

soften the effect on any of the protected classes regarding those provisions of the rule. Removing the word “handicap” and adding in its place the word “disability” will not affect the protected groups, but is technical in nature. The term “disability” is consistent with the statutory mandate of the ADA.

Executive Order 13175

E.O. 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. In late 2010 and early 2011, USDA engaged in a series of consultative sessions to obtain input by Tribal officials or their designees concerning the impact of this rule on the tribe or Indian Tribal governments, or whether this rule may preempt Tribal law. Reports from these consultations will be made part of the USDA annual reporting on Tribal Consultation and Collaboration. USDA will respond in a timely and meaningful manner to all Tribal government requests for consultation concerning this rule and will provide additional venues, such as webinars and teleconferences, to periodically host collaborative conversations with Tribal officials or their designees concerning ways to improve this rule in Indian country.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Implementation

In accordance with Section 11(c) of the Food and Nutrition Act of 2008, as amended by Section 4117 of the FCEA, the Department is amending 7 CFR 272.6(a) specifically to provide that State agency administration of the program must be consistent with the Americans with Disabilities Act (42 U.S.C. 12101). The Department is also making a change in terminology to update a section of SNAP regulations. The current provision in 7 CFR 272.6 prohibits discrimination on the basis of “handicap.” The prohibition of discrimination on the basis of handicap originated in the Rehabilitation Act of 1973, which preceded enactment of the ADA. However, the ADA uses the term “disability” and most SNAP regulations use the term “disabled.” Accordingly, FNS is amending 7 CFR 272.6 to replace the term “handicap” as a prohibited basis for discrimination with the term “disability” to conform to the terminology in the ADA. We are making a similar change in terminology in 7 CFR 271.6(a), which provides that civil rights complaints under all the listed bases are to be handled in accordance with 7 CFR 272.6.

Finally, the Department is making one additional change in terminology in this section of the regulations. The current 7 CFR 272.6 refers to the issuance of “coupons” as one program activity. Section 825 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 amended Section 7(i) of what is now the Food and Nutrition Act of 2008, 7 U.S.C. 2016(i), to mandate that all States must convert from paper coupon systems to an EBT system. By fiscal year 2004, all State agencies had converted to EBT. Accordingly, the Department is using this opportunity to amend 7 CFR 272.6(a) where it refers to the issuance of coupons to replace the term “coupons” with the term “benefits.”

This rule is effective June 13, 2011. The ADA requirements were effective by law on January 26, 1992. The current provision in 7 CFR 272.6 prohibiting discrimination on the basis of handicap has been in effect for over 10 years. Accordingly, this rule reflects the statutory provision and the terminology change consistent with the ADA.

List of Subjects

7 CFR Part 271

Grant programs—social programs, Reporting and recordkeeping requirements.

7 CFR Part 272

Alaska, Civil rights, Claims, Grant programs—social programs, Reporting and recordkeeping requirements, Unemployment compensation, Wages.

For the reasons set forth in the preamble, 7 CFR parts 271 and 272 are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

■ 1. The authority citation for part 271 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

§ 271.6 [Amended]

■ 2. In § 271.6, in paragraph (a)(1), the second sentence is amended by removing the word “handicap” and adding in its place the word “disability”.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 3. The authority citation for part 272.1 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

§ 272.6 [Amended]

■ 4. In § 272.6, paragraph (a) is amended by removing the word “handicap” in the first sentence and adding in its place the word “disability” and in the second sentence by adding the words “Americans with Disabilities Act of 1990 (42 U.S.C. 12101)” immediately following the words “the Rehabilitation Act of 1973 (Pub. L. 93–112, section 504)”.

Dated: May 3, 2011.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2011–11419 Filed 5–11–11; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

19 CFR Part 4

[CBP Dec. 11–10]

Technical Corrections To Remove Obsolete References to Non-Automated Carriers From Electronic Cargo Manifest Regulations and to Update Terminology

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations concerning the

mandatory electronic transmission of inward foreign manifests for vessels transporting bulk and certain break bulk cargo to the United States to make several technical corrections, including removing obsolete language that refers to vessel carriers who do not transmit cargo declaration information electronically (non-automated carriers). When CBP amended its regulations to implement section 343(a) of the Trade Act of 2002 to require carriers to transmit advance cargo information electronically, CBP inadvertently neglected to remove language in the cargo manifest regulations that referred to non-automated bulk and break bulk vessel carriers. This document also makes technical changes to related provisions to clarify the process for electronically transmitting cargo declarations to CBP and to clarify and update terminology.

