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FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA26

Rule Concerning Disclosures Regarding Energy Consumption and Water use of Certain Home Appliances and other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule''); Correction to Ranges of Comparability for Clothes Washers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends its Appliance Labeling Rule by issuing corrections to the ranges of comparability used on required labels for clothes washers that were published on May 14, 1997, to become effective August 12, 1997 (62 FR 26383). The corrections affect only the ranges of comparability for compact, top loading clothes washers. Catalogs printed prior to the effective date of this notice on accordance with 16 CFR 305.14 need not be revised.

EFFECTIVE DATE: August 12, 1997.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: This notice publishes the corrected range figures, which, under Sections 305.10, 305.11 and 305.14 of the rule, must be used on labels on clothes washers manufactured on and after August 12, 1997, and in advertising of clothes washers in catalogs printed on and after August 12, 1997.

Estimated annual energy consumption figures for 1997 for clothes washers were submitted by manufacturers and analyzed by the Commission. New ranges of comparability based upon them were published in the **Federal Register** on May 14, 1997. The Commission has learned since publication of the ranges that there was an inadvertent error in the ranges for compact, top loading clothes washers, and the new ranges published today reflect the correction. All models of clothes washers in this sub-category are manufactured by the same manufacturer. The manufacturer has assured the Commission that it will use the corrected range numbers on labels for those products beginning August 12, 1997, the effective date of both the revised ranges and today's corrections. For the sake of clarity, the Commission is republishing the complete set of ranges in their corrected form.

In consideration of the foregoing, the Commission amends Appendix F of its Appliance Labeling Rule by publishing the following ranges of comparability for use in the labeling and advertising of clothes washers beginning August 12, 1997.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

2. Appendix F to Part 305 is revised to read as follows:

Appendix F to Part 305—Clothes Washers

Range Information

''Compact'' includes all household clothes washers with a tub capacity of less than 1.6 cu. ft. or 13 gallons of water.

''Standard'' includes all household clothes washers with a tub capacity of 1.6 cu. ft. or 13 gallons of water or more.

Capacity	Range of estimated annual energy consumption (kWh/yr.)	
	Low	High
COMPACT:		
Top Loading	607	628
Front Loading	(*)	(*)
STANDARD:		
Top Loading	312	1306
Front Loading	241	278

(*) No data submitted.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–20651 Filed 8–5–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 97–69]

RIN 1515–AB79

Use of Containers Designated as Instruments of International Traffic in Point-to-Point Local Traffic

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that certain containers that are designated as instruments of international traffic are deemed to remain in international traffic provided they exit the United States within 365 days of the date on which they are admitted to the U.S. For the importing community as well as Customs, this amendment greatly simplifies the treatment of containers for Customs purposes regardless of their use in domestic commerce.

DATES: Effective: December 4, 1997.

Compliance date: For containers subject to this rule that have already been admitted to the U.S. the 365-day period will begin on December 4, 1997, without regard to the time the containers were already in this country.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Glen E. Vereb, Entry and Carrier Rulings Branch, (202–482–6940).

Operational aspects: Eileen A. Kastava, Cargo Control, (202–927–0983).

SUPPLEMENTARY INFORMATION:

Background

Under 19 U.S.C. 1322, vehicles and other instruments of international traffic are excepted from the application of the Customs laws to such extent and subject to such terms and conditions as may be prescribed in regulations or instructions of the Secretary of the Treasury. The Customs Regulations issued under the authority of 19 U.S.C. 1322 are contained in § 10.41a.

Instruments of international traffic so designated pursuant to § 10.41a may, as provided therein, be released without a Customs entry which would otherwise be required. Such instruments are also stated to be duty-free in subheading 9803.00.50, Harmonized Tariff Schedule of the United States.

Section 10.41a(d) provides that if an instrument of foreign origin, or of U.S.-origin that has been increased in value or improved in condition by a process of manufacture or other means while abroad, is released under § 10.41a and is subsequently diverted to point-to-point local traffic within the United States, or is otherwise withdrawn from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duty.

However, § 10.41a(f) sets forth certain uses to which an instrument of international traffic may properly be put in the United States that would not constitute a diversion to unpermitted point-to-point local traffic within the U.S. or a withdrawal from its use in international traffic.

Specifically, § 10.41a(f) provides that, except for the application of the coastwise trade laws (see § 4.93, Customs Regulations (19 CFR 4.93)), no part of § 10.41a precludes (1) the use of an instrument in picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo, (2) the use of an instrument while en route from such point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, or (3) the use of a ''container'' as defined in the Customs Convention on Containers (together with its normal accessories and equipment if imported therewith), when such container arrives empty while en route between the port of arrival and a point where export cargo is to be loaded or from that point to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure, provided that such point-to-point traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic.

