

Final Policy

Beginning October 1, 1998, the FAA will approve remedial noise mitigation measures under part 150 only for noncompatible development which exists as of that date. Noncompatible development that potentially may occur on or after October 1, 1998, may only be addressed in part 150 programs with preventive noise mitigation measures. This policy will affect the use of AIP funds to the extent that such funding is dependent on approval under part 150. Approval of remedial noise mitigation measures for bypassed lots or additions to existing structures within noise impacted neighborhoods, additions to existing noise impacted schools or other community facilities required by demographic changes within their service areas, and formerly noise compatible uses that have been rendered noncompatible as a result of airport expansion or changes in airport operations, and other reasonable exceptions to this policy on similar grounds must be justified by airport operators in submittals to the FAA and will be considered by the FAA on a case-by-case basis. This policy does not affect AIP funding for noise mitigation projects that do not require part 150 approval, that can be funded with PFC revenue, or that are included in FAA-approved environmental documents for airport development.

Issued in Washington, DC, on March 27, 1998.

John R. Hancock,

Acting Assistant Administrator for Policy Planning, and International Aviation.

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DEPARTMENT OF THE TREASURY CUSTOMS SERVICE

**19 CFR Parts 10, 123, 128, 141, 143,
145 and 148**

[T.D. 98-28]

RIN 1515-AC11

Increase of Maximum Amount for Informal Entries to \$2,000

AGENCY: U.S. Customs Service,
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule a proposal to increase, from \$1,250 to \$2,000, the maximum dollar value prescribed for most informal entries of merchandise under the Customs Regulations. Section 662 of the Customs Modernization provisions of

the North American Free Trade Agreement Implementation Act raised the statutory limit applicable to informal entries to \$2,500, and it has been determined that a raise to the intermediate level of \$2,000 is appropriate at the present time. This regulatory change will have the effect of reducing the overall regulatory burden on importers and other entry filers by expanding the availability of the simplified informal entry procedures.

EFFECTIVE DATE: July 2, 1998.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Linda Walfish, Office of Field Operations (202-927-0042).

Legal Aspects: Jerry Laderberg, Office of Regulations and Rulings (202-927-2320).

SUPPLEMENTARY INFORMATION:

Background

All merchandise imported into the customs territory of the United States is subject to entry and clearance procedures. Section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), provides that the "importer of record" or his authorized agent shall: (1) Make entry for imported merchandise by filing such documentation or information as is necessary to enable Customs to determine whether the merchandise may be released from Customs custody; and (2) complete the entry by filing with Customs the declared value, classification and rate of duty applicable to the merchandise and such other documentation or other information as is necessary to enable Customs to properly assess duties on the merchandise and collect accurate statistics with respect to the merchandise and determine whether any other applicable requirement of law is met. Part 142, Customs Regulations (19 CFR Part 142), implements section 484 and prescribes procedures applicable to most Customs entry transactions. These procedures are referred to as formal entry procedures and generally involve the completion and filing of one or more Customs forms (such as Customs Form 7501, Entry/Entry Summary, which contains detailed information regarding the import transaction) as well as the filing of commercial documents pertaining to the transaction.

As originally enacted, section 498, Tariff Act of 1930 (subsequently codified at 19 U.S.C. 1498), authorized the Secretary of the Treasury to prescribe rules and regulations for the declaration and entry of, among other things, imported merchandise when the aggregate value of the shipment did not

exceed such amount, but not greater than \$250, as the Secretary shall specify in the regulations. Regulations implementing this aspect of section 498 are contained in Subpart C of Part 143, Customs Regulations (19 CFR Part 143) which is entitled "Informal Entry". The informal entry procedures set forth in Subpart C of Part 143 are less burdensome than the formal entry procedures prescribed in Part 142 of the regulations. For example, if authorized by the port director, informal entry may be effected by the filing of a commercial invoice setting forth a declaration signed by the importer or his agent attesting to the accuracy of the information on the invoice.