DATES: *Effective Date:* May 12, 2011.

FOR FURTHER INFORMATION CONTACT: George McCray, Chief, Cargo Security, Carriers, and Immigration Branch, Regulations & Rulings, Office of International Trade: (202) 325-0082; Leslie Bianchi, Commercial Vessel Program Manager, Manifest and Conveyance Branch, Office of Field Operations: (202) 344-2575.

SUPPLEMENTARY INFORMATION:

Background

Applicable Law

Under 19 U.S.C. 1431, vessel carriers are required to submit to CBP information concerning cargo they are transporting to the United States. Under 19 U.S.C. 1431(d), CBP is authorized to specify the form for, and the information required in, the vessel manifest, as well as the manner of production for, and the delivery of or electronic transmittal of, the vessel manifest. In the aftermath of the terrorist attacks of September 11, 2001, Congress passed the Trade Act of 2002 (Pub. L. 107-210, 116 Stat. 933, enacted on August 6, 2002; 19 U.S.C. 2071 note), which, as amended by section 108 of the Maritime Transportation Security Act of 2002 (Pub. L. 107-295, 116 Stat. 2064, enacted on November 25, 2002), requires, in section 343(a), that CBP (then, the U.S. Customs Service) promulgate regulations to collect cargo information from any mode of commercial carrier (sea, air, rail, or truck) through a CBP-approved electronic data interchange system. The CBP-approved electronic data interchange (transmission) system is the Automated Manifest System (AMS). The information required is that which is determined to be reasonably necessary

to enable CBP to identify high-risk shipments so as to ensure cargo safety and security and prevent smuggling pursuant to the laws that are enforced and administered by CBP.

Existing Regulatory Requirements Under Previous Rulemakings

On October 31, 2002, CBP (then, the U.S. Customs Service) published a final rule (2002 final rule) in the **Federal Register** (67 FR 66318) amending 19 CFR 4.7 pertaining to vessel manifests to require the advance filing of cargo information, electronically or manually, no later than 24 hours prior to the cargo's lading onboard the vessel at the foreign port (the "24-hours before lading" filing requirement). The 2002 final rule exempted from the "24-hours before lading" filing requirement carriers of bulk cargo and certain carriers of break bulk cargo whose applications for the exemption are approved by CBP (sometimes referred to as CBP-approved break bulk carriers).¹ The 2002 final rule required bulk and CBP-approved break bulk carriers who transmit cargo declaration information electronically (automated carriers) to make these transmissions 24 hours before the vessel's arrival in the United States (at the U.S. port) and non-automated bulk and CBP-approved break bulk carriers to present cargo declarations upon the vessel's arrival at the U.S. port.² The 2002 final rule was based primarily on CBP's long-established general authority under 19 U.S.C. 1431 to prescribe rules concerning information required, and the manner of providing that information, relative to imported cargo.³

On December 5, 2003, CBP published a final rule (2003 final rule) in the

¹ Under the CBP regulations, bulk cargo is defined as homogeneous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either free flowing articles such as oil, grain, coal, ore, and the like, which can be pumped or run through a chute or handled by dumping, or articles that require mechanical handling such as bricks, pig iron, lumber, steel beams, and the like (19 CFR 4.7(b)(4)(i)). Break bulk cargo is defined in the regulations as cargo that is not containerized but which is otherwise packaged or bundled (19 CFR 4.7(b)(4)(ii)). Break bulk cargo is exempted from the 24-hours before lading filing requirement of 19 CFR 4.7(b)(2) upon approval by CBP under 19 CFR 4.7(b)(4)(ii).

² The current regulation provides that these carriers must "present their cargo declarations" to Customs (now CBP) either 24 hours prior to arrival (electronically) or upon arrival (manually), as appropriate.

³ In the preamble of the 2002 final rule, CBP noted section 343(a) of the Trade Act of 2002, then recently passed into law, and stated that it co-exists with 19 U.S.C. 1431 within the body of customs law and that a subsequent rulemaking would specifically address the section 343(a) provisions.

Federal Register (68 FR 68140) further amending 19 CFR 4.7 to implement section 343(a) of the Trade Act of 2002 which requires CBP to collect, in advance of arrival in or departure from the United States, cargo information from any mode of commercial carrier (sea, air, rail, or truck) through the CBP-approved electronic data interchange system. The 2003 final rule retained the general timing requirements for the transmission of the cargo information (generally 24 hours prior to lading at the foreign port), including the exemption from this requirement for bulk and CBP-approved break bulk carriers.

