

**(k) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l)(1) of this AD. You may email your request to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(l) Related Information**

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7754; fax: 781-238-7199; email: [robert.green@faa.gov](mailto:robert.green@faa.gov).

(2) Refer to European Aviation Safety Agency (EASA) AD 2017-0250, dated December 18, 2017, for more information. You may examine the EASA AD in the AD docket on the internet at <http://www.regulations.gov> by searching for and locating it in Docket No. FAA-2018-0153.

**(m) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Austro Engine GmbH Mandatory Service Bulletin No. MSB-E4-022/2, Rev. No. 2, dated November 27, 2017.

(ii) Reserved.

(3) For Austro Engine GmbH service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A-2700 Weiner Neustadt, Austria; phone: +43 2622 23000; fax: +43 2622 23000-2711; internet: [www.austroengine.at](http://www.austroengine.at).

(4) You may view this service information at FAA, Engine & Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781-238-7759.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Burlington, Massachusetts, on April 3, 2018.

**Robert J. Ganley,**

*Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.*

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**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****19 CFR Part 149**

[USCBP-2016-0040]

RIN 1651-AA98

**CBP Decision No. 18-04; Definition of Importer Security Filing Importer**

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts a proposed amendment to expand the definition of an Importer Security Filing (ISF) Importer, the party that is responsible for filing the ISF, for certain types of shipments. The changes are necessary to ensure that the definition of ISF Importer includes parties that have a commercial interest in the cargo and the best access to the required information.

**DATES:** This rule is effective May 14, 2018.

**FOR FURTHER INFORMATION CONTACT:** Craig Clark, Branch Chief, Advance Data Programs and Cargo Initiatives, Office of Cargo and Conveyance Security, Office of Field Operations by telephone at 202-344-3052 and email at [craig.clark@cbp.dhs.gov](mailto:craig.clark@cbp.dhs.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

Under CBP regulations, Importer Security Filing (ISF) Importers, as defined in 19 CFR 149.1, are required to submit an ISF to CBP, which consists of information pertaining to certain cargo arriving by vessel. The ISF is required to be submitted before the cargo is loaded on a vessel that is destined to the United States. For cargo other than foreign cargo remaining on board (FROB), the transmission of the ISF is required no later than 24 hours before cargo is laden aboard a vessel destined to the United States. For FROB shipments, the transmission of the ISF is required any time prior to lading. *See* 19 CFR 149.2(b).

For shipments consisting of goods intended to be entered into the United States and goods intended to be delivered to a foreign trade zone (FTZ), ISF Importers, or their agents, must submit 10 data elements to CBP. *See* 19 CFR 149.3(a). For shipments consisting entirely of FROB and shipments consisting entirely of goods intended to be transported as Immediate Exportation (IE) or Transportation and Exportation

(T&E) in-bond shipments, ISF Importers, or their agents, must submit five data elements to CBP *See* 19 CFR 149.3(b).

Currently, an ISF Importer is generally defined as the party causing goods to arrive within the limits of a port in the United States by vessel. *See* 19 CFR 149.1. The regulation provides that generally the ISF Importer is the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. However, the regulation limits the definition of ISF Importer to certain named parties for FROB, IE and T&E in-bond shipments, and for merchandise being entered into FTZ. For FROB cargo, the regulation provides that the ISF Importer is the carrier; for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the regulation provides that the ISF Importer is the party filing the IE, T&E, or FTZ documentation.

Based on input from the trade as well as CBP's analysis, CBP concluded that these limitations did not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though the party has no commercial interest in the shipment and limited access to the ISF data.

Therefore, in a notice of proposed rulemaking (NPRM) published in the **Federal Register** on July 6, 2016 (81 FR 43961), CBP proposed to expand the definition of ISF Importer for FROB cargo, for IE and T&E shipments and for goods to be delivered to an FTZ.

For FROB shipments, CBP proposed to broaden the definition of an ISF Importer to include non-vessel operating common carriers (NVOCCs). For IE and T&E in-bond shipments, and for goods to be delivered to an FTZ, CBP proposed to broaden the definition of an ISF Importer to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. This rule adopts these proposals as final. By broadening the definition to include these parties, the responsibility to file the ISF will be with the party causing the goods to enter the limits of a port in the United States and most likely to have access to the required ISF information.

