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**James J. Jochum,**

*Assistant Secretary for Export Administration.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 101

#### Consolidation of Customs Drawback Centers

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations to reflect a planned closure of the Customs Drawback Centers located at the ports of Boston, Massachusetts; Miami, Florida; and New Orleans, Louisiana. Because of a sustained decrease in the number of drawback claims and the amount of drawback payments, Customs is proposing a consolidation of the Drawback Program. The closing of the three Drawback Centers is part of the planned consolidation and is intended to promote operational efficiency in the processing of drawback claims.

**DATES:** Comments must be received on or before September 20, 2002.

**ADDRESSES:** Written comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Office of Regulations & Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at the U.S. Customs Service, 799 9th Street, NW., Washington, DC, during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:** Sherri Hoffman, U.S. Customs Service, Entry and Drawback Management, (202) 927-0300.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *Consolidation of Drawback Centers*

Since 1996, Customs has recognized a decrease in both the number of drawback claims and the amount of drawback payments. To verify these trends, and to determine how to most efficiently operate the Drawback

Program, Customs conducted an internal evaluation of the program. Customs also retained the services of an independent contractor to review the Drawback Program to ensure that the agency's findings were valid.

The findings of both the agency-led review and the independent contractor's assessment indicated the benefits of consolidating the processing of drawback claims by reducing the number of Drawback Centers.

In a Notice to Congress on March 12, 2001, filed in accordance with 19 U.S.C. 2075, Customs proposed the closure of four Drawback Centers. The Senate Finance and House Ways and Means Committees concurred with the proposal for consolidation, but with the recommendation that only three Drawback Centers be eliminated and the San Francisco Drawback Center remain operational. The Commissioner of Customs concurred with this recommendation and it was proposed to phase-in the closure of the Drawback Centers located at the ports of Boston, MA; Miami, FL; and New Orleans, LA. The remaining five Drawback Centers, located at the ports of New York, NY/ New York, NJ; Houston, TX; Chicago, IL; Los Angeles, CA; and San Francisco, CA would remain operational.

##### *Closing of Drawback Centers To Be Phased-In*

To assist the remaining five Drawback Centers in accommodating an increased number of drawback claims, it is proposed to phase-in the closing of the three Drawback Centers. If, after further consideration and review of any comments submitted in response to the solicitation of comments set forth in this document, Customs decides to adopt as a final rule these proposed changes, it is proposed to phase-in the closing of the Drawback Centers as follows:

(1) The first Drawback Centers to close would be the centers at the ports of Boston, Massachusetts and New Orleans, Louisiana. These two centers would close 30 days from the date a final rule adopting these proposed changes is published in the **Federal Register**. At that time, drawback claims would no longer be accepted at the Boston or New Orleans Drawback Centers, and claims would be required to be filed at one of the five remaining Drawback Centers. Drawback claims submitted to the Boston or New Orleans Drawback Centers after this date would be rejected. Once rejected, it would be the responsibility of the claimant to ensure timely filing of the drawback claim at one of the five remaining Drawback Centers. Customs personnel at the ports of Boston and New Orleans

would continue to process drawback claims that were submitted prior to commencement of this first phase-in period, for a period of 12-months. After this time, all remaining claims filed at the Boston Drawback Center prior to commencement of this first phase-in period, that have not been liquidated and require Customs review, would be forwarded to the New York/Newark Drawback Center for final processing. All remaining claims that were filed at the New Orleans Drawback Center prior to commencement of this first phase-in period, that have not been liquidated and require Customs review, would be forwarded to the Houston Drawback Center for final processing.

(2) The third Drawback Center to close would be the one located at the port of Miami, Florida. This center would close 180 days from the date a final rule adopting these proposed changes is published in the **Federal Register**. At that time, drawback claims would no longer be accepted at the Miami Drawback Center, and claims would be required to be filed at one of the five remaining Drawback Centers. Drawback claims submitted to the Miami Drawback Center after this date would be rejected. Once rejected, it would be the responsibility of the claimant to ensure timely filing of the drawback claim at one of the five remaining Drawback Centers. Customs personnel at the port of Miami would continue to process drawback claims that were submitted prior to commencement of this second phase-in period, for a period of 12-months. After this time, all remaining claims filed at the Miami Drawback Center prior to commencement of this second phase-in period, that have not been liquidated and require Customs review, would be forwarded to the Chicago Drawback Center for final processing.