Explanation of Amendments

Technical Correction to Remove Obsolete Language Pertaining to Non-Automated Bulk and Break Bulk Carriers

When CBP amended its regulations in 2003 to implement section 343(a) of the Trade Act of 2002, CBP intended to require all carriers to transmit cargo information to CBP electronically. However, CBP neglected to remove language in 19 CFR 4.7(b)(4) referring to non-automated bulk and break bulk vessel carriers. Thus, contrary to the Trade Act of 2002 and the intent of the 2003 final rule, the current regulation still provides that these bulk and break bulk carriers may be non-automated.⁴

In order to conform the regulation to the statute's mandatory electronic transmission requirement for all carriers, this technical correction removes the obsolete reference to non-automated carriers from 19 CFR 4.7(b)(4). This change will have no practical effect since there are no longer any non-automated carriers. All carriers, including bulk and break bulk carriers, have been filing cargo information electronically since at least 2004.

Technical Corrections to Clarify Electronic Procedures for Bulk and CBP-Approved Break Bulk Cargo and to Update Texts

This technical correction document also makes several other changes to the regulations related to the electronic transmission of vessel cargo information to clarify the process and to update terminology. First, various changes reflecting that "Customs" is now known as "CBP" are made throughout the affected provisions. Second, CBP is

⁴ The preamble to the 2003 final rule indicates CBP's intention that the mandatory electronic transmission requirement applies to bulk and CBP-approved break bulk carriers. In the discussion of comments section of that rule, CBP states that bulk and authorized break bulk carriers will be subject to the electronic transmission requirement under the rule (68 FR 68145).

adding the word “electronic” in the heading for 19 CFR 4.7. Third, CBP is adding language to 19 CFR 4.7(b)(2) to make clear that any change to a new electronic data interchange system approved by CBP to replace the AMS system for transmitting cargo information under this section will be announced in the **Federal Register**. This addition is made in anticipation of the eventual change from AMS to the Automated Commercial Environment (ACE) system or to any other CBP-approved system that might follow for this purpose in the future.

Fourth, several provisions in 19 CFR part 4 improperly use the term “cargo manifest,” “manifest,” or something similar to refer to the “cargo declaration.” The cargo declaration is only one of several documents that comprise the manifest (see 19 CFR 4.7a). To alleviate confusion, and because “cargo declaration” (CBP Form 1302) is the correct term, CBP is substituting “cargo declaration” or something similar where appropriate. These changes are made in 19 CFR 4.7(b)(3)(i), (b)(4)(ii)(A), 4.7(e), 4.7a(c)(2)(iii), 4.7a(c)(4), 4.7a(f), and 4.30(n) (as further explained below).

Fifth, a few provisions in 19 CFR part 4 reference the general cargo declaration transmission time requirement of 19 CFR 4.7(b)(2) without also referencing the alternative transmission time requirement for exempted bulk and CBP-approved break bulk carriers in 19 CFR 4.7(b)(4). This is corrected in 19 CFR 4.7a(c)(4)(xv) and 4.8(b).

Sixth, in 19 CFR 4.7(b)(4)(i), CBP is removing the first sentence as it is redundant text. The sentence generally repeats what is stated in the first sentence of current 19 CFR 4.7(b)(4)—that carriers of bulk cargo are exempted with respect to that cargo from the 24 hours before lading requirement of 19 CFR 4.7(b)(2).

Seventh, CBP is revising 19 CFR 4.30(n), pertaining to CBP’s withholding or delaying the issuance of a permit to unlade due to the failure to transmit required cargo information. This provision is outdated because it provides the option of presenting the cargo information in paper form. In the revised paragraph (n), CBP also is adding references to 19 CFR 4.7(b)(4) to make it clear that CBP may withhold or delay the issuance of a permit to unlade, or deny preliminary entry, for failure to transmit required cargo information, whether the information is due within the time frame specified in 19 CFR 4.7(b)(2) or (b)(4).