For a detailed discussion of the statutory and regulatory histories of the rule, and the factors governing the development of this rule, please refer to the NPRM.

**II. Discussion of Comments**

CBP received two comments on the proposed rule, and each raised a number of issues. One comment favored the proposed amendment with recommended changes and one did not. A summary of the significant issues

raised by the comments and CBP's responses are set forth below.

#### *Comment*

One commenter said that the proposed ISF Importer definition with respect to FROB cargo was unclear. The commenter recommended revising the definition to indicate that the carrier is responsible for filing the ISF except when a shipment is being carried by an NVOCC, in which case the NVOCC would be responsible for filing the ISF.

#### *Response*

Although the commenter's suggested language would cover many situations, it would not account for all circumstances in which the shipment is being carried by an NVOCC. It would not cover the situation where the vessel operating carrier is the party that causes the goods to arrive within the limits of a port in the United States by vessel despite the NVOCC having booked the shipment. As discussed in the NPRM, an example would be when an NVOCC books a shipment not initially scheduled to arrive in the United States, but the vessel is diverted to the United States by the vessel operating carrier. If the cargo remains on board the vessel at the U.S. port and is not discharged until it arrives at the originally-scheduled foreign destination port, this would create FROB cargo. In this situation, even though the shipment would be carried by the NVOCC, the vessel operating carrier, and not the NVOCC, would be the party that caused the goods to arrive within the limits of a port in the United States by vessel and thus, the party responsible for filing the ISF.

In view of the above, CBP believes that the broader proposed definition of ISF Importer with regard to FROB shipments, which places the responsibility for filing the ISF on the party who caused the goods to arrive within the limits of a port in the United States by vessel, rather than on a specific party, is necessary.

#### *Comment*

One commenter noted that, for situations in which a shipment booked by an NVOCC is diverted by the vessel operating carrier to the United States in cases of extreme weather, machinery failure, or other unforeseen circumstances, the required ISF for the resulting FROB cargo could not be filed prior to loading as required by the current regulations. This commenter also noted that, in such situations, the NPRM's suggestion that the vessel operating carrier would be responsible for filing the ISF would not be workable

because the carrier would not have possession of the business confidential house-bill level information that it would need from the NVOCC to be able to file the ISF.

To address these issues, the commenter recommended that CBP adopt one of the following regulatory amendments: (1) Exempt FROB cargo in such situations from ISF requirements; (2) allow the vessel operating carrier to file the ISF at the master bill of lading level as soon as practicable; or (3) allow the vessel operating carrier to submit the required data elements for the ISF as soon as practicable to CBP, and require the NVOCCs with cargo on the vessel to submit the remaining data elements of the ISF as soon as practicable to CBP once the vessel operating carriers have informed the NVOCCs of the diversion.

#### *Response*

The proposed rule was limited to amending the definition of the ISF Importer in 19 CFR 149.1(a) concerning the parties responsible for filing the ISF. The commenter's suggestions, which relate to suggestions about when the required data elements must be transmitted or the level of detail required for the data elements as set forth in 19 CFR 149.2 and 149.3,<sup>1</sup> are outside the scope of this rulemaking. CBP notes that while those sections do not provide for exceptions from the ISF requirements based on extenuating circumstances, CBP may take the existence of extenuating circumstances into account in determining whether to issue a liquidated damages claim for an untimely or incomplete submission of the ISF.

#### *Comment*

One commenter requested clarification regarding the portion of the proposed definition that states that for IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. The commenter said that this language appears to be designed to allow the carrier or NVOCC to file the ISF documentation for such shipments, as is the case in some instances today.

<sup>1</sup> 19 CFR 149.2(b) provides the required time of transmission of the data elements for the ISF. For FROB cargo, the regulation specifies that the required data elements must be submitted prior to lading aboard the vessel at the foreign port. See 19 CFR 149.2(b)(4). The regulation provides no exceptions to this requirement in any circumstances, including for diversions. The ISF regulations provide that for shipments consisting entirely of FROB cargo, ISF Importers, or their agents, must submit five data elements to CBP for each good listed at the six-digit HTSUS number at the lowest bill of lading level (*i.e.*, at the house bill of lading level, if applicable). See 19 CFR 149.3(b).