By a document published in the **Federal Register** on October 4, 1996 (61 FR 51849), Customs proposed to amend § 10.41a(f) so as to apply only to instruments of international traffic other than containers as defined in Article 1 of the Customs Convention on Containers, and to add a new paragraph (g) to § 10.41a, that would provide that such containers would be deemed to remain in international traffic as long as they exited the U.S. within 365 days of the date of their admission to the U.S. This would be so regardless of the fact that the containers engaged in point-to-point local traffic while in the United States during this period.

This proposal was intended to simplify Customs treatment of containers for both the public as well as Customs itself in that the more difficult-to-apply requirements set forth in § 10.41a(f) would no longer apply to containers, these requirements constituting a restrictive and cumbersome impediment to the efficient and economical utilization of such containers while in the U.S.

Inasmuch as containers specially designed and equipped for carriage by one or more modes of transport were duty-free under subheading 8609.00.00, Harmonized Tariff Schedule of the United States, Customs expected little or no loss of revenue to the Government under the proposal.

Eight comments were submitted in response to the notice of proposed rulemaking, five of which fully supported the proposal. A discussion, together with Customs analysis, of the questions raised about the proposed rule appears below.

Discussion of Comments

Comment

One commenter believed that the proposal would permit a more flexible use of railcars.

Customs Response

While § 10.41a(g) will facilitate intermodal transportation insofar as the domestic movement of the subject containers is concerned, it must be emphasized that foreign railcars, which may sometimes be used to transport such containers, are still governed by the provisions of § 123.12, Customs Regulations (19 CFR 123.12), as to the permissible domestic traffic in which they may engage. Pursuant to Article 1, section (b)(v), of the Customs Convention on Containers, the term ''container'' expressly excludes vehicles. Thus, railcars are not containers within the scope of, and are not covered by, § 10.41a(g).

Comment

One commenter suggested that §§ 123.14 and 123.16, Customs Regulations (19 CFR 123.14, 123.16), be amended to permit Canadian tractors and trailers to engage in point-to-point local traffic within the United States, similar to that permitted for containers in proposed § 10.41a(g).

Customs Response

Customs has this suggestion under consideration. Such a proposal would be the subject of a separate publication in the **Federal Register**, should Customs decide to proceed therewith.

Comment

One commenter requested that certain wooden containers, which were capable of being enlarged by the use of removable sections, and were used to import bearings, be included in proposed § 10.41a(g).

Customs Response

Customs is satisfied that the wooden containers, which were described in literature furnished by the commenter, fall within the purview of § 10.41a(g).

Comment:

Two commenters, on behalf of various container lessors, owners and operators, raised a number of objections to proposed § 10.41a(g).

Specifically, these commenters stated that requiring entry for containers remaining in the U.S. in excess of the 365-day limit would impose an onerous financial and paperwork burden on the container owner, in terms of the administrative costs of tracking and monitoring the subject containers, and making arrangements, if necessary, for their entry.

Moreover, in the case of a leasing company, the 365-day limit would be very difficult, or impossible, to comply with, because if a container were on lease to a shipping line, the section leasing company would not know when it entered the United States; and should the container be returned to the leasing company by the shipping line, the lessor would not know how much of the 365-day period had expired.

In addition, entry would be required for containers left in the U.S. in excess of the 365-day period, even though they might have remained unused at a depot during this time and thus posed no competitive threat to any domestic or other transport.

To this latter end, it was declared that, from time to time, a container could remain in the U.S. in excess of the 365-day limit, for example, because of a reduced demand therefor, as in a recession, or because the container had been stored/stacked in a manner which precluded its ready accessibility (although one commenter remarked that the time a container remained unused in this manner averaged only a few days or weeks). In a recession, a leasing company's containers, rather than those owned by a shipping company, were asserted to be more likely to remain unused at a depot, since the shipper would rely on its own containers during an economic slowdown, returning any leased containers to the lessor.

Yet, notwithstanding these objections, the commenters stated that they would nevertheless support proposed § 10.41a(g) as long as they had the option of continuing to operate under existing § 10.41a(f).