Inapplicability of Notice and Delayed Effective Date Requirements

Because the technical corrections set forth in this document merely conform the regulatory text to existing law, clarify the text of existing regulations, and update terminology, CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary under 5 U.S.C. 553(b)(B). For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

Regulatory Analyses

Regulatory Flexibility Act

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Executive Order 12866

The amendments made in this document do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

Signing Authority

The signing authority for the amendments of this final rule falls under 19 CFR 0.2(a). Accordingly, this document is signed by the Secretary of Homeland Security (or his/her delegate).

List of Subjects in 19 CFR part 4

Customs duties and inspection, Freight, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

For the reasons set forth in the preamble, part 4 of title 19, Code of Federal Regulations (19 CFR part 4) is amended as follows:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

- 1. The general authority citation for part 4 and specific authority citations for § 4.7, 4.8, and 4.30 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431,1433,1434,1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *
Section 4.7 also issued under 19 U.S.C. 1581(a);
* * * * *

* * * * *
Section 4.8 also issued under 19 U.S.C. 1448, 1486;
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* * * * *
Section 4.30 also issued under 19 U.S.C. 288, 1446, 1448, 1450–1454, 1490;
* * * * *

- 2. Section 4.7 is amended by:
 - a. Revising the heading;
 - b. In paragraph (a), removing the words “Customs Form” wherever they appear and adding in their place the words “CBP Form” and removing the words “Customs and Immigration Form” wherever they appear and adding in their place the words “CBP Form”;
 - c. In paragraph (b)(1), removing the words “Customs officer” and adding in their place the words “CBP officer”;
 - d. In paragraph (b)(2), removing the words “Customs Form” and adding in their place the words “CBP Form”, removing the reference to “§ 4.30(n)(1)” and adding in its place “§ 4.30(n)”, and removing the last sentence and adding in its place two new sentences;
 - e. Revising paragraph (b)(3)(i);
 - f. Revising the introductory text in paragraph (b)(4);
 - g. In paragraph (b)(4)(i), removing the first sentence;
 - h. In paragraph (b)(4)(ii)(A), in the first sentence, removing the words “U.S. Customs Service” and adding in their place the words “U.S. Customs and Border Protection”; in the second sentence, removing the words “advance manifest requirement” and adding in their place the words “advance cargo declaration requirement”; and, in the third sentence, removing the word “Customs” and adding in its place “CBP”;
 - i. In paragraphs (b)(4)(ii)(B) and (C), removing the word “Customs” wherever it appears and adding in its place “CBP”;
 - j. In paragraph (d)(1)(ii), removing the words “Customs Form 226” wherever they appear and adding in their place the words “CBP Form 226”; and
 - k. In paragraph (e), in the second sentence, removing the words “cargo manifest information to Customs” and adding in their place the words “cargo declaration information to CBP” and removing the words “manifest or data to Customs” and adding in their place the words “cargo declaration or data to CBP”.

The revisions read as follows:

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance electronic filing of cargo declaration.

* * * * *

(b) * * *
(2) * * * The electronic cargo declaration information must be transmitted through the CBP Automated Manifest System (AMS) or any electronic data interchange system approved by CBP to replace the AMS system for this purpose. Any such system change will be announced by notice in the Federal Register.
(3)(i) Where a non-vessel operating common carrier (NVOCC), as defined in

paragraph (b)(3)(ii) of this section, delivers cargo to the vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by or registered with the Federal Maritime Commission and in possession of an International Carrier Bond containing the provisions of § 113.64 of this chapter, may electronically transmit the corresponding required cargo declaration information directly to CBP through the vessel AMS system (or other system approved by CBP for this purpose). The information must be received 24 or more hours before the related cargo is laden aboard the vessel at the foreign port (see § 113.64(c) of this chapter), as provided in paragraph (b)(2) of this section, or in accordance with paragraph (b)(4) of this section applicable to exempted bulk and break bulk cargo. In the alternative, the NVOCC must fully disclose and present the required cargo declaration information for the related cargo to the vessel carrier which is required to present this information to CBP, in accordance with this section, via the vessel AMS system (or other CBP-approved system).

* * * * *

(4) Carriers of bulk cargo as specified in paragraph (b)(4)(i) of this section and carriers of break bulk cargo to the extent provided in paragraph (b)(4)(ii) of this section are exempt, with respect only to the bulk or break bulk cargo being transported, from the requirement set forth in paragraph (b)(2) of this section that an electronic cargo declaration be received by CBP 24 hours before such cargo is laden aboard the vessel at the foreign port. With respect to exempted carriers of bulk or break bulk cargo operating voyages to the United States, CBP must receive the electronic cargo declaration covering the bulk or break bulk cargo they are transporting 24 hours prior to the vessel's arrival in the United States (see § 4.30(n)). However, for any containerized or non-qualifying break bulk cargo these exempted carriers will be transporting, CBP must receive the electronic cargo declaration 24 hours in advance of loading.