#### *Response*

The proposed ISF Importer definition establishes the party that is responsible for filing the ISF, depending on the type of cargo transported. For IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer will be the goods' owner, purchaser, consignee, agent such as a licensed customs broker, or the party filing the IE, T&E, or FTZ documentation. If the carrier or NVOCC falls within the definition as one these parties, as it may if it was the agent for such a shipment, then it may file the ISF under the proposed definition.

#### *Comment*

One commenter did not agree that the NVOCC should be included in the definition of ISF Importer with respect to FROB cargo. This commenter said that the NVOCC does not have access to basic shipment manifest data, that it is not the party who caused the merchandise to be imported, and that it is not normally the party who is in position to know the details that are required for filing the ISF. This commenter also added that the ocean carrier is in control of the vessel and is responsible for the initial routing and any subsequent changes, and that an NVOCC may be unaware of the vessel operator's decision to route a vessel through a U.S. port.

#### *Response*

CBP disagrees with the commenter's reasoning and conclusion that an NVOCC should not be included in the definition of ISF Importer with respect to FROB cargo. For FROB cargo, the regulations require the submission of five data elements: The booking party, the foreign port of unloading, the place of delivery, the ship to party, and the commodity HTSUS number. See 19 CFR 149.3(b). When a party shipping the goods books a FROB shipment with an NVOCC, the NVOCC is the party most likely to have direct knowledge of these data elements because it, not the vessel operating carrier, has a direct business relationship with the shipping party. With limited exceptions, it is also the party that causes the goods to arrive within the limits of a port in the United States by vessel. Thus, it is generally the appropriate party to file the ISF. As noted in response to an earlier comment, where the vessel operating carrier diverts a shipment not initially scheduled to arrive in the United States and the cargo remains on board the vessel at the U.S. port, the vessel operating carrier, not the NVOCC, is the party that causes the goods to arrive

within the limits of a port in the United States and thus the responsible party for filing the ISF.

#### Comment

One commenter stated that the U.S. offices of a multinational NVOCC may be unaware that a shipment booked by the NVOCC's non-U.S. affiliate is destined to the United States.

#### Response

This final rule requires the NVOCC to file the ISF for shipments of FROB cargo when it falls under the definition of the ISF Importer. This requirement applies to the NVOCC regardless of which affiliate within the NVOCC booked the shipment. Each NVOCC is responsible for ascertaining whether any of its shipments are destined to the United States.

#### Comment

One commenter stated that the proposed rule would jeopardize smaller NVOCCs that would be forced to develop procedures to comply with the rule in the rare occurrence of a shipment of FROB cargo.

#### Response

FROB cargo consists of only a small subset of the total cargo that an NVOCC regularly ships. As discussed in the Regulatory Flexibility Act section in Part IV.B of this rule, CBP believes that the rule would not have a significant economic impact burden on a substantial number of smaller entities, including NVOCCs. These entities already send this information to the party that files the ISF, or directly to CBP, so amending the regulation to require that they submit it directly to CBP will not significantly affect their existing process.

#### Comment

One commenter stated that an NVOCC should not be penalized for being responsible for an ISF filing when it either, did not know a shipment was FROB or, simply does not have the data elements that the regulations require. The commenter further stated that an NVOCC is not recognized as a carrier in the Trade Act of 2002 and is not mandated to manifest its House Bill of Lading data. The commenter added that NVOCCs gain release of their cargo against the carrier's bill of lading, not the House Bill of Lading.

#### Response

As mentioned in an earlier comment response, if the shipping party books a FROB shipment with an NVOCC, the NVOCC is the party most likely to have

direct knowledge of the required ISF information. In cases of diversion to the United States creating FROB cargo, the NPRM stated that the vessel operating carrier would be the ISF Importer.

The issue of whether an NVOCC is recognized as a carrier in the Trade Act of 2002 and the vessel manifest and cargo release procedures are irrelevant to whether it is responsible for filing an ISF. As discussed earlier, the responsibility for filing the ISF lies with the party who caused the goods to arrive within the limits of a port in the United States by vessel. In addition, CBP notes that the Trade Act of 2002 recognizes an NVOCC as a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. *See* section 431A(b) of the Trade Act of 2002 (19 U.S.C. 1431a(b)) (citing section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B)); *see also* 19 CFR 4.7(b)(3)(ii)).