Customs Response

Customs believes that § 10.41a(g) significantly alleviates the burden of tracking and monitoring containers otherwise imposed by § 10.41a(f), inasmuch as § 10.41a(g) focuses solely on the dates of a container's admission to, and subsequent exit from, the U.S. As such, § 10.41a(g) will simplify Customs administration of the applicable statutory and regulatory authority, and, moreover, it will better facilitate the domestic use of containers for the parties concerned, by basically permitting their unrestricted, and hence more efficient and economical, use within the U.S. In addition, the records necessary to track and monitor the movements of containers under § 10.41a(g) are those that are otherwise generated and retained in the ordinary course of business. A reference to this latter effect is included in § 10.41a(g)(2).

By contrast, as pointed out by the commenters who unreservedly supported the amendment, § 10.41a(f) has consumed unduly burdensome amounts of time and effort expended in container tracking and recordkeeping; has created much confusion and misunderstanding as to which domestic uses of containers are or are not permitted thereunder; and has caused an inefficient and uneconomical deployment of containers and related facilities, resulting in higher costs for carriers and shippers.

Consequently, Customs has concluded that containers as defined in Article 1 of the Customs Convention on Containers will, as initially proposed, be governed solely by § 10.41a(g), in place of current § 10.41a(f) with its cumbersome restrictions in this regard.

Entry pursuant to § 10.41a(g) would be required only when the container remained in the U.S. in excess of the 365-day period, an occurrence that should be relatively rare especially in the case of a container remaining unused at a depot, given the fact that the time a container so remains in the U.S. ordinarily averages at most only a few weeks, as stated by one of the commenters. Thus, it fairly appears that the container industry is already generally operating well within the 365-day limit.

Nevertheless, in light of the concerns expressed by the commenters with respect to any possible revisions in their business practices that may be incurred as a result of the adoption of § 10.41a(g), Customs has determined that the effective date of the final rule should be delayed for 120 days from the date of publication of this document in the **Federal Register**, in order to mitigate any possible administrative impact resulting from its implementation. In this respect, Customs calculation of the 365-day period for subject containers already in the United States would begin as of the aforementioned date without regard to any prior time expended by the containers in this country.

Conclusion

In view of the foregoing, and following careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments should be adopted.

In addition, § 10.41a(f)(1) is changed by adding a phrase which makes clear that containers are no longer covered thereunder, and are governed instead by § 10.41a(g)(1)–(3); to this end, a cross reference to § 10.41a(g)(1)–(3) is also included in § 10.41a(f)(1).

Furthermore, the last sentence of § 10.41a(g)(3), as proposed, is changed, and an additional sentence is added thereafter, in order to clarify and confirm that if any container is removed from international traffic and thus becomes subject to entry under 19 U.S.C. 1484, the determination of the value of the container for entry purposes must be effected in the manner prescribed by the Customs valuation law (19 U.S.C. 1401a).

Regulatory Flexibility Act and Executive Order 12866

The amendments simplify the Customs treatment of containers for the importing public in that the more difficult-to-apply requirements set forth in § 10.41a(f) will no longer apply to containers. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, these amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604, nor do they result in a ''significant regulatory action'' under E.O. 12866.

List of Subjects in 19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

Amendments to the Regulations

Part 10, Customs Regulations (19 CFR part 10), is amended as set forth below.

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

1. The general authority for part 10 is revised, and the specific authority for § 10.41a continues, to read as follows:

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

* * * * *

Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;

* * * * *

2. Section 10.41a is amended by revising paragraph (f) to read as follows; by redesignating paragraphs (g), (h) and (i), as (h), (i) and (j), respectively; and adding a new paragraph (g) to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

* * * * *

(f)(1) Except as provided in paragraph (j) of this section, 12 an instrument of international traffic (other than a container as defined in Article 1 of the Customs Convention on Containers that is governed by paragraphs (g)(1)-(3) of this section) may be used as follows in point-to-point traffic, provided such traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic:

(i) Picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo; or

(ii) Picking up and delivering loads at intervening points in the United States

while en route from the point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure.

(2) Neither use as enumerated in paragraph (f)(1)(i) or (ii) of this section constitutes a diversion to unpermitted point-to-point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section.

(g)(1) Except as provided in paragraph (j) of this section, a container (as defined in Article 1 of the Customs Convention on Containers) that is designated as an instrument of international traffic is deemed to remain in international traffic provided that the container exits the U.S. within 365 days of the date on which was admitted under this section. An exit from the U.S. in this context means a movement across the border of the United States into a foreign country where either:

(i) All merchandise is unladen from the container; or

(ii) Merchandise is laden aboard the container (if the container is empty).