Section 206 of the Trade and Tariff Act of 1984 (Public Law 98-573, 98 Stat. 2948) amended section 498 by increasing to \$1,250 (but with some exceptions) the maximum dollar amount that the Secretary could prescribe by regulation for purposes of the declaration and entry of imported merchandise. On July 23, 1985, T.D. 85-123 was published in the **Federal Register** (50 FR 29949) to, among other things, increase to \$1,000 the regulatory limit for which informal entries could be filed. The regulatory amendments in this regard involved changes to Subpart C of Part 143 and various other provisions of the Customs Regulations that reflected the \$250 informal entry dollar limit, and Customs explained in the background portion of T.D. 85-123 that the new limit would be set initially in the regulations at \$1,000, with the option to increase it to \$1,250 in the future. On August 31, 1989, Customs published in the **Federal Register** (54 FR 36025) T.D. 89-82 which amended the Customs Regulations by increasing the limit for which informal entries could be filed to the maximum \$1,250 permitted under section 498 as amended by section 206 of the Trade and Tariff Act of 1984.

Section 662 of the North American Free Trade Agreement Implementation Act (Public Law 103-182, 107 Stat. 2057) amended section 498 by increasing to \$2,500 the maximum dollar amount that the Secretary could prescribe by regulation for purposes of the declaration and entry of merchandise. As a result of this further increase in the statutory maximum, and in consideration of the fact that the regulatory limit for informal entries had not been increased since 1989, on June 9, 1997, Customs published in the **Federal Register** (62 FR 31383) a notice setting forth proposed amendments to the Customs Regulations to again increase the regulatory limit for informal entries.

Similar to the approach taken in 1985 and noting that the new statutory maximum still represented a ceiling but did not preclude adoption of a lower regulatory limit, Customs expressed the view in the June 9, 1997, notice of proposed rulemaking that it would be preferable to take an intermediate step by establishing a new informal entry limit of \$2,000 which Customs believed would result in the best balance between the revenue and statistical collection and enforcement responsibilities of Customs and the interest of the importing public in having an expanded opportunity to use the less burdensome informal entry procedures. In addition, even if the proposed new \$2,000 informal entry limit were to be adopted in a final rulemaking action, the notice pointed out that Customs would still retain the option of proposing a further upward adjustment of the regulatory limit at an appropriate future date, subject to the statutory maximum, after evaluating the operational effect of the new \$2,000 limit and any other intervening change in circumstances having an impact on the entry process. The notice of proposed rulemaking made provision for the submission of public comments on the proposed regulatory changes for consideration before adoption of those changes as a final rule, and the prescribed public comment period closed on August 8, 1997.

Discussion of Comments

A total of fifteen commenters responded to the June 9, 1997, notice of proposed rulemaking.

Nine commenters supported the basic principle of increasing the informal entry limit. In addition to expressing support for that basic principle, these nine commenters made the following specific points:

1. Eight commenters favored increasing the informal entry limit to the \$2,500 statutory maximum rather than only to \$2,000 as proposed.

2. One commenter expressed concern that Customs would not be able to provide in a timely fashion the necessary changes to the Automated Commercial System (ACS) to reflect any increase in the informal entry limit.

While Customs, of course, has no reason to take issue with the general support expressed by the nine commenters, Customs notes the following with regard to the specific points made by these commenters:

1. For the reasons outlined in the notice of proposed rulemaking and summarized above, Customs remains of the opinion that any increase in the informal entry limit beyond the

proposed \$2,000 level would not be appropriate at the present time.

2. This document prescribes a 90-day (rather than the usual 30-day) delayed effective date in order to give Customs additional time to make the necessary changes to ACS.

Six commenters expressed opposition to the basic principle of increasing the informal entry limit. The following specific points were made by these commenters in this regard:

1. One commenter stated that the informal entry limit should be lowered instead of raised.

2. Two commenters were concerned that the increase in the informal entry limit would lead to products regulated by other agencies, for example, food and medical devices regulated by the Food and Drug Administration (FDA), being more readily admitted if they are in fact unsafe. One of these commenters noted that although Customs can require formal entry under 19 CFR 143.22, there should be a formal Customs policy requiring formal entry for products, regardless of value, sampled by the FDA.

3. Similar to the concern expressed in the comment immediately above, two commenters claimed that an increase in the informal entry limit will allow more importations to be made without a bond being filed, thereby making it more difficult for Customs to protect the revenue or to demand redelivery, especially in the case of unsafe food and medical devices.