#### Comment

One commenter stated that the proposed rule would have a dramatic impact on the underwriting of International Carrier Bonds and increase liability to NVOCCs with late filing penalties.

#### Response

CBP disagrees. CBP believes that NVOCCs which are required to file ISFs under the proposed rule are fully capable of complying with the required ISF provisions and that any impact on the underwriting of International Carrier Bonds, if any, would be minimal. The bond that covers the ISF is broad enough to cover these amendments and this rule simply shifts the liability onto the most appropriate party—the one with the information.

### III. Conclusion

After review of the comments and further consideration, DHS adopts as final the proposed amendments published in the **Federal Register** on July 6, 2016 (81 FR 43961).

### IV. Regulatory Analysis

#### A. Executive Orders 12866, 13563, and 13771

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563

emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (“Reducing Regulation and Controlling Regulatory Costs”) directs agencies to reduce regulation and control regulatory costs and provides that “for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.”

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. OMB considers this rule to be an Executive Order 13771 deregulatory action. *See* OMB’s Memorandum “Guidance Implementing Executive Order 13771, Titled ‘Reducing Regulation and Controlling Regulatory Costs’” (April 5, 2017).

Though CBP does not estimate a quantitative savings as a result of this rule, it is a deregulatory action because it simplifies the transmission of ISF information to CBP, eliminates confusion regarding the party responsible for submitting the ISF, and significantly reduces confidentiality concerns raised by the current requirements. CBP has prepared the following analysis to help inform stakeholders of the impacts of this proposed rule.

Under current regulations, the party that is required to submit the ISF is the party causing the goods to arrive within the limits of a port in the United States by vessel. However, the regulation limits the definition for FROB, IE, and T&E shipments as well as for merchandise being entered into an FTZ to certain named parties. Based on input from the trade as well as CBP’s analysis, CBP has concluded that these limitations do not reflect commercial reality and, in some cases, designate a party as the ISF Importer even though that party has no commercial interest in the shipment and limited access to the ISF data. In some cases, the party responsible may not even be involved in the importation at the time the ISF must be filed. This causes confusion in the trade as to who is responsible for filing the ISF and raises confidentiality concerns because sometimes the private party with the information gives the information to the ISF Importer who then sends it to CBP. Therefore, CBP is expanding the definition of ISF Importer for FROB cargo, for IE and T&E shipments, and for goods to be delivered to an FTZ. This change is consistent

with the requirement of the Security and Accountability For Every Port Act of 2006 (SAFE Port Act), which provides that the requirement to file the ISF will be imposed on the party most likely to have direct knowledge of that information.

Under the current definition, the ISF Importer for FROB shipments is the vessel operating carrier. In cases where the shipper uses an intermediary, *i.e.*, NVOCC, the vessel operating carrier does not have access to certain of the required elements for confidentiality reasons—only the intermediary has this information. In most cases, the NVOCC chooses to file this information directly to CBP, sidestepping the confidentiality concerns, but the legal burden is on the vessel operating carrier so some NVOCCs feel pressured to share this information with the carrier. Under this rule, the ISF Importer for FROB cargo is either the NVOCC or the vessel operating carrier, depending on which of these parties is the party causing the goods to arrive within the limits of a port in the United States by vessel.

Likewise, the current definition of ISF Importer causes confusion for IE and T&E cargo. It provides that the ISF Importer in these cases is the filer of the IE or T&E documentation. This causes confusion because the IE or T&E documentation often is not created until the cargo arrives in the United States. This is problematic because ISF information must be submitted at least 24 hours prior to lading. To address this issue and to ensure that the ISF Importer has a bona fide interest in the commercial shipment, this rule expands the definition of ISF Importer for IE and T&E in-bond shipments to also include the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. The rule also makes a similar change to the definition of the ISF Importer of FTZ cargo. With this change, the ISF Importer includes the party with a bona fide interest in the commercial shipment and who has access to the required data in the specified time frame.

The modification of the definition of ISF Importer simply shifts the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ cargo). For IE, T&E, and FTZ cargo, the party that is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party that has the data such as the owner, purchaser, consignee, or agent often files the data, though that party is not legally obligated to file it. Under this rule, these parties

that have the data are now included in the definition of the party responsible for filing the data. Since these parties are generally the ones currently submitting this data to CBP, this change will have no significant impact.