##### *Claimant Requirements To File in Designated Alternate Drawback Centers*

In order to file a drawback claim at one of the five remaining Drawback Centers, a claimant would be required to possess either a district permit for the location at which the claim will be filed or a national permit. Claimants are reminded that a national permit requires use of the Automated Broker Interface of Customs Automated Commercial System when filing drawback claims. Claimants must ensure that all permit, license and bond requirements are met in accordance with the regulations. See parts 111 and 113 of the Customs Regulations.

### Maintenance of Drawback Information

Throughout the staged consolidation period, claimants would be required to provide Customs with advance notification of any changes in the information provided regarding a drawback claim. This notification must be provided in accordance with part 191 of the Customs Regulations (19 CFR part 191).

### Explanation of Amendments

Section 101.3(b)(1) of the Customs Regulations lists the Customs ports of entry. Eight ports are denoted with an asterisk that designates their status as a "Drawback unit/office." This document proposes to amend § 101.3(b)(1) to delete the asterisks in § 101.3(b)(1) next to the port listings for Boston, Miami and New Orleans.

### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC.

### The Regulatory Flexibility Act and Executive Order 12866

Although this document is being issued with notice for public comment, because it relates to agency management and organization, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Agency organization matters, such as this proposed closing of three Customs Drawback Centers, are not subject to Executive Order 12866.

### Drafting Information

The principal author of this document was Ms. Suzanne Kingsbury, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

### List of Subjects in 19 CFR Part 101

Customs duties and inspection, Customs ports of entry.

### Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend part 101 of the Customs Regulations (19 CFR part 101) as follows:

### PART 101—GENERAL PROVISIONS

1. The general authority citation for part 101 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Section 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

\* \* \* \* \*

2. In § 101.3, the table in paragraph (b)(1) is amended by removing the plus sign in the "Ports of entry" column before the column listings for "Miami" under the state of Florida, "New Orleans" under the state of Louisiana, and "Boston" under the state of Massachusetts.

**Robert C. Bonner,**

*Commissioner of Customs.*

Approved: August 15, 2002.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

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### DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 1

[Docket Numbers 98N-0496 and 00N-1633]

RIN 0910-AB24 and 0910-AB95

### Import for Export; Reporting and Recordkeeping Requirements for Unapproved or Violative Products Imported for Further Processing or Incorporation and Subsequent Export; Marking Requirements for and Prohibitions on the Reimportation of Imported Food Products That Have Been Refused Admission Into the United States; Withdrawal

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rules; withdrawal.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the withdrawal of two proposed rules. One proposed rule, which appeared in the **Federal Register** on November 24, 1998 (63 FR 64930), would have established reporting and recordkeeping requirements for certain products that

are imported into the United States for further processing or incorporation into products that are then exported. The second proposed rule, which appeared in the **Federal Register** on January 22, 2001 (66 FR 6502), would have established requirements for marking imported food that has been refused entry into the United States for safety reasons. FDA is withdrawing these proposed rules due to recent changes in Federal law.

**DATES:** The proposed rules are withdrawn August 21, 2002.

### FOR FURTHER INFORMATION CONTACT:

Philip L. Chao, Office of Policy, Planning, and Legislation (HF-23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-3380.

**SUPPLEMENTARY INFORMATION:** On November 24, 1998, FDA published a proposed rule in the **Federal Register** (63 FR 64930) that would have established reporting and recordkeeping requirements for certain products that are imported under section 801(d)(3) and (d)(4) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 381(d)(3) and (d)(4)). These sections of the act allowed the importation of certain unapproved or otherwise noncompliant products or articles provided that those products or articles are further processed or incorporated into other products and then exported from the United States.

On January 22, 2001, FDA and the Department of the Treasury jointly prescribed a proposed rule in the **Federal Register** (66 FR 6502) that would have allowed FDA to require food importers or consignees to mark imported foods if, for safety reasons, FDA had refused to allow such foods to enter the United States. The mark would have stated, "UNITED STATES REFUSED ENTRY," and the proposed rule would have established the mark's size and required the mark to be affixed on packing containers holding the refused food and on invoices, bills of lading, and any other documentation accompanying the food when it is exported from the United States.

We received comments on both rules and also held public meetings to discuss the proposed rule on the marking of refused food imports. After reviewing the comments, we wrote and intended to issue final rules in 2002.

On June 12, 2002, the President signed into law the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188). The new law contains provisions that change the legal context of the two proposed FDA regulations