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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 7, 163, and 178

USCBP-2014-0001

CBP Dec. 15-04

RIN 1515-AD97

Documentation Related to Goods Imported from U.S. Insular Possessions

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to eliminate the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require only that the importer present this form, upon CBP's request, rather than with each entry as is currently required. The importer is still required to maintain CBP Form 3229 in its possession or may be subject to the assessment of a recordkeeping penalty if it cannot be produced.

DATES: Effective [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Background

On January 14, 2014, U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (79 FR 2395) proposing to amend title 19 of the Code of Federal Regulations (19 CFR) to eliminate the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions, and to require only that the importer present this form, upon CBP's request, rather than with each entry as is currently required. Goods imported into the customs territory of the United States from an insular possession may be eligible for duty-free treatment under the provisions of General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202). In addition to the specific requirements set forth in General Note 3(a)(iv), HTSUS, the CBP regulations at part 7 of title 19 of the Code of Federal Regulations (19 CFR part 7) address insular possessions.

This rule also adopts nonsubstantive, editorial amendments to update the outdated name of the Form which appears in the list of records and information required for the entry of merchandise in the Appendix to part 163 (commonly referred to as the "(a)(1)(A)" list) by amending the listing within section IV for section 7.3(f) to reflect the current name of the form from "CF 3229" to "CBP Form 3229". Lastly, this rule makes editorial changes to the sample declarations made by the shipper in the insular possession and by the importer in the United

States by updating the year from the 20th Century, “19__.” to the 21st Century, “20__” in 19 CFR 7.3(f)(2).

The NPRM solicited for public comments on the proposed rulemaking. The public comment period closed on March 17, 2014.

Discussion of Comments

Five comments were received in response to the solicitation of public comments in the proposed rule. All commenters expressed support for the proposed amendments indicating an expected savings in time and cost as a result of “streamlining” the process by eliminating the requirement that a customs official at the port of export verify and sign CBP Form 3229, Certificate of Origin for U.S. Insular Possessions. In addition, two commenters stated that potential recordkeeping penalties would be an effective deterrent against false claims.

Conclusion

After review of the comments, and in light of the fact that all comments submitted were positive, CBP has decided to adopt as final the proposed rule published in the **Federal Register** (79 FR 2395) on January 14, 2014. In accordance with Executive Orders 13563 and 13610, this rule streamlines CBP’s regulations by lessening the burden in achieving its regulatory objectives.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 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. This rule is not a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed this regulation.

Regulatory Flexibility Act

This section examines the impact on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.), 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).

This final rule removes the requirements that an importer present a completed CBP Form 3229 with each shipment from an insular possession. Once the rule is effective, the importer will only be required to present a completed CBP Form 3229 upon CBP’s request. The importer will still be required to maintain a completed CBP Form 3229 in its records in accordance with applicable record keeping requirements. In addition to this rule’s impact on importers, this rule removes the requirement that the shipper of a good from an insular possession obtain a customs official’s signature and date of signature in order to complete a CBP Form 3229.

In the NPRM, using internal databases, CBP found that from fiscal year (FY) 2007 through FY 2012, on average, there have been approximately 3,545 shipments of goods each year, imported by approximately 135 importers, from insular possessions (see Table 1). CBP has since obtained an additional year of data (FY 2013). By incorporating these data CBP estimates,

on average, the number of shipments of goods and the number of importers each year are 3,256 and 126, respectively.

Any importer that imports goods from an insular possession will need to comply with this rule. Therefore, CBP believes that this rule has an impact on a substantial number of small importers. Although this rule may have an effect on a substantial number of importers, CBP believes that the economic impact of this rule will not be significant. Because importers will be required to present a completed CBP Form 3229 to CBP only upon request by a CBP officer rather than with each shipment from an insular possession, CBP estimates that an average importer may, at a maximum, print approximately 26 fewer CBP Form 3229s annually (this value has not changed with the additional year of data). While this would be a positive economic impact, CBP believes that this maximum benefit realized will be negligible.

Table 1: Completed CBP Forms 3229

Fiscal Year	Importers	Completed 3229s
2007	191	7,258
2008	188	4,980
2009	136	3,210
2010	97	2,183
2011	110	1,897
2012	89	1,744
2013	72	1,518
<i>Average</i>	<i>126</i>	<i>3,256</i>

Source: Internal CBP databases

As noted previously, CBP has found that over the last seven fiscal years, there have been an average of 3,256 shipments a year of goods to the United States from insular possessions (see Table 1). Due to data limitations, however, CBP is unable to identify the number of shippers that ship these shipments to the United States. Any shipper that ships goods to the United States

from an insular possession would need to comply with this rule. Therefore, CBP believes this rule has an impact on a substantial number of small shippers shipping goods from insular possessions. Although CBP believes this rule may affect a substantial number of shippers, CBP does not believe that this rule will have a significant impact on shippers. CBP estimates that it takes a shipper, on average, approximately one hour to obtain a customs official's signature and date of signature, in order to complete CBP Form 3229.¹ During the comment period for the proposed rule, one commenter (out of five total comments received) confirmed CBP's estimate of one hour to visit a customs official in order to complete CBP Form 3229. As such, CBP estimates that shippers shipping goods from an insular possession, including any small entities, will realize time burden reduction (i.e. time savings) of one hour per shipment. In the NPRM, CBP estimated the average wage of a shipper's employee who is responsible for completing the form to be approximately \$45.10 per hour. Using the latest figures from the Bureau of Labor Statistics, CBP now estimates that the wage of a shipper's employee who is responsible for CBP Form 3229 to be \$47.86. Thus, CBP estimates that each shipper, including any small entities, will save approximately \$47.86 per shipment. CBP does not believe a savings of \$47.86 per shipment to be a significant economic impact.

Although CBP believes that a substantial number of small entities, both importers and shippers, may be affected by this rule, CBP does not believe that the economic impacts will be significant. CBP notes, however, that the economic impact of this rule is purely beneficial and will result in a small cost savings to both importers and exporters. CBP did not receive any comments during the NPRM that would contradict this conclusion. Accordingly, CBP certifies

¹ This time burden differs from Paperwork Reduction Act (PRA) burden because the PRA burden is for completing the form and does not account for travel time.

that this regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collections of information in this document along with proposed revisions to CBP Form 3229, Certificate of Origin, will be submitted for OMB review in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651-0016. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collections of information in these regulations are contained in 19 CFR 7.3(f) and currently set forth in CBP Form 3229, Certificate of Origin. This information is required at the time of entry and is used by CBP to verify the goods are eligible for duty-free treatment under General Note 3(a)(iv), HTSUS.

The regulations and changes to CBP Form 3229 will reduce the estimated time burden on shippers by two minutes per completed form. Shippers currently spend an estimated 22 minutes completing CBP Form 3229, Certificate of Origin. The regulations and changes to CBP Form 3229 will reduce this time to an estimated 20 minutes to complete the form. The time savings comes as a result of the elimination of the customs officer signature requirement on the form.

The likely respondents are businesses which import from U.S. insular possessions. Such imports are predominantly petroleum, refined in St. Croix, U.S. Virgin Islands. Other such imports include tuna fish, watches, organic chemicals, and alcohol. The estimated average annual burden associated with the collection of information in this final rule is 746 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229-1177.

Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 7

American Samoa, Customs duties and inspection, Guam, Midway Islands, Puerto Rico, Wake Island.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the CBP Regulations

For the reasons set forth above, parts 7, 163, and 178 of title 19 of the Code of Federal Regulations (19 CFR parts 7, 163, and 178) are amended as set forth below.

PART 7 – CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

1. The general and specific authority citations for part 7 continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

2. In § 7.3:

a. Paragraphs (b) introductory text, (d) introductory text, (e)(1) introductory text, and (e)(2) are amended by removing the word “shall” and adding in its place the word “will”.

b. Paragraph (f)(1) is revised.

c. Paragraph (f)(2) introductory text is amended by removing the word “shall” and adding in its place the word “must.”; and

d. Paragraphs (f)(2)(i) and (ii) are amended by removing the year designation “19__” wherever it appears and adding in its place the year designation “20__”.

The revision reads as follows:

§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.

* * * * *

(f) Documentation. (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, an importer must have in his possession at the time of entry or

entry summary a completed certificate of origin on CBP Form 3229, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. The importer must provide CBP Form 3229 upon request by the port director or his delegate. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin will not be required for any shipment eligible for informal entry under § 143.21 of this chapter or in any case where the port director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

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PART 163 - RECORDKEEPING

3. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

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Appendix to Part 163 [Amended]

4. In the Appendix to part 163, within section IV, the listing for § 7.3(f) is amended by removing the abbreviation “CF” and adding, in its place, the words “CBP Form”.

PART 178 - APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

5. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 et seq.

6. In § 178.2, the table is amended by revising the listings for § 7.3 to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
* * *	* * *	* *

<p>§ 7.3</p> <p>* *</p>	<p>Claim for duty-free entry of goods imported from U.S. insular possessions.</p> <p>* * *</p>	<p>1651-0116</p> <p>* *</p>
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Dated: February 5, 2015

R. Gil Kerlikowske

Commissioner
U.S. Customs and Border Protection

Timothy E. Skud
Deputy Assistant Secretary of the Treasury

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