In some rare instances, this final rule may shift the burden of filing from one party to another. For example, since the party currently responsible for filing may not be involved in the transaction at the time the data must be submitted, it could be one of several parties (*e.g.*, the owner, purchaser, consignee, or agent) that actually submits the information. Once this rule is in effect, there will be greater clarity as to which party is responsible, which could change who actually submits the data. In the vast majority of cases, there will be no change in who submits the data, but it is possible that there will be a change in some cases.

To the extent that there is a change in who actually submits the ISF data, there will be a shift in the time burden to do so from one party to the other. CBP estimates that submitting this information takes 2.19 hours at a cost of \$50.14 per hour.<sup>2</sup> This loaded wage rate was estimated by multiplying the Bureau of Labor Statistics' (BLS) 2014 median hourly wage rate for Ship and Boat Captains and Operators (\$32.73) by the ratio of BLS' average 2014 total compensation to wages and salaries for Transportation and Material Moving occupations (1.5319), the assumed occupational group for ship and boat captains and operators, to account for non-salary employee benefits.<sup>3 4</sup>

<sup>2</sup> This differs from the estimated wage rate on the most recent supporting statement for this information collection: OMB Control Number 1651-0001, available at: [http://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201506-1651-003](http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201506-1651-003), which is based on outdated data. We will update the wage rate in this supporting statement the next time the Information Collection Review (ICR) is renewed.

<sup>3</sup> Source of median wage rate: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, "May 2014 National Occupational Employment and Wage Estimates, United States—Median Hourly Wage by Occupation Code: 53-5020." Updated March 25, 2015. Available at [http://www.bls.gov/oes/2014/may/oes\\_nat.htm#53-0000](http://www.bls.gov/oes/2014/may/oes_nat.htm#53-0000). Accessed June 15, 2015.

<sup>4</sup> The total compensation to wages and salaries ratio is equal to the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of the total compensation cost per hour worked for Transportation and Material Moving occupations (26.62) divided by the calculated average of the 2014 quarterly estimates (shown under Mar., June, Sep., Dec.) of wages and salaries cost per hour worked for the same occupation category (17.3775). Source of total compensation to wages and salaries ratio data: U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. *Employer Costs for Employee Compensation Historical Listing March 2004—December 2015*, "Table 3. Civilian workers, by occupational group: employer costs per hours

Therefore, to the extent this rule shifts the reporting burden from one party to the other, there will be a corresponding shift of \$109.81 in opportunity cost per filing. CBP lacks data showing how often there will be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. When it published the proposed rule, CBP requested comments on this matter and did not receive any.

For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. Under this rule, with limited exceptions, the party that has access to the ISF information will submit it directly to CBP. Since this third party is generally already providing the ISF information through the current ISF Importer or directly to CBP, this rule will not add a significant burden to these entities. As described above, to the extent that this rule shifts the reporting burden from one party to the other, there will be a corresponding shift of \$109.81 in opportunity cost per filing. CBP lacks data showing how often there will be a shift in the actual reporting burden as a result of this rule but it believes it to be very small and possibly zero. When it published the proposed rule, CBP requested comment on this matter and received one saying that the impact would be infinitesimally small except for when a ship is diverted unexpectedly (for example, due to weather). The commenter stated that in this case placing the burden on the NVOCC would be burdensome because the NVOCC does not have control of the vessel and would not necessarily have the information needed to file. CBP agrees with the commenter and notes that in such situations, the reporting burden would remain with the carrier, as it was the party that caused the goods to arrive within the limits of a port in the United States by vessel. We therefore maintain our assumption that the reporting burden due to this provision is very small and possibly zero.

This final rule benefits all parties by eliminating the confusion surrounding the responsibility for the submission of ISF information. Under the expanded

worked for employee compensation and costs as a percentage of total compensation, 2004–2015 by Respondent Type: Transportation and material moving occupations." June 10, 2015. Available at <http://www.bls.gov/ncs/ect/sp/eceqqrtn.pdf>. Accessed June 15, 2015.

definition, the party that has a commercial interest in the cargo and the best access to ISF information will fall within the definition of ISF Importer. This will improve the accuracy of the information CBP uses for targeting. In addition, this rule significantly reduces confidentiality concerns that may be caused by the current requirements. Finally, eliminating a step in the transmission process (sending the ISF information from the third party to the current ISF Importer) will result in CBP getting the information sooner. Any extra time can be used for more extensive targeting.

