

promptly placed on the public record, together with any written communications relating to such oral communications. Memoranda prepared by a Commissioner or Commissioner's advisor setting forth the contents of any oral communications from members of Congress shall be placed promptly on the public record. If the communication with a member of Congress is transcribed verbatim or summarized, the transcript or summary will be placed promptly on the public record.

**Authority:** 15 U.S.C. 41–58.

#### List of Subjects in 16 CFR Part 403

Advertising, Dry cell batteries, Labeling, Trade practices.

By direction of the Commission.

**Donald S. Clark,**

Secretary.

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 118

RIN 1515–AC07

#### Centralized Examination Stations

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations regarding the establishment and scope of operation of Centralized Examination Stations (CESs). To reflect Customs interest in maximizing compliance with export control laws and regulations without unduly impeding the movement of outbound merchandise, it is proposed to expand the definition of a CES to allow merchandise intended to be exported as well as imported merchandise to be handled by a CES. Further, Customs is proposing to allow for the inspection of outbound cargo at CESs at ports other than the shipment's designated port of exit. To make the CES application procedure more amenable to local conditions, Customs is proposing more flexibility regarding the time frame for an applicant to conform a facility to meet Customs security or other physical or equipment requirements. Lastly, Customs is proposing to amend one of the criteria on the application to operate a CES because Customs believes it is too subjective. These changes are proposed in order to keep the CES program responsive to both Customs and the trade community's demands for the

facilitated examinations of trade merchandise.

**DATES:** Comments must be received on or before October 20, 1997.

**ADDRESSES:** Comments (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

*For Policy Inquiries:* Steven T. Soggin, Office of Field Operations, Trade Compliance, (202) 927–0765;

*For Legal Inquiries:* Jerry Laderberg, Office of Regulations and Rulings, Entry Procedures and Carriers Branch, (202) 482–7052.

#### SUPPLEMENTARY INFORMATION:

##### Background

In T.D. 93–6 (58 FR 5596) Customs amended the Customs Regulations (19 CFR Chapter 1) to create a new Part 118 that set forth the regulatory framework for the establishment, operation, and termination of Centralized Examination Stations (CESs). A CES is a privately-operated facility, not in the charge of a Customs officer, at which imported merchandise is made available to Customs officers for physical examination.

Currently, CESs are authorized to provide inspectional facilities for Customs officers to examine only imported merchandise. However, because merchandise intended to be *exported* often is required to be examined, Customs would like CESs to be authorized to provide inspectional facilities for this merchandise as well. Customs has statutory authority to inspect merchandise intended to be exported pursuant to 22 U.S.C. 401, concerning the exportation of munitions and other articles, and 31 U.S.C. 5317, concerning the search and forfeiture of monetary instruments. Further, Customs broad authority to conduct warrantless examinations of outbound merchandise has long been recognized by the courts. *See e.g., United States v. Udofot*, 711 F.2d 831, 839 (8th Cir. 1983), *cert. denied*, 464 U.S. 896 (1983); *United States v. Ajlouny*, 629 F.2d 830, 834 (2d Cir. 1980), *cert. denied*, 449 U.S. 111 (1981); *United States v. Stanley, et al.*, 545 F.2d 661, 665–67 (9th Cir. 1976), *cert. denied*, 436 U.S. 917 (1978); *cf., California Bankers Ass'n v. Shultz*, 416 U.S. 21, 63 (1974). Accordingly, to reflect the authority to inspect merchandise intended to be exported, the authority citation for Part 118 is

revised. Also, Customs proposes to amend the first sentence of § 118.1 by removing the word “imported” to allow CESs to provide inspectional facilities for merchandise regardless of whether it is inbound or outbound.

Customs ability to inspect at inland ports shipments scheduled for export from another port is authorized at the functional equivalent of the border. *See, United States v. Udofot*, 711 F.2d 831 (8th Cir. 1983), *cert. denied*, 464 U.S. 896 (1983); *United States v. Hernandez-Salazar*, 813 F.2d 1126 (11th Cir. 1987). To conduct such inspections at locations other than the port of export, the exportation must be imminent and the goods committed to export. Accordingly, should a carrier, freight forwarder, or shipper wish to have its shipment inspected at a CES at a port other than the designated port of export, sufficient evidence that exportation is imminent and that the goods are committed to export must be made available to Customs. Alternatively, evidence of the shipper's consent to Customs inspection at an inland port may be presented. To advise the exporting community of Customs requirements for inspecting merchandise declared for export at a port other than the port of exit, Customs proposes to further amend § 118.1 by adding a new sentence at the end that provides that either proof of the shipper's consent to the inspection must be furnished or transportation documents must accompany outbound shipments to evidence that the exportation of the goods is imminent and that the goods are committed to export.

