

§ 10.321 through 10.323 [Removed]

2. Sections 10.321 through 10.323 and their center heading are removed.

George J. Weise,
Commissioner of Customs.

Approved: April 29, 1996.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 96-12372 Filed 5-16-96; 8:45 am]

BILLING CODE 4820-02-P

19 CFR Parts 12, 145, and 161

[T.D. 96-42]

RIN 1515-AB91

Prohibited/Restricted Merchandise; Enforcement of Foreign Assets Control Regulations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to more clearly provide that Customs enforces the laws and regulations of the Office of Foreign Assets Control (OFAC) of the Department of the Treasury regarding economic sanctions applicable to those countries that have been designated by the President as constituting a threat to the national security, foreign policy, or economy of the United States. Currently, the Customs Regulations refer to OFAC regulations only in the context of merchandise arriving by mail. This document clarifies that Customs enforces the laws and regulations administered by OFAC regardless of how subject merchandise, services, and technology arrive in or depart from the U.S.

EFFECTIVE DATE: May 17, 1996.

FOR FURTHER INFORMATION CONTACT: Louis Alfano, Office of Field Operations, Commercial Enforcement Branch, (202) 927-0005.

SUPPLEMENTARY INFORMATION:**Background**

As part of Customs continuing effort to ensure that its regulations are informative and up-to-date, Customs has determined that its regulations do not clearly set forth the fact that Customs enforces the laws and regulations administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury (31 CFR Chapter V). These laws include the Trading With the Enemy Act (50 U.S.C. App. 1-44), the National Emergencies Act (50 U.S.C. 1641 *et seq.*), the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), and the International Security and

Development Cooperation Act (22 U.S.C. 2349aa8-9); the regulations are found at Chapter V of Title 31 of the Code of Federal Regulations (Money and Finance) (31 CFR Chapter V). These laws and regulations impose prohibitions or restrictions on importations, exportations, and other transactions involving funds, merchandise, services, and technology with and of those countries that have been designated by the President, pursuant to applicable statutory provisions. Currently, the Customs Regulations refer to OFAC regulations only in part 145 of the Customs Regulations (19 CFR Part 145), the provisions of which apply only to merchandise arriving by mail. This document clarifies that Customs enforces the laws and regulations administered by OFAC regardless of how the subject merchandise, services, and technology arrive in or depart from the U.S. by amending three sections in as many parts to provide further notice to the public of Customs enforcement obligations concerning the application of economic sanctions to designated countries.

In reviewing § 145.56 of the Customs Regulations (19 CFR 145.56), which concerns the applicability of OFAC controls on merchandise arriving by mail, Customs has determined that the listing of countries subject to controls administered by OFAC is not up-to-date. (The list of countries in the section has not been updated since the section was promulgated in 1973 and is outdated and inconsistent with OFAC regulations: two of the four countries currently listed are no longer subject to OFAC's controls (North Vietnam (now Vietnam) and Rhodesia (now Zimbabwe)) and other countries that have since been designated by the President as subject to sanctions have not been added to the list). Each time the President sanctions and lifts sanctions on designated countries, OFAC amends its regulations accordingly. Repeating the list of sanctioned countries in the Customs Regulations merely duplicates the efforts of OFAC and, if not done timely, could result in future inconsistencies between OFAC and Customs Regulations. Accordingly, Customs has determined that to avoid the possibility of future inconsistencies between OFAC and Customs Regulations in the listing of sanctioned countries, Customs will no longer set forth such a list in its regulations, but will simply refer readers to the OFAC regulations. Thus, in amending § 145.56, this document retains the procedural provisions, but

removes the listing of countries subject to economic sanctions.

This document also clarifies the extent of Customs responsibility in enforcing OFAC controls by adding sections regarding OFAC controls in both Part 12, which concerns regulations of various Federal agencies which Customs enforces and special classes of merchandise, and in Part 161, which concerns general enforcement provisions. A new § 12.150 is added to Part 12, which cross-references OFAC regulations at 31 CFR Chapter V, explains how OFAC regulations work, and provides an address for further information from OFAC. Also, a specific authority citation is added to account for Customs import (19 U.S.C. 1595a(c)) and export (22 U.S.C. 401) seizure authority and to account for the terms and conditions for release (19 U.S.C. 1618). Section 161.2 is amended to list OFAC as an agency whose laws are enforced by Customs. Also, the parenthetical legal authority citations at the end of § 161.2 are amended to account for changes in the law since 1972, when the citations were first provided, and are placed under the general authority citation at the beginning of Part 161.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because this amendment merely provides further notice to the public that Customs enforces the laws and regulations administered by the Office of Foreign Assets Control of the Department of the Treasury, pursuant to 5 U.S.C. 553(b)(B), good cause exists for dispensing with notice and public procedure thereon as unnecessary. For the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1) and (d)(3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

List of Subjects*19 CFR Part 12*

Customs duties and inspection, Economic sanctions, Imports, Licensing, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Sanctions, Seizure and forfeiture.

