introductory text to that section and paragraph (b) thereof and inserting in its place "\$1250".

PART 145—MAIL IMPORTATIONS

1. The authority citation for part 145 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

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Section 145.12 also issued under 19 U.S.C. 1315, 1484, 1498;

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Section 145.35 also issued under 19 U.S.C. 1498;

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§ 145.12 [Amended]

2. Section 145.12 is amended by removing "\$1000", where it appears in paragraphs (a)(2), (a)(3), (b) and (c), and inserting in its place "\$1250".

§ 145.35 [Amended]

3. Section 145.35 is amended by removing "\$1000" and inserting in its place "\$1250".

§ 145.41 [Amended]

4. Section 145.41 is amended by removing "\$1000" and inserting in its place "\$1250".

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, 1624. The provisions of this part, except for subpart C, are also issued under General Note 8, Harmonized Tariff Schedule of the United States, 19 U.S.C. 1202.

§ 148.23 [Amended]

2. Section 148.23 is amended by removing "\$1000", where it appears in

paragraphs (c)(1) and (c)(2), and inserting in its place "\$1250".

William von Raab,

Commissioner of Customs.

Approved: August 25, 1989.

Salvator R. Martoche,

Assistant Secretary of the Treasury.

[FR Doc. 89-20532 Filed 8-30-89; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 87-038]

RIN 2115-AC78

Port Access Routes; Approach to Freeport, TX

AGENCY: Coast Guard, DOT.

ACTION: Notice of study results.

SUMMARY: This notice publishes the results of a Port Access Route Study to determine if the Freeport Harbor Anchorage Area should be modified to facilitate recovery of hydrocarbon reserves which lie within the fairway anchorage. The Report of Study concluded that the fairway anchorage is an integral and necessary part of the fairway system that provides safe access to the Port of Freeport and should not be changed.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jeffrey D. Irino, Project Officer, Eighth Coast Guard District at (504) 589-4686 or Margie G. Hegy, Project Manager, Coast Guard Headquarters at (202) 267-0415.

SUPPLEMENTARY INFORMATION: The Report of Study upon which this notice is based, is available for inspection and copying at the Marine Safety Council, U.S. Coast Guard Headquarters, Room 3600, 2100 Second Street SW., Washington, DC 20593-0001 or at the Eighth Coast Guard District office, Room 1141, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396 between the hours of 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

Background

The Freeport Harbor Anchorage Area was established by the U.S. Army Corps of Engineers (COE) on October 25, 1968 (33 FR 15787). After the 1978 amendments to the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1223) authorized the Coast Guard to designate necessary shipping safety fairways to provide safe access routes to U.S. ports, the Coast Guard adopted

the shipping safety fairway regulations originally promulgated by the COE and placed them in 33 CFR part 166 (May 13, 1982, 47 FR 20580). On June 30, 1983 (48 FR 30108), the Coast Guard defined shipping safety fairways and fairway anchorages.

A shipping safety fairway is an area in which no fixed structures are permitted, and therefore may inhibit exploration and exploitation of mineral resources. A fairway anchorage is an anchorage area contiguous to and associated with a fairway, in which fixed structures may be permitted with a two-mile spacing limitation (33 CFR 166.100(c)(1)).

Regulatory History

Pursuant to the 1978 amendments to the PWSA, the Coast Guard undertook a port access route study of the potential traffic density and the need for safe access routes for vessels proceeding to or from U.S. ports.

The port access route study, which included the Freeport Harbor area, was opened on April 16, 1979 (44 FR 22543). The Notice of Study Results, published on October 8, 1981 at 46 FR 49989, recommended no change to the existing shipping safety fairway or fairway anchorage area in the approach to Freeport, TX.

On July 2, 1987 (52 FR 25039), the Coast Guard opened a port access route study of the Freeport area in response to a request from the Amoco Production Company (USA) to modify the existing Freeport Harbor Anchorage Area.

Amoco's Request

Amoco Production Company requested that 18.40 square miles of the southwestern section of the Freeport Harbor Anchorage Area be deleted. Amoco desires to drill a 14,000' wildcat well within the southwestern section of the Freeport Harbor Anchorage Area. Federal regulations (33 CFR 166.200(c)(1)) prohibit Amoco from placing a structure in their preferred location because structures located within a fairway anchorage must be at least two nautical miles apart. The southwestern section of the fairway anchorage presently contains three production structures. With the requested modification, Amoco could obtain a drilling permit for their preferred location, State Tract 307L SE/4.

Amoco currently has a permit to drill the 14,000' wildcat well from a location in the northeastern section of the fairway anchorage which meets the two-mile spacing requirement. This is not the preferred location because it will require Amoco to drill a directional well at a

steep angle from their permitted surface location. Amoco feels that a directional hole will greatly increase their risk and significantly reduce their ability to successfully drill the well to its objective, as well as substantially increase the cost of the well. In light of this and the current economic climate, Amoco states they cannot justify the drilling of a well from the northeastern section.

The requested modification would open an area within the southwestern section of the fairway anchorage to exploration and production drilling without any spacing limitations. Amoco believes the adjustment is necessary and that present resource exploration and exploitation cannot be reasonably accommodated if the fairway anchorage is not changed. They believe the present estimated costs to directionally drill are not reasonable for oil and gas exploration in this immediate area.

Amoco suggested a specific alternative which would reconfigure, but not reduce the net size of, the Freeport Harbor Anchorage Area. They proposed that the 18.40 square miles of anchorage area deleted from the southwestern section be added to the northeastern section of the fairway anchorage.

Amoco contends that the requested modification would have a negligible effect, if any, on vessels seeking anchorage, because the southwestern section of the fairway anchorage is not presently used for anchoring. To support their contention, Amoco photographed the southwestern section of the fairway anchorage during the month of February 1988 and showed no ships anchored.

The Study

The port access route study area encompassed part of the present Freeport Harbor Safety Fairway, the existing and proposed Freeport Harbor Anchorage Areas, and part of adjacent safety fairways in the offshore approach to Freeport, Texas.

The port access route study involved contacts with other Federal agencies, state government officials, and representatives of a wide variety of interests in the area. Comments were specifically solicited from Federal, state and local agencies who have an interest in the accessibility to Freeport Harbor or the development of offshore oil leases in the area.

Uses of the Area

The Port of Freeport is known as the Star of the Mid-Coast because it is the most accessible port in the Gulf Coast, only 45 minutes from deep water via three miles of soon to be completed 45-