* * * * *

§ 4.7a [Amended]

■ 3. Section 4.7a is amended by:

- a. In paragraph (a), removing the words "Customs Form" and adding in their place the words "CBP Form";
- b. In paragraph (b), removing the words "Customs Form" wherever they appear and adding in their place the words "CBP Form" and removing the words "Customs and Immigration Form I-418" and adding in their place the

words "CBP Form I-418", and, in the certification language, removing the word "Customs" and adding in its place "CBP";

■ c. In paragraph (c)(1), removing from the first parenthetical in the first sentence the words "Customs Form 1302 or a Customs-approved electronic equivalent" and adding in their place the words "CBP Form 1302 submitted in accordance with paragraph (b)(2) or (b)(4) of this section";

■ d. In paragraph (c)(2)(ii), removing the words "Customs Form" wherever they appear and adding in their place the words "CBP Form";

■ e. In paragraph (c)(2)(iii), removing the word "Customs" wherever it appears and adding in its place "CBP" and, in the next to last sentence, removing the words "discrepancies between manifests and entries" and adding in their place the words "discrepancies between cargo declarations and entries";

■ f. In paragraph (c)(3) introductory text, removing the word "Customs" and adding in its place "CBP";

■ g. In paragraph (c)(4) introductory text, removing the words "cargo manifest information" and adding in their place the words "cargo declaration information" and removing the words "either on Customs Form 1302, or on a separate sheet or Customs-approved electronic equivalent,";

■ h. In paragraph (c)(4)(xv) introductory text, in the second parenthetical, which is within the first parenthetical, after the reference to § 4.7(b)(2), adding "or § 4.7(b)(4)" and, in paragraph (c)(4)(xv)(B), removing the words "Customs Form (CF) 3171 and adding in their place the words "CBP Form 3171";

■ i. In paragraph (d), removing the words "the Immigration and Naturalization Service, United States Department of Justice" and adding in their place the words "applicable Department of Homeland Security (DHS) regulations administered by CBP";

■ j. In paragraph (e)(1), removing the words "the Immigration and Naturalization Service, United States Department of Justice" and adding in their place the words "applicable DHS regulations administered by CBP" and, in the certification language, removing the word "Customs" wherever it appears and adding in its place "CBP"; and

■ k. In paragraph (f), second sentence, removing the words "cargo manifest information to Customs" and adding in their place the words "cargo declaration information to CBP".

§ 4.8 [Amended]

■ 4. Section 4.8 is amended by:

■ a. In paragraph (a), removing the words "the Customs Service" and adding in their place the words "Customs and Border Protection (CBP)"; and

■ b. In paragraph (b), removing the word "Customs" wherever it appears and adding in its place "CBP"; in the second sentence, removing "(CF)"; removing the words "in the manner provided in § 4.7(b)(2)" and the words "in the manner provided in § 4.7(b)" and adding in both places the words "in the manner provided in § 4.7(b)(2) or (4)"; and, in the fourth and fifth sentences, removing "CF" and adding in its place the words "CBP Form".

■ 5. In § 4.30, paragraph (n) is revised to read as follows:

§ 4.30 Permits and special licenses for unloading and lading.

* * * * *

(n) CBP will not issue a permit to unlade before it has received the cargo declaration information pursuant to § 4.7(b)(2) or (4) of this part. In cases in which CBP does not receive complete cargo declaration information from the carrier or a NVOCC in the manner, format, and time frame required by § 4.7(b)(2) or (4), as appropriate, CBP may delay issuance of the permit to unlade the entire vessel until all required information is received. CBP may also decline to issue a permit to unlade the specific cargo for which a cargo declaration is not received in a timely manner under § 4.7(b)(2) or (4). Further, where a carrier does not transmit a cargo declaration in the manner required by § 4.7(b)(2) or (4), preliminary entry pursuant to § 4.8(b) will be denied.

Dated: May 4, 2011.

Alan D. Bersin,

Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2011-11248 Filed 5-11-11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9521]

RIN 1545-BG54

Reduction of Foreign Tax Credit Limitation Categories Under Section 904(d); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.