

Accordingly, part 141 of the CBP regulations is amended by removing the obsolete regulation.

**DATES:** The final rule is effective December 30, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Robert Shervette, Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, (202) 325-0274.

**SUPPLEMENTARY INFORMATION:**

**Background**

It is the policy of Customs and Border Protection (CBP) to periodically review title 19 of the Code of Federal Regulations (19 CFR) to ensure that it is accurate and up-to-date so that the importing and general public is aware of CBP requirements and procedures regarding import-related activities. As part of this review policy, CBP has determined that a correction to 19 CFR part 141 is necessary.

Section 141.61 of the CBP regulations (19 CFR 141.61) prescribes the manner by which entry and entry summary documentation must be completed. Within § 141.61, paragraph (g) requires an importer to indicate on the CBP Form 7501 the manner by which the declared transaction value on imported merchandise was determined. This requirement is authorized by § 15422(a) of the Food, Conservative, and Energy Act of 2008 (the "Act"), Public Law 110-234, 122 Stat. 1547 (19 U.S.C. 1484 note), in which Congress required CBP to collect for a one-year period beginning August 20, 2008, and ending August 19, 2009, from importers information on whether the transaction value of imported merchandise is determined on the basis of the price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States.

On August 25, 2008, CBP published an interim rule as CBP Dec. 08-31 in the **Federal Register** (73 FR 49939) implementing the Act's first sale declaration requirement that for a specified time period importers were required to declare, at the time of entry, the transaction value method employed. As the statutory authority for the importer declaration requirement expired on August 19, 2009, this document amends 19 CFR 141.61 by removing paragraph (g).

**Inapplicability of Notice and Delayed Effective Date Requirements**

Because the technical corrections set forth in this document merely conform to existing law, 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 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**

These amendments do not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

**Signing Authority**

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

**List of Subjects in 19 CFR Part 141**

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

**Amendments to the Regulations**

■ For the reasons set forth above, part 141 of the CBP regulations (19 CFR part 141) is amended as set forth below.

**PART 141—ENTRY OF MERCHANDISE**

■ 1. The general authority for part 141 continues to read as follows, and the specific authority for § 141.61 is removed:

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

\* \* \* \* \*

■ 2. Section 141.61 is amended by removing paragraph (g).

Dated: December 23, 2010.

**Alan Bersin,**

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

[FR Doc. 2010-32912 Filed 12-29-10; 8:45 am]

**BILLING CODE 9111-14-P**

**DEPARTMENT OF STATE**

**22 CFR Part 40**

**[Public Notice: 7285]**

**Visas: Waiver for Ineligible Nonimmigrants Under the Immigration and Nationality Act**

**AGENCY:** State Department.

**ACTION:** Final rule.

**SUMMARY:** This rule incorporates a revision to the Immigration and Nationality Act made in section 5503(1)

of the Intelligence Reform and Terrorism Prevention Act of 2004 relative to the grounds of inadmissibility under the Immigration and Nationality Act (INA) for which consular officers or the Secretary of State may recommend that the Secretary of Homeland Security exercise discretionary waiver authority in the case of an applicant for a nonimmigrant visa.

**DATES:** This rule is effective December 30, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Lauren A. Prosnik, Legislation and Regulations Division, Visa Services, Department of State, 2401 E Street, NW., Room L-603D, Washington, DC 20520-0106, (202) 663-2951.

**SUPPLEMENTARY INFORMATION:**

**Why is the Department promulgating this rule?**

The Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, at Subtitle E, section 5501(a)(2), amended INA 212(d)(3)(A), replacing a bar against a waiver for an alien who is ineligible for a nonimmigrant visa under INA 212(a)(3)(E) with a bar against a waiver for an alien who is ineligible for a nonimmigrant visa under clauses (i) or (ii) of INA 212(a)(3)(E). The same legislation also amended INA 212(a)(3)(E) to add clause (iii), to which the waiver bar does not apply. This rule amends 22 CFR Part 40 to conform to these amended provisions.

**Regulatory Findings**

*Administrative Procedure Act*

This regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

*Regulatory Flexibility Act/Executive Order 13272: Small Business*

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This regulates individual aliens who are ineligible under INA 212(a)(3)(E)(i) and 212(a)(3)(E)(ii) and does not affect any

small entities, as defined in 5 U.S.C. 601(6).

#### *Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104-4, 109 Stat. 48, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

#### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

#### *Executive Order 12866*

The Department of State has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this final regulation justify its costs. The Department does not consider this final rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy of \$100 million or more or to adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

#### *Executive Orders 12372 and 13132: Federalism*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor will the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

#### *Executive Order 12988: Civil Justice Reform*

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### *Paperwork Reduction Act*

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **List of Subjects in 22 CFR Part 40**

Aliens, Immigration, Visas.

■ For the reasons stated in the preamble, the Department of State amends 22 CFR part 40 as follows:

#### **PART 40—REGULATIONS PERTAINING TO BOTH NONIMMIGRANTS AND IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

■ 1. The authority citation for part 40 will continue to read as follows:

**Authority:** 8 U.S.C. 1104.

■ 2. Section 40.301 is amended by revising paragraph (a) to read as follows:

#### **§ 40.301 Waiver for ineligible nonimmigrants under INA 212(d)(3)(A)**

(a) *Report or recommendation to Department.* Except as provided in paragraph (b) of this section, consular officers may, upon their own initiative, and shall, upon the request of the Secretary of State or upon the request of the alien, submit a report to the Department for possible transmission to the Secretary of Homeland Security pursuant to the provisions of INA 212(d)(3)(A) in the case of an alien who is classifiable as a nonimmigrant but who is known or believed by the consular officer to be ineligible to receive a nonimmigrant visa under the provisions of INA 212(a), other than INA 212(a) (3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), (3)(E)(i), or (3)(E)(ii).

\* \* \* \* \*

Dated: December 7, 2010.

**Janice L. Jacobs,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

[FR Doc. 2010-32944 Filed 12-29-10; 8:45 am]

**BILLING CODE 4710-06-P**

#### **DEPARTMENT OF HOMELAND SECURITY**

#### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2010-1129]

**RIN 1625-AA87**

#### **Security Zones; Moored Cruise Ships, Port of San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone regulation from December 21, 2010, through June 20, 2011. The security zones created by this rule will encompass all navigable waters extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored at any berth within the San Diego port area inside the sea buoys bounding the Port of San Diego. This temporary final rule is necessary to provide for the safety of the cruise ship, vessels, and users of the waterway. Entry into these security zones will be prohibited unless specifically authorized by the Captain of the Port (COTP) San Diego, or his or her designated representative. This rule will also suspend paragraph (b)(2) of 33 CFR 165.1108, a related regulation.

**DATES:** This rule is effective from December 21, 2010, through June 20, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1129 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1129 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Commander Michael B. Dolan, Prevention, Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7261, e-mail [Michael.B.Dolan@uscg.mil](mailto:Michael.B.Dolan@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**