4. Four commenters were concerned that there would be a significant loss of statistical data, collected by both the United States and other countries, if the informal entry limit is increased. A major concern expressed was that loss of such data could adversely affect trade policy. It was argued that this loss of data could be significant since there has been a large increase in small and medium size businesses which make small shipments.

5. One commenter proposed that, instead of raising the informal entry limit, Customs should eliminate informal entries for all commercial transactions.

6. One commenter stated that most informal entries under the proposed limit would arrive by courier and, because of the volume and repetition of the shipments, would present opportunities to evade the law and regulations.

7. One commenter argued that an increase in the informal entry limit will add to the burdens on Customs personnel, especially inspectors.

8. One commenter stated that there would be an appreciable loss of

merchandise processing fee (MPF) collections, since the MPF for informal entries is less than that for formal entries.

9. One commenter claimed that the requirement to exercise reasonable care contained in 19 U.S.C. 1484 would be removed for a large number of entries because it only applies to formal entries.

10. Finally, one commenter expressed concern that an increase in the informal entry limit would remove entries from the recordkeeping requirements of 19 U.S.C. 1509(a)(1)(a).

The following are the Customs responses to the above points made in opposition to the proposal to increase the informal entry limit:

1. Since Congress was aware of the likely consequence of the amendment to 19 U.S.C. § 1498(a)(1), that is, that the maximum regulatory limit for informal entry would be raised, Customs believes that lowering the informal entry limit would clearly be in conflict with what Congress had in mind.

2. As already noted by one of these commenters, there is a safeguard in place in that Customs can require a formal entry, regardless of value. Moreover, coordination between the FDA and Customs in the case of entries of merchandise sampled or otherwise regulated by the FDA will continue in order to ensure that unsafe merchandise is not admitted; however, this is an interagency operational issue that Customs does not believe is appropriate for regulatory text. Finally, Customs notes that setting a policy to require importers to make formal entry for all merchandise regulated by the FDA is beyond the scope of the published proposal.

3. As regards revenue protection, since goods that are informally entered are not released prior to Customs determining and collecting duties, taxes and fees, Customs disagrees with this aspect of the comment. Moreover, while it is more difficult to secure redelivery of informally entered noncommercial goods subsequent to their release because such transactions are normally not covered by a Customs bond, Customs notes that most importations involving FDA-controlled goods are commercial transactions which are handled through the Automated Broker Interface (ABI) and thus are covered by a Customs bond even if informally entered; Customs will reiterate and enforce its policy of requiring a bond on all ABI/statement entries, whether formal or informal.

4. While some statistical data will be lost, Congress raised the informal entry limit in order to streamline the entry process and increase efficiency for

informal entries. Thus, it appears these benefits outweigh any loss in statistical data. In addition, Customs notes that the informal entry limit has not been raised since 1989, and raising the informal entry limit takes that factor and the effects of inflation into account. Customs will continue its policy of making available to the U.S. Bureau of the Census as much statistical information as possible, and Customs will also work with Census to develop statistical sampling methods for use in trade program areas.

5. Customs notes that 19 U.S.C. 1498 provides no exclusion for commercial merchandise from being entered informally. This comment raises a policy issue that is beyond the scope of the published proposal.

6. Customs believes that the provisions in Part 128 of the Customs Regulations (19 CFR Part 128) covering express consignments provide adequate safeguards in this regard.

7. An increase in the informal entry limit might result in an increased burden on Customs inspectors or other personnel at some, but certainly not all, locations. Appropriate steps will be explored by Customs to address any such resulting workload increases.

8. Customs projects that the proposed increase in the informal entry limit would result in a loss of approximately \$20 million per year in MPF collections. However, it must be assumed that Congress took the potential loss of MPF collections into account when it decided to raise the statutory ceiling which controls the maximum informal entry limit.

9. Although a party making an informal entry would not have to comply with the requirements for making formal entry under 19 U.S.C. 1484, 19 CFR 143.26 requires an eligible party making an informal entry to use reasonable care in doing so.

10. Although there is a lesser recordkeeping burden for informal entries because fewer records are prescribed by law or regulation in connection with the informal entry process, Customs notes that 19 U.S.C. 1509(a)(1)(A) does not per se make a distinction between formal and informal entries (the statute merely refers to "entry" records). Customs believes that the issue of whether a distinction should be made between formal and informal entries for recordkeeping purposes would be more appropriately addressed in the regulations that specifically deal with recordkeeping requirements.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, and after further review of this matter, Customs believes that the proposed regulatory amendments should be adopted as a final rule without change.

