

For the Nuclear Regulatory Commission.
Annette L. Vietti-Cook,
Secretary of the Commission.
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DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

19 CFR Parts 4, 122, 123, and 192

[CBP Dec. 09-39]

Technical Correction To Remove Obsolete Compliance Date Provisions From Electronic Cargo Information Regulations

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

ACTION: Final rule; technical correction.

SUMMARY: This final rule removes the compliance date provisions of various sections of the CBP regulations pertaining to mandatory advance electronic transmission of in-bound and out-bound cargo information. As all the provisions requiring advance electronic transmission of cargo information are now in effect because the various dates or events described in the compliance date paragraphs triggering the compliance date have occurred, the compliance date paragraphs are now obsolete.

DATES: The rule is effective on October 14, 2009.

FOR FURTHER INFORMATION CONTACT: Gregory Olsavsky, Director, Cargo Control Division, Office of Field Operations, 202-344-1049.

SUPPLEMENTARY INFORMATION:

Background

As circumstances warrant, CBP sometimes publishes a regulation (a final or interim final rule) that delays its compliance date, or the compliance date for one or more of its provisions, until a future date and/or the occurrence of one or more specified events. When the condition or conditions precedent has been met, the provision becomes out of date and obsolete. This final rule removes several obsolete compliance date provisions from several sections of the CBP regulations.

Each compliance date provision being amended in this technical correction involves a final rule that was promulgated pursuant to section 343(a) of the Trade Act of 2002, as amended by the Maritime Security Act (19 U.S.C. 2071 note) (hereafter, section 343(a) of

the Act). The final rule was published in the **Federal Register** (68 FR 68140) on December 5, 2003. Section 343(a) of the Act mandates the collection of cargo information through a CBP-approved electronic data interchange system before cargo is brought into or departs from the United States by any mode of commercial transportation (sea, air, rail, truck). This requirement spawned new sections of the regulations (19 CFR 122.48a, 123.91, 123.92, and 192.14) and required amendment of an existing section (19 CFR 4.7) to implement the law. Four of the five sections pertain to the advance electronic transmission requirement for cargo arriving in the United States by vessel carrier, air carrier, rail carrier, and truck carrier, and the fifth section pertains to this requirement for cargo departing from the United States onboard all modes of transportation. Because some carriers were not yet automated (with systems capable of electronic transmission through the appropriate CBP-approved data interchange system) or CBP had to upgrade its system, the new and amended regulations were drafted to contain a compliance date provision that delayed the date the carriers would be required to comply with the mandatory electronic transmission requirements. Over time, the compliance dates for these five sections of the CBP regulations have taken effect, rendering these provisions obsolete.

Changes Made in This Final Rule

This final rule amends the following five sections of the CBP regulations to remove from each an obsolete compliance date provision:

19 CFR 4.7

Under 19 CFR 4.7, applicable to commercial vessels transporting cargo to the United States, CBP must receive the CBP-approved electronic equivalent of the vessel's cargo declaration 24 hours before the cargo is laden aboard the vessel at the foreign port (19 CFR 4.7(b)(2)). This section also sets forth other requirements, such as information to be transmitted, and a compliance date. Under 19 CFR 4.7(b)(5), vessel carriers (and non-vessel operating common carriers electing to participate) must comply with the requirement to make electronic transmissions under paragraph (b)(2) within 90 days of December 5, 2003 (the date the implementing final rule was published) at all ports of entry in the United States.

Inasmuch as the compliance date has passed, this final rule removes paragraph (b)(5) from this section and makes a conforming change to paragraph (b)(2).

19 CFR 122.48a

Under 19 CFR 122.48a, applicable to commercial air carriers transporting cargo to the United States, CBP must electronically receive from an inbound air carrier (or from another party authorized under paragraph (c)(1) of this section) certain information concerning incoming cargo. In the case of flights departing directly to the United States from any port or place in North America, CBP must receive the information no later than the aircraft's departure and, for flights departing from any other foreign port or place, no later than 4 hours prior to the aircraft's arrival in the United States. Section 122.48a sets forth other requirements, including the information to be transmitted and a compliance date.

Under 19 CFR 122.48a(e)(1), air carriers must comply with the requirement to transmit cargo information to CBP electronically on and after March 4, 2004. Under 19 CFR 122.48a(e)(2), CBP may delay the compliance date set forth in paragraph (e)(1) of this section in certain circumstances (that need not be specified here). Under this paragraph (e)(2), CBP would announce any such delays in the **Federal Register**. As the March 4, 2004, compliance date was not delayed, no announcements of delay were published.

Inasmuch as the compliance date for all air carriers has passed, this final rule removes paragraph (e) from this section and makes a conforming change to paragraph (a).

