



9111-14

**DEPARTMENT OF HOMELAND SECURITY**

**U.S. Customs and Border Protection**

**19 CFR Parts 12 and 141**

**[USCBP-2016 – 0075; CBP Dec. No. 19-11]**

**RIN 1651 – AB02**

**Technical Correction to Centers of Excellence and Expertise Regulations**

**AGENCY:** U.S. Customs and Border Protection, DHS.

**ACTION:** Final rule; technical correction.

**SUMMARY:** On December 20, 2016, U.S. Customs and Border Protection (CBP) published an interim final rule in the *Federal Register*, which established the Centers of Excellence and Expertise (Centers) as a permanent organizational component of the agency and transitioned certain operational trade functions to the Center directors that traditionally resided with the port directors. This technical correction clarifies two sections of CBP regulations that do not currently reflect CBP’s operational structure or the objective of the “Regulatory Implementation of the Centers of Excellence and Expertise” interim final rule. This document amends CBP regulations to correct the discrepancies.

**DATES:** This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Lori Whitehurst, CBP Office of Field Operations, by telephone at (202) 344-2536 or by e-mail at [lori.j.whitehurst@cbp.dhs.gov](mailto:lori.j.whitehurst@cbp.dhs.gov); or

Susan S. Thomas, CBP Office of Field Operations, by telephone at (202) 344-2511 or by email at susan.s.thomas@cbp.dhs.gov.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On December 20, 2016, U.S. Customs and Border Protection (CBP) published the “Regulatory Implementation of the Centers of Excellence and Expertise” interim final rule (Centers IFR) in the *Federal Register* (81 FR 92978), which established the Centers of Excellence and Expertise (Centers) as a permanent organizational component of CBP and transitioned certain trade functions to the Centers. As part of this transition, the Centers IFR amended certain regulations to provide Center directors with the authority to make decisions normally reserved for port directors. However, two of the regulations in title 19 of the Code of Federal Regulations (CFR), 19 CFR 12.73(j) and 141.113(b), do not currently reflect the Center directors’ authority provided in the Centers IFR as discussed further below. This document amends these sections to correct the discrepancies. CBP will publish a final rule addressing the public comments received for the Centers IFR at a later date.

### **II. Amendatory Changes**

#### *Section 12.73(j)*

Section 12.73(j) was amended in the Centers IFR to provide that, if good cause is shown, the Center director, rather than the port director, has the authority to extend the period of time that the importer has to submit the necessary U.S. Environmental Protection Agency (EPA) declaration providing that a vehicle or engine being imported conforms to Federal emission requirements. Additionally, the Centers IFR specified that the EPA declaration must be

delivered by the importer to CBP, either to the port of entry or electronically. This extended the authority to collect the document to either the Center director or port director.

On December 27, 2016, seven days after publication of the Centers IFR, 19 CFR 12.73(j) was amended by the “Importations of Certain Vehicles and Engines Subject to Federal Antipollution Emission Standards” final rule publication in the *Federal Register* (81 FR 94974) as part of a substantial revision of part 12. This final rule resulted in contradictory regulatory text in 19 CFR 12.73(j) that only partially reflected the authority of the Center directors. As a result, the current regulation only partially accounts for the edits made by the Centers IFR and two discrepancies regarding the Center directors’ authority must be addressed in this document.

Currently, § 12.73(j) contains an inconsistency. It states that the importer or consignee must deliver documentation of EPA approval to CBP, either at the port of entry or electronically, but later requires that EPA approval must be delivered to the port director. Pursuant to the Centers IFR, the EPA document must be delivered to CBP, either to the port of entry or electronically, to extend the authority to collect the document to either the Center director or port director. This document corrects § 12.73(j) accordingly. It is noted that if the EPA approval is not delivered to CBP within the specified period, § 12.73(j) remains unchanged in that the importer or consignee must deliver or cause to be delivered to the port director those vehicles that were released under a bond.

Additionally, § 12.73(j) currently states that the Center director may set a later deadline for submission based on good cause; yet subsequently, the paragraph states that the port director sets the later deadline. To reconcile these contradictions in the current regulatory text and to reflect the changes made in the Centers IFR, CBP is correcting the text in § 12.73(j) to provide

that, if good cause is shown, the Center director, rather than the port director, has the authority to extend the period of time for submission of the EPA approval.

*Section 141.113(b)*

Due to an accidental omission in the amendatory instructions in the Centers IFR, 19 CFR 141.113(b) was not revised as CBP intended. As described in the preamble to the Centers IFR, CBP intended to amend § 141.113(b) to provide that if the Center director, rather than the port director, finds during the conditional release period of an imported textile or textile product, that the textile or textile product is not entitled to admission into the commerce of the United States because the country of origin of the textile or textile product was not accurately represented to CBP, he or she shall promptly demand its return to CBP custody. Although this amendment was described in the preamble of the Centers IFR, due to an inadvertent error, the instruction to amend § 141.113(b) by replacing ‘port director’ with ‘Center director’ was omitted in the Centers IFR. Thus, this document amends § 141.113(b) accordingly.

**III. Signing Authority**

This document is being issued in accordance with 19 CFR 0.2(a), which provides that the authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to section 403(1) of the Homeland Security Act of 2002. Accordingly, this final rule to amend such regulations may be signed by the Secretary of Homeland Security (or his delegate).

**List of Subjects in 19 CFR Parts 12 and 141**

Reporting and recordkeeping requirements.

**Amendments to the Regulations**

For the reasons given above, parts 12 and 141 of title 19 of the Code of Federal Regulations (19 CFR parts 12 and 141) are amended as set forth below.

**PART 12 – SPECIAL CLASSES OF MERCHANDISE**

1. The general authority citation for part 12 and the specific authority citation for §§ 12.73 and 12.74 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

\* \* \* \* \*

Sections 12.73 and 12.74 also issued under 19 U.S.C. 1484, 42 U.S.C. 7522, 7601;

\* \* \* \* \*

2. The third and fourth sentences of § 12.73(j) are revised to read as follows:

**§ 12.73 Importation of motor vehicles and motor vehicle engines.**

\* \* \* \* \*

(j) \* \* \* If the EPA approval is not delivered to CBP, either to the port of entry or electronically, within the specified period, the importer or consignee must deliver or cause to be delivered to the port director those vehicles which were released under a bond required by this paragraph (j). In the event that the vehicle or engine is not redelivered within five (5) days following the date the exemption or exclusion indicated on the EPA declaration form expires, or any later deadline specified by the Center director, whichever is later, liquidated damages will be assessed in the full amount of the bond, if it is a single entry bond, or if a continuous bond is used, in the amount that would have been assessed under a single entry bond.

\* \* \* \* \*

**PART 141 – ENTRY OF MERCHANDISE**

3. The general authority citation for part 141 and the specific authority citation for § 141.113 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1448, 1484, 1498, 1624.

\* \* \* \* \*

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

**§ 141.113 [Amended]**

4. Section 141.113(b) is amended by removing the words “port director” and adding in their place the words “Center director”.

Dated: August 30, 2019.

Robert E. Perez,  
Deputy Commissioner,  
U.S. Customs and Border Protection.

[FR Doc. 2019-19129 Filed: 9/4/2019 8:45 am; Publication Date: 9/5/2019]