#### *B. Regulatory Flexibility Act*

This section examines the impact of the rulemaking on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

In the Interim Final Rule establishing the ISF requirements (73 FR 71730; November 25, 2008, CBP Decision 08–46; Docket Number USCBP–2007–0077), CBP concluded that many importers of containerized cargo are small entities. The rule could affect any importer of containerized cargo so it could have an impact on a substantial number of small entities.

This impact, however, is very small. The modification of the definition of ISF Importer simply shifts the legal responsibility in some cases for filing the ISF from one party to another for a subset of the total cargo (FROB; IE and T&E; and FTZ cargo). For IE, T&E, and FTZ cargo, the party that is currently required to file the data may not yet even be involved in the transaction at the time the data must be submitted. In these cases another party such as the owner, purchaser, consignee, or agent often files the data, though that party is not legally obligated to file it. Under this rule, these parties will be included in the definition of the party responsible for filing the data. Since these parties are currently submitting this data to CBP, this change will have no significant impact. For FROB, the ISF Importer must currently either obtain the information from a third party that has the necessary information or ask that the third party file the information directly to CBP. In some cases, the third party shares this information with the

ISF Importer, but it usually files the data directly with CBP for confidentiality reasons. In this rule, CBP is expanding the definition of ISF Importer so that the party that most likely has access to the ISF information will submit it directly to CBP as the ISF Importer. Since this third party is already providing the ISF information through the current ISF Importer or directly to CBP, this rule will not add a significant burden to these entities.

For these reasons, CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### *C. Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. This final rule will not result in such an expenditure.

#### *D. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information related to this final rule are approved by OMB under collection 1651–0001.

#### **List of Subjects in 19 CFR Part 149**

Customs duties and inspection, Foreign trade, Foreign trade zones, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

#### **Amendment to the Regulations**

For the reasons stated in the preamble, DHS amends part 149 of title 19 of the Code of Federal Regulations (19 CFR part 149) as set forth below:

#### **PART 149—IMPORTER SECURITY FILING**

- 1. The authority citation for part 149 continues to read as follows:

**Authority:** 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1624, 2071 note.

- 2. In § 149.1, paragraph (a) is revised to read as follows:

##### **§ 149.1 Definitions.**

(a) *Importer Security Filing Importer.* For purposes of this part, Importer Security Filing (ISF) Importer means the

party causing goods to arrive within the limits of a port in the United States by vessel. For shipments other than foreign cargo remaining on board (FROB), the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a Foreign Trade Zone (FTZ), the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. For FROB cargo, the ISF Importer will be the carrier or the non-vessel operating common carrier.

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**Elaine C. Duke,**

*Deputy Secretary.*

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## **DEPARTMENT OF STATE**

### **22 CFR Part 193**

[Public Notice: 10381]

**RIN 1400–AD31**

#### **Repeal of Benefits for Hostages in Iraq, Kuwait, or Lebanon**

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** In accordance with Executive Order 13771 of January 30, 2017, which addresses agency review of existing regulations, including those that may be outmoded or ineffective, the State Department is repealing the regulations on Benefits for Hostages in Iraq, Kuwait, or Lebanon. The current regulations, which relate to hostage benefits for U.S. nationals in Iraq, Kuwait, or Lebanon were established in 1990, and are outdated as the program funding has been eliminated.

**DATES:** This rule is effective on April 12, 2018.

**FOR FURTHER INFORMATION CONTACT:** Colleen Flood, Office of Legal Affairs, Overseas Citizen Services, U.S. Department of State, 2201 C. Street NW, SA–17A, Washington, DC 20520, (202) 485–6070, [FloodCB@state.gov](mailto:FloodCB@state.gov).

**SUPPLEMENTARY INFORMATION:** This rule removes 22 CFR part 193 of the Code of Federal Regulations, which relates to limited monetary payments and federal life and health insurance benefits as a humanitarian gesture to certain U.S. nationals held hostage in Kuwait, Iraq, or Lebanon, and to the family members thereof, subject to specified funding and other limitations. The authorization to obligate funds under Section 599C of