19 CFR 123.91

Under 19 CFR 123.91, applicable to U.S. bound railroad trains with commercial cargo aboard, CBP must electronically receive from the rail carrier certain information concerning the incoming cargo. CBP must receive the information no later than 2 hours prior to the cargo's arrival at the first port of arrival in the United States (19 CFR 123.91(a)). This section also sets forth other requirements, including exceptions, the information to be submitted, and a compliance date. Under 19 CFR 123.91(e), carriers are required to comply with the section's electronic transmission requirements 90 days from the date that CBP publishes notice in the **Federal Register** informing carriers that the electronic data interchange system for transmission of cargo information is operational at the affected port(s).

On April 12, 2004, CBP published a notice in the **Federal Register** (69 FR 19207) providing a schedule of dates by which the electronic data interchange

system would be implemented, in three phases, at the various affected ports of entry. Phase one was for implementation at the ports that were already system-operational, and subsequent phases would follow at other ports, as set forth in the 2004 notice. Accordingly, the carriers commenced advance electronic transmissions at those ports by the specified dates, each of which was set at least 90 days after publication of the 2004 notice. The implementation was complete at all ports in 2004, rendering 19 CFR 123.91(e) obsolete. Therefore, this final rule amends 19 CFR 123.91 by removing paragraph (e) and making a conforming change to paragraph (a).

19 CFR 123.92

Under 19 CFR 123.92, applicable to U.S. bound trucks with commercial cargo aboard, CBP must electronically receive from the truck carrier certain information concerning the incoming cargo. CBP must receive the information, depending on the electronic system employed by the carrier, no later than 30 minutes or one hour, or a lesser authorized period, prior to the cargo's arrival at the first port of arrival in the United States (19 CFR 123.92(a)). This section also sets forth other requirements, including exceptions, the information to be submitted, and a compliance date. Under 19 CFR 123.92(e), carriers are required to comply with these electronic transmission requirements on and after 90 days from the date that CBP publishes a notice in the **Federal Register** announcing the operability of the electronic interchange system at the affected port(s) and that the carriers must commence presenting the required cargo information through that system.

CBP published a series of notices (cited below) in the **Federal Register** announcing the operability of the electronic system at the various affected ports and the dates by which carriers were to commence electronic transmissions at those ports, each date being at least 90 days from publication of the notice. All such ports have been system operational, and all carriers have been complying with the regulation's requirements, since February 11, 2008. As all the compliance dates have taken effect, CBP is amending 19 CFR 123.92 to remove the obsolete compliance date provision of paragraph (e) and making a conforming change to paragraph (a). (See 69 FR 51007, August 17, 2004; 71 FR 62922, October 27, 2006; 72 FR 2435, January 19, 2007; 72 FR 8109, February 23, 2007; 72 FR 18574, April 13, 2007; 72 FR 25965, May 8, 2007; 72 FR 63805, November 3, 2007.)

19 CFR 192.14

Under 19 CFR 192.14, applicable to all carrier modes departing the United States transporting commercial cargo, carriers are required to file export cargo information electronically through the Automated Export System (AES) prior to departure, as follows: 24 hours prior to departure for vessel carriers, 2 hours prior to departure for air carriers, one hour before arrival at the border for truck carriers, and two hours before arrival at the border for rail carriers. Section 192.14(e), provides that these mandatory electronic (AES) filing requirements are to be implemented concurrent with the completion of the redesign of CBP's AES commodity module and the effective date of a Department of Commerce (DOC) rulemaking pertaining to mandatory electronic filing of export cargo information. Section 192.14(e) also requires CBP to publish a notice in the **Federal Register** announcing the compliance date.

CBP completed the design of the AES module in 2004, and, on June 2, 2008, the DOC published in the **Federal Register** (73 FR 31548) U.S. Census Bureau regulations pertaining to mandatory electronic transmission of export cargo information, with an effective date of July 2, 2008, and an implementation date of September 30, 2008. Thus, on June 9, 2008, CBP published a general notice in the **Federal Register** (73 FR 32466) announcing a September 30, 2008 compliance date for the electronic transmission requirements of 19 CFR 192.14. This rendered the compliance date provision of 19 CFR 192.14(e) obsolete. Accordingly, this final rule amends 19 CFR 192.14 by removing paragraph (e) and making a conforming change to paragraph (a).

Inapplicability of Notice and Comment and Delayed Effective Date

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), CBP has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay publication of this rule in final form, pending an opportunity for public comment, and that there is good cause for this final rule to become effective immediately upon publication. The technical corrections in this rule merely remove from five sections of the regulations compliance date provisions that have become obsolete for the reason that the date or event that triggers the compliance date in each section has passed.

The Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Also, this amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Signing Authority

The signing authority for this final rule document falls under 19 CFR 0.2(a) pertaining to the authority of the Secretary of Homeland Security (or his or her delegate) to prescribe regulations not related to customs revenue functions.

List of Subjects

19 CFR Part 4

Customs duties and inspection, Freight, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 122

Air carriers, Aircraft, Customs duties and inspection, Freight, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

Customs duties and inspection, Freight, Motor carriers, Railroads, Reporting and recordkeeping requirements.

19 CFR Part 192

Aircraft, Exports, Motor vehicles, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

■ For the reasons set forth in the preamble, parts 4, 122, 123 and 192 of title 19, Code of Federal Regulations (19 CFR parts 4, 122, 123, and 192) are amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

■ 1. The general authority citation for part 4 and the specific authority citation for section 4.7 continue 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. 60105.

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Section 4.7 also issued under 19 U.S.C. 1581(a);

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§ 4.7 [Amended]

■ 2. Amend § 4.7 by removing from the first sentence of paragraph (b)(2) the words “subject to the effective date provided in paragraph (b)(5) of this section,” and removing paragraph (b)(5).

PART 122—AIR COMMERCE REGULATIONS

■ 3. The general authority citation for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

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§ 122.48a [Amended]

■ 4. Amend § 122.48a by removing from the first sentence of paragraph (a) the words “and subject to paragraph (e) of this section,” and removing paragraph (e).

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

■ 5. The general authority citation for part 123 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i)), Harmonized Tariff Schedule of the United States (HTSUS), 1431, 1433, 1436, 1448, 1624, 1646c, 2071 note.

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§ 123.91 [Amended]

■ 6. Amend § 123.91 by removing from the first sentence of paragraph (a) the words “and subject to paragraph (e) of this section,” and removing paragraph (e).

§ 123.92 [Amended]

■ 7. Amend § 123.92 by removing from the first sentence of paragraph (a) the words “and subject to paragraph (e) of this section,” and removing paragraph (e).

PART 192—EXPORT CONTROL

■ 8. The general authority citation for part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1646c. Subpart A also issued under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under 13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

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§ 192.14 [Amended]

■ 9. Amend § 192.14 by removing from the first sentence of paragraph (a) the words “and subject to paragraph (e) of this section,” and removing paragraph (e).

Dated: October 8, 2009.

Jayson P. Ahern,

Acting Commissioner, Customs and Border Protection.

[FR Doc. E9–24668 Filed 10–13–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 301**

[TD 9462]

RIN 1545–BH91

Disregarded Entities and Excise Taxes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final and temporary regulations.

SUMMARY: This document contains a correction to final and temporary regulations (TD 9462) that were published in the **Federal Register** on Monday, September 14, 2009, clarifying that a single-owner eligible entity that is disregarded as an entity separate from its owner for any purpose, but regarded as a separate entity for certain excise tax purposes, is treated as a corporation for tax administration purposes related to those excise taxes.

DATES: This correction is effective on October 14, 2009, and is applicable on September 14, 2009.

FOR FURTHER INFORMATION CONTACT: Michael H. Beker, (202) 622–3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:**Background**

The final and temporary regulations that are the subject of this document is under section 7701 of the Internal Revenue Code.

Need for Correction

As published on Monday, September 14, 2009 (74 FR 46903), the final and temporary regulations (TD 9462) contain an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 9462), which was the subject of FR Doc. E9–21987, is corrected as follows:

On page 46904, column three, the signature line, the word “Mundace” is corrected to read “Mundaca”.

Diane O. Williams,

Federal Register Liaison, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E9–24656 Filed 10–13–09; 8:45 am]

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DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 950**

[SATS No. WY–035–FOR; Docket ID: OSM–2009–0003]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment with certain exceptions.

SUMMARY: We are issuing a final decision on an amendment to the Wyoming regulatory program (the “Wyoming program”) under the Surface Mining Control and Reclamation Act of 1977 (“SMCRA” or “the Act”). Our decision approves in part, disapproves in part and defers in part the amendment. Wyoming proposed revisions to and additions of rules concerning self-bonding requirements (Administrative Record No. WY–40–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment to reflect changes made at its own initiative. Wyoming intends to revise its program to increase the flexibility of its self-bonding program and at the same time not increase the risk to the State.

DATES: *Effective Date:* October 14, 2009.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Fleischman, Telephone: 307.261.6550, E-mail address: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Program
- II. Submission of the Proposed Amendment
- III. Office of Surface Mining Reclamation and Enforcement’s (OSM’s) Findings
- IV. Summary and Disposition of Comments
- V. OSM’s Decision
- VI. Procedural Determinations

I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders