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John F. Mizroch,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 301

[Docket No. 080102004-8005-01]

RIN 0625-AA75

Changes in Procedures for Florence Agreement Program

AGENCY: Import Administration, International Trade Administration ("ITA"), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: This action invites public comment on a proposal to amend the regulations that govern the duty-free entry of scientific instruments and apparatus into the United States by educational and nonprofit institutions. The amendments are being proposed for the purpose of making technical changes required by the passage of the Miscellaneous Trade and Technical Corrections Act of 2004, updating the regulations to comport with current Customs and Border Protection ("CBP") practices and changes made in the Harmonized Tariff Schedule of the United States ("HTSUS") and adding a Web site address for Statutory Import Programs Staff ("SIPS"). We also propose amending the regulations to reflect the new nomenclature changes made necessary by the transfer of the legacy Customs Service of the Department of the Treasury to the Department of Homeland Security ("DHS").

DATES: Written comments must be received on or before January 16, 2009.

ADDRESSES: Address written comments to Jesse Cortes, Import Policy Analyst, Subsidies Enforcement Office, Room 3713, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, or electronically via the Federal Government e.rulemaking portal, <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Jesse Cortes, (202) 482-3986, same address as above.

SUPPLEMENTARY INFORMATION: The Departments of Commerce and Treasury ("the Departments") and Customs and Border Protection are proposing to amend Part 301, Chapter III, Subtitle B of Title 15 of the Code of Federal Regulations relating to their responsibilities under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (the "Act"; Public Law 89-651, as amended by Public Law 106-36; 80 Stat. 897). The Act implements U.S. treaty obligations under Annex D of the Florence Agreement, relating to the import of scientific instruments and apparatus. Treaty signatories agreed to waive duties on such imports if there is no scientifically equivalent instrument being manufactured in the country of importation and the instrument is to be used by a nonprofit institution established for scientific research or educational purposes.

Proposed Amendments

ITA proposes to amend language in 15 CFR 301.8(a)(4) because references to liquidation being suspended for a period of 180 days from the date of entry are not accurate and the reference to "suspension" is misleading. Under 15 CFR part 301, an applicant desiring duty-free entry of an instrument may make a claim with CBP at the time of entry of an instrument that the instrument is entitled to duty-free classification under subheading 9810.00.60, HTSUS. Currently, 15 CFR 301.8(a)(4) states that liquidation of the entry shall be suspended for a period of 180 days from the date of entry and that the applicant must file a properly stamped application form on or before the end of this suspension period or the entry will be liquidated without regard to 9810.00.60, HTSUS. We are proposing to amend 15 CFR 301.8(a)(4) to delete any reference to the 180 day time period in its entirety. The current provision was promulgated in 1982 and does not reflect the subsequent amendments to 19 U.S.C. 1504. Under current law, CBP has up to one year to liquidate an entry before it is deemed liquidated by operation of law. See 19 U.S.C. 1504. After the enactment of 19 U.S.C. 1504 in 1978, CBP generally liquidated entries within 90 days of entry. The 180-day period referenced in the regulations was an exception. Moreover, the use of the term "suspension" is misleading since the governing statute (subchapter III, chapter 98, HTSUS (19 U.S.C. 1202))

does not authorize a "suspension" of liquidation. While there is no statutory authority preventing CBP from liquidating the entry at any time during the one-year period after entry of the merchandise, see *Peer Chain Co. vs. United States*, 316 F. Supp. 2d 1357 (CIT 2004) CBP normally liquidates an entry 315-days after entry is filed. Importers should file a copy of the stamped application as soon as possible because CBP may liquidate the entry at any time.

We also propose amending 15 CFR 301.8(c) to delete references to the protest period for entries as the referenced period is out-of-date due to the statutory amendments made by the Miscellaneous Trade and Technical Corrections Act of 2004, Public Law 108-429, § 2103(2)(B)(ii), (iii) (codified as amended at 19 U.S.C. 1514(c)(3)).

We further propose amending 15 CFR 301.3(b) to include the SIPS Web site address to let interested parties know that the application for duty-free entry of scientific instruments (Form ITA-338P) may be obtained from that Web site.

The proposed rule would also amend 15 CFR 301.2(j) and (o) by removing the references to spectrometers. This change is proposed because Presidential Proclamation 7011 of June 30, 1997, made spectrometers free of duty. This proposed rule would also add language to 15 CFR 301.2(j) that describes an appropriate example of ancillary equipment.

Finally, pursuant to section 403 of the Homeland Security Act of 2002 (Pub. L. 107-296) (2002), the U.S. Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security ("DHS"). Under the Reorganization Plan (Nov. 25, 2002), this transfer became effective as of March 1, 2003. The former Customs Service had been redesignated as the Bureau of Customs and Border Protection and pursuant to section 872(a)(2) of the Homeland Security Act (see 6 U.S.C. 452(a)(2)), DHS notified Congress on January 18, 2007, that it was changing the name of the Bureau of Customs and Border Protection to "U.S. Customs and Border Protection (CBP)" effective March 31, 2007 (see 72 FR 20131, April 23, 2007). As a result of this reorganization, we propose amending 15 CFR 301 by replacing "U.S. Customs Service" and similar references throughout the regulations with its new designation, "Customs and Border Protection" or CBP. We note that we are retaining the "Department of the Treasury" wherever it occurs in the regulations for purposes of the Florence Agreement Program

because the Treasury Department did not delegate this function to the Secretary of Homeland Security (See Treasury Department Order No. 100–16, set forth in the appendix to Part 0 of title 19 of the Code of Federal Regulations).

As reflected in § 10.114 of the CBP regulations (19 CFR 10.114), the consolidated regulations of the Commerce and Treasury Departments relating to the entry of instruments and apparatus for educational and scientific institutions are contained in 15 CFR part 301. With respect to the responsibility of the Department of the Treasury in issuing these joint regulations, this document is being issued under the authority of § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)). Accordingly, regulations for which the Secretary of the Treasury retains the sole authority to approve pursuant to 19 CFR 0.1(a)(1) are signed by the Secretary of the Treasury (or his or her Treasury delegate), and by the Commissioner of CBP, who is signing this document as the delegate of the Secretary of the Department of Homeland Security.

Administrative Law Requirements

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule, if promulgated as final, will not have a significant economic impact on a substantial number of small entities. The applicants for the duty-free entry of scientific instruments and apparatus are educational and non-profit institutions. The proposed rulemaking would make the necessary changes required by the passage of the Miscellaneous Trade and Technical Corrections Act of 2004, update the regulations to comport with current CBP practices and changes in the HTSUS, add a Web site address for SIPS and make necessary changes to reflect the new designations that were created when Customs became CBP. Adoption of this rule would implement the following changes: Extend the liquidation period and, therefore, the amount of time the applicant has to submit a properly stamped copy of the form ITA–338P to CBP before liquidation occurs; remove the outdated reference to a 90-day protest period; remove outdated references to spectrometers; add the SIPS Web site address to let interested parties know that the application for duty-free entry of scientific instruments (Form ITA–338P) can be obtained from the SIPS

Web site; and make the necessary changes to reflect the new nomenclature changes made necessary by the transfer of the legacy Customs Service of the Department of the Treasury to DHS and the subsequent enfolding of the U.S. Customs Service into the Bureau of Customs and Border Protection and then its subsequent name change by DHS to “U.S. Customs and Border Protection” on March 31, 2007. There would be no adverse economic impact from these proposed changes.

This proposed rule also would not change reporting or recordkeeping requirements. The changes in the regulations will also not duplicate, overlap or conflict with other laws or regulations. Consequently, the changes are not expected to meet the RFA criteria of having a “significant” economic effect on a “substantial number” of small entities, as stated in 5 U.S.C. 603 *et seq.* Therefore, a regulatory flexibility analysis was not prepared.

Paperwork Reduction Act. This proposed rulemaking does not contain revised collection of information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Collection activities are currently approved by the Office of Management and Budget under control number 0625–0037.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB control number.

Executive Order 12866. It has been determined that the proposed rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 301

Administrative practice and procedure, Customs duties and inspection, Educational facilities, Imports, Nonprofit organizations, Scientific equipment.

For the reasons set forth in the preamble, 15 CFR part 301 is proposed to be amended as follows:

PART 301—[AMENDED]

1. The authority citation for part 301 continues to read as follows:

Authority: Sec. 6(c), Pub. L. 89–651, 80 Stat. 897, 899; Sec. 2402, Pub. L. 106–36, 113 Stat. 127, 168.

§ 301.1 [Amended]

2. Section 301.1 is amended by removing “Secretary of the Treasury

(U.S. Customs Service)” in paragraph (c)(2) and adding “Customs and Border Protection” in its place.

§ 301.2 [Amended]

3. Section 301.2 is amended as follows:

a. Paragraph (b) is amended by removing “*Customs* means the U.S. Customs Service and ‘The Commissioner’ means Commissioner of the U.S. Customs Service” and adding “*The Commissioner* means Commissioner of Customs and Border Protection” in its place;

b. Paragraph (c) is amended by removing “*Customs Port*” and adding “*CBP Port*” in its place;

c. The third sentence of paragraph (j) is amended by removing “automatic sampling equipment sold for use with a variety of mass spectrometers” and adding “a vacuum evaporator sold for use with an electron microscope” in its place;

d. Paragraph (o) is amended by removing the words “mass spectrometer” and “x-ray spectrometer.”.

§ 301.3 [Amended]

4. Section 301.3 is amended as follows:

a. The first sentence of paragraph (b) is amended by removing “20230, or” and adding “20230, the Web site at <http://ia.ita.doc.gov/sips/index.html>, or” in its place;

b. Paragraph (c) is amended by removing the words “U.S. Customs Service, Department of the Treasury,” and adding “U.S. Customs and Border Protection” in its place.

5. Section 301.8 is amended as follows:

a. Paragraph (a)(4) is revised to read as set forth below;

b. The second sentence of paragraph (c) is amended by removing “, within 90 days after notice of liquidation”.

§ 301.8 Instructions for entering instruments through U.S. Customs and Border Protection under subheading 9810.00.60, HTSUS.

* * * * *

(a) * * *

(4) If a claim for duty-free entry under subheading 9810.00.60, HTSUS is made but is not accompanied by a copy of the properly stamped form, a deposit of the estimated duty is required. Before the entry is liquidated, the applicant must file with the CBP Port a properly stamped copy of the application form. In the event that the CBP Port does not receive a copy of the properly stamped application form before liquidation, the instrument shall be classified and liquidated in the ordinary course,

without regard for subheading
9810.00.60, HTSUS.

* * * * *

§§ 301.1, 301.2, 301.4, 301.5, 301.8, 301.9, 301.10 [Amended]

6. In addition to the amendments set forth above, 15 CFR part 301 is amended by removing “U.S. Customs Service”, “U.S. Customs”, or “Customs” and adding “Customs and Border Protection” in its place in the following places:

- a. Second sentence in § 301.1(d);
- b. Fourth sentence in § 301.2(k);
- c. Section 301.4 heading, and first sentence of § 301.4(a) introductory text;
- d. Second sentence in § 301.5(d)(ii);
- e. Section 301.8 heading, § 301.8(a)(3), (b) heading and first and second sentences, and (d) first and second sentences;
- f. Section 301.9(b) and § 301.9(c); and
- g. Second sentence in § 301.10(a).

§§ 301.7, 301.8, 301.9 [Amended]

7. In addition to the amendments set forth above, 15 CFR part 301 is amended by removing “Customs Port” and adding “CBP Port” in its place in the following places:

- a. First sentence in § 301.7(b);
- b. Third and fourth sentences of § 301.8(a)(4); and
- c. Third sentence of § 301.9(a).

David Spooner,

Assistant Secretary for Import Administration, Department of Commerce.

W. Ralph Basham,

Commissioner, Customs and Border Protection.

Timothy Skud,

Deputy Assistant Secretary of the Treasury.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Docket No. SSA–2007–0058]

RIN 0960–AG58

Use of Date of Written Statement as Filing Date

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise our rules for protective filing after we receive a written statement of intent to claim Social Security benefits under title II of the Social Security Act (the Act). Specifically, we propose to revise from 6 months to 60 days the time period during which you must file an

application for benefits after the date of a notice we send explaining the need to file an application. We are proposing this revision to make the time period used in the title II program consistent with the time period used in other programs we administer under the Act. We believe that eliminating the difference between the time periods in the programs we administer would make it easier for the public to understand and follow our rules.

DATES: To be sure that your comments are considered, we must receive them by February 17, 2009.

ADDRESSES: You may submit comments by any one of four methods—Internet, facsimile, regular mail, or hand-delivery. Commenters should not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA–2007–0058 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments, and we strongly urge you to use it.) In the *Comment or Submission* section of the Web page, type “SSA–2007–0058”, select “Go,” and then click “Send a Comment or Submission.” The Federal eRulemaking portal issues you a tracking number when you submit a comment.

2. Telefax to (410) 966–2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235–7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by making arrangements with the contact person shown in this preamble.

Caution: All comments we receive from members of the public are available for public viewing in their entirety on the Federal eRulemaking portal at <http://www.regulations.gov>. Therefore, you should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

FOR FURTHER INFORMATION CONTACT:

Martin Sussman, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401. Call (410) 965–1767 for further information about these proposed rules. For information on eligibility or filing for benefits, call our national toll-free number 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, Social Security Online, at <http://www.socialsecurity.gov>.

SUPPLEMENTARY INFORMATION:

Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at <http://www.gpoaccess.gov/fr/index.html>.

What rules are we proposing to revise?

Time Period To File an Application after Submitting a Written Statement of Intent To Claim Benefits

We propose to revise our regulations at § 404.630(c), which explain when we will use the date of a written statement as your filing date for Social Security benefits under title II of the Act. We will use the date a written statement indicating your intent to claim benefits is filed with us as the date of your application for benefits if certain requirements are met. Under our current regulations, you must file the application for benefits within 6 months after the date of a notice we send advising you of the need to file an application. We propose to revise the time period to 60 days after the date of such notice.

Why are we proposing to change our rules?

As stated above, our current protective filing rules under title II allow us to protect your intent to file for a 6-month period. Our current rules also allow for protective filing in the supplemental security income program under title XVI of the Act and the special veterans benefits program under title VIII of the Act. However, the time period in which an application must be filed in those programs is 60 days after the date of the notice we send advising you of the need to file an application.

Our program experience has shown that the public may be confused by the difference in time periods for protective filing in the programs we administer, and this confusion may cause them to lose benefits. This is especially true when claimants indicate they intend to file concurrent applications for more than one program, usually under titles II and XVI of the Act. The proposed