Pursuant to the provisions of 19 CFR 118.4(g), the CES operator is required to maintain a custodial bond. The terms and conditions of the custodial bond obligate the bond principal to accept only merchandise authorized under Customs Regulations (see 19 CFR 113.63(a)(2)), and keep safe any merchandise placed in its custody (see 19 CFR 113.63(b)(2)). A proposed amendment to § 118.4(g) makes it clear that the CES operator is authorized to accept and must keep safe all merchandise that is delivered for examination. Accordingly, the custodial bond will guarantee the receipt and safekeeping of merchandise delivered for an import or export examination.

Regarding the application procedure to operate a CES, paragraph (b) of § 118.11 currently provides that where a significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, an applicant may

request in the application, and the port director may allow, up to an additional 30 calendar days after tentative selection to conform the facility to such requirements. Because compliance with the 30-calendar-day time-frame requirement for significant capital expenditures is subject to building permits and other requirements of a local nature, which may not be forthcoming within the time period specified, this requirement imposes a burdensome condition in the application procedure, which may operate to dissuade many potential applicants from applying to become CES operators. Accordingly, Customs proposes to remove this requirement and instead allow the time frames for making capital improvements to a facility to be addressed locally.

Further, paragraph (g) of this same section currently provides that an applicant must present any information showing the applicant's experience in international cargo operations and knowledge of Customs procedures and regulations, "or a commitment to acquire that knowledge." Because a demonstrable knowledge of such operations, procedures, and regulations is essential prior to selection as a CES operator, the alternative "commitment to acquire that knowledge" language in the regulation is too subjective a standard by which to measure an applicant's credentials to operate a CES. Accordingly, Customs proposes to remove this language.

#### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. 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 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1099 14th Street, NW., Suite 4000, Washington, DC.

#### Regulatory Flexibility Act

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities, because the amendments would operate to confer new benefits on potential CES operations, by allowing them to perform more services. Accordingly, the proposed amendments are not subject to

the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

#### Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as defined in E.O. 12866.

#### List of Subjects in 19 CFR Part 118

Administrative practice and procedure, Customs duties and inspection, Examination stations, Exports, Imports, Licensing, Reporting and recordkeeping requirements.

#### Proposed Amendment

For the reasons stated above, it is proposed to amend part 118, Customs Regulations (19 CFR part 118), as set forth below:

#### PART 118—CENTRALIZED EXAMINATION STATIONS

1. The authority citation for part 118 is revised to read as follows:

**Authority:** 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

2. In § 118.1, the first sentence is amended by removing the word "imported", and a new sentence is added at the end to read as follows:

##### § 118.1 Definition.

\* \* \* To present outbound cargo for inspection at a CES at a port other than the shipment's designated port of exit, either proof of the shipper's consent to the inspection must be furnished or a complete set of transportation documents must accompany the shipment to evidence that exportation of the goods is imminent and that the goods are committed to export, thereby, making them subject to Customs examination.

3. In § 118.4, paragraph (g) is amended by adding a new second sentence to read as follows:

##### § 118.4 Responsibilities of a CES operator.

\* \* \* \* \*

(g) \* \* \* The CES operator will accept and keep safe all merchandise delivered to the CES for examination.

\* \* \*

\* \* \* \* \*

4. In § 118.11, the second sentence in paragraph (b) is amended by removing the words "and the port director may allow, up to an additional 30 calendar days after tentative selection to conform the facility to such requirements, but in such a case the agreement referred to in § 118.3 of this part shall not be executed until those requirements are met" and adding, in their place, the words "time to conform the facility to such requirements. The agreement referred to

in § 118.3 of this part shall not be executed, in any event, until the facility is conformed to meet the requirements"; and paragraph (g) is amended by removing the words "or a commitment to acquire that knowledge".

Approved: June 3, 1997.

**Samuel H. Banks,**

*Acting Commissioner of Customs.*

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#### DEPARTMENT OF THE TREASURY

#### Internal Revenue Service

#### 26 CFR Parts 1 and 25

[REG-209823-96]

RIN 1545-AU25

#### Guidance Regarding Charitable Remainder Trusts; Hearing

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Postponement of hearing, extension of time for requesting to speak and submitting written comments, and requests to teleconference hearing.

**SUMMARY:** This document postpones the public hearing on proposed regulations relating to charitable remainder trusts under section 664 of the Internal Revenue Code and special valuation rules for transfers of interest in trusts under section 2702. In addition, this document extends the time for requesting to speak and for submitting written comments and announces that persons wishing to testify who are outside the Washington, DC and Los Angeles, California areas may request that the Service teleconference to their sites.

**DATES:** Requests to teleconference the hearing to other sites must be received by September 5, 1997.

**ADDRESSES:** Requests must be sent to: CC:DOM:CORP:R (REG-209823-96), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Requests may also be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-209823-96), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, requests may be submitted electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at [http://www.irs.ustreas.gov/prod/tax\\_\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax__regs/comments.html).