

reasons is supported by the evidence submitted for the pass over request.

(d) *Agency's obligation while request for objection is pending.* Subject to the exception set forth in paragraph (e) of this section, if an agency makes an objection against an applicant for a position (including seeking to pass over the applicant), and the individual that the agency wishes to select would be within reach of selection only if the objection is sustained, or the pass over granted, that agency may not make a selection for the position until a final ruling is made.

(e) *Applicability of paragraphs (c) and (d).* Paragraphs (c) and (d) of this section do not apply if the agency has more than one position to fill from the same certificate and holds open (in the event the objection is not sustained or the pass over request is denied) a position that could be filled by the individual against whom an objection or a pass over request has been filed.

(f) *Procedures for objections and pass overs.* Agencies must follow the procedures for objecting to or requesting to pass over an eligible that are published by OPM in the *Delegated Examining Operations Handbook*.

(g) *No appeal rights to Merit Systems Protection Board (MSPB).* An individual may not appeal to the MSPB a decision by OPM or an agency with delegated authority to sustain an objection pursuant to this part, including a decision to grant a pass over request, irrespective of the reason for the decision.

[FR Doc. E9-15184 Filed 6-25-09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 301

[Docket No. 080102004-9266-02; FDMS Docket No. ITA-2009-0002]

RIN 0625-AA75

Changes in Procedures for Florence Agreement Program

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Departments of Commerce and Treasury ("the Departments") and Customs and Border Protection ("CBP") issue this rule to amend the regulations governing the duty-free entry of scientific instruments and apparatus into the United States by

educational and nonprofit institutions to implement technical changes required by the passage of the Miscellaneous Trade and Technical Corrections Act of 2004, to update the regulations to comport with current CBP practices and changes made in the Harmonized Tariff Schedule of the United States ("HTSUS"), to add a Web site address for Statutory Import Programs Staff ("SIPS"), and to remove references to spectrometers pursuant to Presidential Proclamation 7011 of June 30, 1997. We also amend the regulations to reflect the nomenclature changes made necessary by the transfer of the legacy Customs Service of the Department of the Treasury to the Department of Homeland Security.

DATES: This rule is effective July 27, 2009.

FOR FURTHER INFORMATION CONTACT: Jesse Cortes, (202) 482-3986, Room 3712, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Departments and Customs and Border Protection (CBP), Department of Homeland Security, issue this rule to amend the regulations found in Part 301, Chapter III, Subtitle B of Title 15 of the Code of Federal Regulations (CFR) relating to their responsibilities under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (the "Act") (Pub. L. 89-651, as amended by Pub. L. 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.

The purpose of this rulemaking is to update the regulations by implementing various proposed technical and conforming changes to part 301 of title 15 of the CFR. Section 10.114 of the CBP regulations (19 CFR 10.114) cross-references the location of the consolidated regulations of the Commerce and Treasury Departments relating to the entry of instruments and apparatus for educational and scientific institutions in 15 CFR part 301. A brief overview of the amendments to part 301 of title 15 of the CFR is set forth below. A more detailed discussion on the background of these amendments may

be found in the preamble to the notice of proposed rulemaking (73 FR 76571, December 17, 2008).

Explanation of Amendments

This document amends 15 CFR 301 by making technical changes to replace "U.S. Customs Service" and similar references throughout the regulations with its new designation, "Customs and Border Protection" or CBP. This document also amends 15 CFR 301.8(a)(4) by deleting, in its entirety, any reference to the 180-day time period for the suspension of liquidation of entries of scientific instruments classified under subheading 9810.00.60 Harmonized Tariff Schedule of the United States (HTSUS) due to the subsequent amendments to 19 U.S.C. 1504 since section 301.8(a)(4) was promulgated. Section 301.8(c) is amended to delete references to the 90-day protest period for such entries due to the statutory amendments made by the Miscellaneous Trade and Technical Corrections Act of 2004 to 19 U.S.C. 1514(c)(3). A technical change is made to section 301.3(b) by including the Statutory Import Programs Staff (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. Finally, sections 301.2(j) and (o) are amended to remove the references to spectrometers since the Presidential Proclamation 7011 of June 30, 1997, made spectrometers free of duty.

Conclusion

In light of the fact that no comments were submitted in response to the solicitation of public comment on the proposed rule published in the **Federal Register** (73 FR 76571) on December 17, 2008, the Departments are adopting the proposed regulations without change.

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 this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the proposed rule and is not repeated here. No comments were received on the certification or on the economic effects of the rule more generally.

Paperwork Reduction Act. This 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 OMB 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 this rulemaking is not significant for purposes of Executive Order 12866.

Signing Authority. With respect to the responsibility of the Department of the Treasury in issuing these joint regulations of the Commerce and Treasury Departments, it is noted that the Secretary of the Treasury retains the sole authority to approve regulation relating to certain customs revenue functions pursuant to 19 CFR 0.1(a)(1). Accordingly, this document is being signed by the Secretary of the Treasury (or his/her delegate), and by the Commissioner of CBP, who is signing this document as the delegate of the Secretary of the Department of Homeland Security.

List of Subjects in 15 CFR Part 301

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

Amendments to the Regulations

■ For the reasons set forth in the preamble, part 301 of title 15 of the CFR (15 CFR Part 301) is amended as follows:

PART 301—[AMENDED]

■ 1. The authority citation for part 301 is amended 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; 19 U.S.C. 1514(c)(3); and Presidential Proclamation 7011, signed on June 30, 1997.

§ 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 "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;

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

The revision reads as follows:

§ 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)(1)(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); and
- b. Third sentence of § 301.9(a) introductory text.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Jayson P. Ahern,

Acting Commissioner, U.S. Customs and Border Protection, Department of Homeland Security.

Timothy Skud,

Deputy Assistant Secretary, Department of the Treasury.

[FR Doc. E9-14884 Filed 6-25-09; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA-2009-N-0665]

Oral Dosage Form New Animal Drugs; Trilostane

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the supplemental approval of a new animal drug application (NADA) filed by Dechra, Ltd. The supplemental NADA provides for the addition of a 10-milligram capsule size of trilostane, used in dogs for treatment of hyperadrenocorticism.

DATES: This rule is effective June 26, 2009.