(2) The person who filed the application for release under paragraph (a)(1) of this section is responsible for keeping and maintaining such records, otherwise generated and retained in the ordinary course of business, as may be necessary to establish the international movements of the containers. Such records shall be made available for inspection by Customs officials upon reasonable notice.

(3) If the container does not exit the U.S. within 365 days of the date on which it is admitted under this section, such container shall be considered to have been removed from international traffic, and entry for consumption must be made within 10 business days after the end of the month in which the container is deemed removed from international traffic. When entry is required under this section, any containers considered removed from international traffic in the same month may be listed on one entry. Such entry may be made at any port of entry. Under 19 U.S.C. 1484(a)(1)(B), the importer of record is required, using reasonable care, to complete the entry by filing with Customs the declared value, classification and rate of duty applicable to the merchandise. The importer of record must use the value of the container as determined in accordance with section 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by the Trade Agreements Act of 1979 (TAA).

* * * * *

George J. Weise,

Commissioner of Customs.

Approved: June 25, 1997.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 97–20648 Filed 8–5–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

31 CFR Part 27

Departmental Offices; Civil Penalty Assessment for Misuse of Department of the Treasury Names, Symbols, Etc.

AGENCY: Departmental Offices, Treasury.

ACTION: Interim rule.

SUMMARY: This interim rule sets forth the procedures by which civil penalties may be imposed for violations of the statutory prohibition against misuse of Department of the Treasury names, symbols, titles, abbreviations, initials, seals, or badges. Section 333(c) of title 31, United States Code, authorizes the Secretary of the Treasury to impose these civil penalties. These regulations are being promulgated to ensure that persons assessed a civil penalty under section 333(c) are accorded due process.

Published in the proposed rules section of this **Federal Register**, is a notice of proposed rulemaking inviting comments on the interim rule for a 60-day period following the publication date of this interim rule.

EFFECTIVE DATE: The interim regulations are effective August 6, 1997.

FOR FURTHER INFORMATION CONTACT: Karen Wehner, Senior Advisor, Office of Enforcement, 202–622–0300 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Introduction

This document sets forth an interim rule implementing 31 U.S.C. 333(c), which authorizes the Secretary of the Treasury to impose a civil penalty on any person who violates 31 U.S.C. 333(a), which prohibits the misuse of Department of the Treasury names, symbols, etc. Section 333(c) was enacted by title III, section 312(l)(1) of the social Security Independence and Program improvements Act of 1994, Pub. L. 103–296 (August 15, 1994).

Background

Section 333(a) of title 31, United States Code, prohibits, in connection with any advertisement, solicitation, business activity, or product, the unauthorized use (1) of the words, abbreviations, initials, symbols, or emblems of Treasury or any of its components; (2) the titles of any officer or employee of the Treasury or any of its components; or (3) the words ''United States Savings Bond'' or the name of any other obligation issued by the Treasury. This prohibition extends to colorable imitations of words, titles, abbreviations, initials, symbols, and emblems. Section 333(b) provides that the prohibition applies regardless of whether the violator has used a disclaimer of affiliation with the United States Government or any agency thereof.

Section 333(c) provides that Secretary of the Treasury may impose a civil penalty on any person who violates section 333(a), in an amount not to exceed $5,000 for each use of material in violation of section 333(a), unless the use is in a broadcast or telecast, in which case the penalty shall not exceed $25,000 for each use. Section 333(c) imposes a three-year statute of limitation within which the Secretary of the Treasury may assess civil penalties, beginning on the date of the violation of section 333(a). Section 333(c) also imposes a two-year statute of limitation within which the Secretary of the Treasury may commence a civil action to recover any civil penalty imposed under section 333(c), beginning on the date the civil penalty was assessed.

Section 333(d) sets forth criminal penalties for knowing violations of 333(a). However, section 333(d)(3) provides that no criminal proceeding may be commenced under its provisions if a civil penalty previously has been assessed for that violation under section 333(c). Similarly, section 333(c)(4) provides that no civil penalty may be assessed under its provisions for a violation if a criminal proceeding has been commenced for that violation under section 333(d).

These regulations implement the authority of the Secretary of the Treasury under section 333(c) to impose a civil penalty on any person who violates section 333(a). The regulations also ensure that any person assessed with a civil penalty pursuant to section 333(c) is accorded due process in the civil penalty proceeding. Specifically, the regulations provide that any person assessed with a civil penalty pursuant to section 333(c): (1) Shall receive a notice of assessment citing the statutory provisions which allegedly have been violated, the factual basis for the allegation, the amount of any proposed civil monetary penalty and/or any other proposed civil or equitable remedy; (2)