Executive Order 12866

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

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the regulatory amendments will not have a significant economic impact on a substantial number of small entities. The amendments are in response to a statutory change and will have the effect of reducing the regulatory burden on the public. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

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

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

19 CFR Part 123

Aircraft, Canada, Customs duties and inspection, Imports, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vehicles, Vessels.

19 CFR Part 128

Carriers, Couriers, Customs duties and inspection, Entry, Express consignments, Freight, Imports, Informal entry procedures, Manifests, Reporting and recordkeeping requirements.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry of merchandise, Invoices, Release of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 143

Customs duties and inspection, Entry of merchandise, Invoice requirements, Reporting and recordkeeping requirements.

19 CFR Part 145

Customs duties and inspection, Imports, Mail, Postal service, Reporting and recordkeeping requirements.

19 CFR Part 148

Customs duties and inspection, Imports, Personal exemptions, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated in the preamble, Parts 10, 123, 128, 141, 143, 145 and 148 of the Customs Regulations (19 CFR Parts 10, 123, 128, 141, 143, 145 and 148), are amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for Part 10 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

§ 10.1 [Amended]

2. In § 10.1, the introductory text of paragraph (a) and the first sentence of paragraph (b) are amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for Part 123 is revised to read, and the specific authority citation for § 123.4 continues to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624.

* * * * *

Section 123.4 also issued under 19 U.S.C. 1484, 1498;

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§ 123.4 [Amended]

2. In § 123.4, the first sentence of paragraph (b) is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

PART 128—EXPRESS CONSIGNMENTS

1. The authority citation for Part 128 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

§ 128.24 [Amended]

2. In § 128.24, paragraph (a) is amended by removing the reference "\$1,250" wherever it appears and adding, in its place, the reference "\$2,000".

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 continues to read in part as follows:

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

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Subpart F also issued under 19 U.S.C. 1481;

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§ 141.82 [Amended]

2. In § 141.82, paragraph (d) is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

PART 143—SPECIAL ENTRY PROCEDURES

1. The authority citation for Part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1481, 1484, 1498, 1624.

§ 143.21 [Amended]

2. In § 143.21, paragraphs (a), (b), (c), (f) and (g) are amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

§ 143.22 [Amended]

3. In § 143.22, the second sentence is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

§ 143.23 [Amended]

4. In § 143.23, paragraphs (d) and (i) are amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

§ 143.26 [Amended]

5. In § 143.26, the heading and text of paragraph (a) are amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

PART 145—MAIL IMPORTATIONS

1. The authority citation for Part 145 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624.

Section 145.4 also issued under 18 U.S.C. 545, 19 U.S.C. 1618;

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Section 145.12 also issued under 19 U.S.C. 1315, 1484, 1498;

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Section 145.35 through 145.38, 145.41, also issued under 19 U.S.C. 1498;

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§ 145.4 [Amended]

2. In § 145.4, paragraph (c) is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

§ 145.12 [Amended]

3. In § 145.12, paragraphs (a)(2), (a)(3) and (b)(1) and the heading and text of paragraph (c) are amended by removing the reference "\$1,250" wherever it appears and adding, in its place, the reference "\$2,000".

§ 145.35 [Amended]

4. Section 145.35 is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

§ 145.41 [Amended]

5. Section 145.41 is amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for Part 148 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States).

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§ 148.23 [Amended]

2. In § 148.23, the heading and text of paragraph (c)(1) and the heading and introductory text of paragraph (c)(2) are amended by removing the reference "\$1,250" and adding, in its place, the reference "\$2,000".

Approved: March 18, 1998.

Robert S. Trotter,

Acting Commissioner of Customs.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98-8832 Filed 4-2-98; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration****21 CFR Part 172**

[Docket No. 87F-0086]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucralose

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucralose as a nonnutritive sweetener in food. This action is in response to a petition filed by McNeil Specialty Products Co.

DATES: The regulation is effective April 3, 1998; written objections and requests for a hearing by May 4, 1998. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of certain publications in § 172.831(b) (21 CFR 172.831(b)), effective April 3, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3106.

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