19 CFR Part 145

Customs duties and inspection, Imports, Mail, Postal service, Prohibited merchandise, Restricted merchandise, Reporting and recordkeeping requirements, Seizure and forfeiture.

19 CFR Part 161

Customs duties and inspection, Imports, Law enforcement.

Amendments to the Regulations

For the reasons stated above, parts 12, 145, and 161 of the Customs Regulations (19 CFR parts 12, 145, and 161), are amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for Part 12 continues and a specific authority citation for new § 12.150 is added to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Section 12.150 also issued under 19 U.S.C. 1595a and 1618; 22 U.S.C. 401.

2. Part 12 is amended by adding a centerheading and new § 12.150 to read as follows:

Merchandise Subject to Economic Sanctions**§ 12.150 Merchandise prohibited by economic sanctions; detention; seizure or other disposition; blocked property.**

(a) *Generally.* Merchandise from certain countries designated by the President as constituting a threat to the national security, foreign policy, or economy of the United States shall be detained until the question of its release, seizure, or other disposition has been determined under law and regulations issued by the Treasury Department's Office of Foreign Assets Control (OFAC) (31 CFR Chapter V).

(b) *Seizure.* When an unlicensed importation of merchandise subject to OFAC's regulations is determined to be prohibited, no entry for any purpose shall be permitted and, unless the immediate reexportation or other disposition of such merchandise under Customs supervision has previously been authorized by OFAC, the merchandise shall be seized.

(c) *Licenses.* OFAC's regulations may authorize OFAC to issue licenses on a case-by-case basis authorizing the importation of otherwise prohibited merchandise under certain conditions. If such a license is issued subsequent to the attempted entry and seizure of the

merchandise, importation shall be conditioned upon the importer:

(1) Agreeing in writing to hold the Government harmless, and
(2) Paying any storage and other Customs fees, costs, or expenses, as well as any mitigated forfeiture amount or monetary penalty imposed or assessed by Customs or OFAC, or both.

(d) *Blocked property.* Merchandise which constitutes property in which the government or any national of certain designated countries has an interest may be blocked (frozen) pursuant to OFAC's regulations and may not be transferred, sold, or otherwise disposed of without an OFAC license.

(e) *Additional information.* For further information concerning importing merchandise prohibited under economic sanctions programs currently in effect, the Office of Foreign Assets Control of the Department of the Treasury should be contacted. The address of that office is 1500 Pennsylvania Ave., N.W., Annex 2nd Floor, Washington, D.C. 20220.

PART 145—MAIL IMPORTATIONS

1. The general authority citation for Part 145 is revised to read as follows:

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

* * * * *

§ 145.56 [Amended]

2. Section 145.56 is amended by removing the words "North Korea, North Vietnam, Cuba, or Rhodesia" and adding, in their place, the words "certain designated countries"; and by adding the parenthetical words "(See also 19 CFR 12.150)" at the end of the section before the period.

PART 161—GENERAL ENFORCEMENT PROVISIONS

1. The general authority citation for Part 161 is revised, and a specific authority citation for section 161.2 is added, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1600, 1619, 1624, 1646a;

Section 161.2 also issued under 12 U.S.C. 95a; 18 U.S.C. 545; 19 U.S.C. 1595(a); 22 U.S.C. 401, 1934, 2349aa8-9;

42 U.S.C. 1804, 1807; 50 U.S.C. 1641 *et seq.*, 1701 *et seq.*;

50 U.S.C. App. 1-44, 2411.

* * * * *

2. Section 161.2 is amended by adding paragraph (a)(3) and removing the parenthetical authority citations at the end of the section. The revision reads as follows:

§ 161.2 Enforcement for other agencies.

(a) * * *

(1) * * *

(2) * * *

(3) Importations, exportations, and transactions involving identified goods, services, and technology with any of those countries designated as subject to economic sanctions under the laws and regulations administered by the Office of Foreign Assets Control of the Department of the Treasury.

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Michael H. Lane,

Acting Commissioner of Customs.

Approved: April 8, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96-12373 Filed 5-16-96; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF JUSTICE**28 CFR Part 58****United States Trustees; Guidelines Relating to the Bankruptcy Reform Act of 1994**

AGENCY: Department of Justice.

ACTION: Final internal procedural guidelines.

SUMMARY: The Department of Justice is establishing internal procedural guidelines for reviewing applications for compensation and reimbursement of expenses filed by case trustees and professionals under section 330 of Title 11, United States Code. These procedural guidelines are not intended to supersede local rules, but are to be read as complementing the procedures set forth in local rules.

To keep all published rules, regulations, and guidelines pertaining to the United States Trustee Program in one section of the Code of Federal Regulations, the title to 28 CFR 58 will be amended to include the Bankruptcy Reform Act of 1994.

EFFECTIVE DATE: January 30, 1996.

FOR FURTHER INFORMATION CONTACT: Martha L. Davis, General Counsel, or Kathleen Dunivin Schmitt, Attorney, (202) 307-1399. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This action is in response to the Bankruptcy Reform Act of 1994, which amended 28 U.S.C. 586(a)(3)(A) to direct United States Trustees to review applications for compensation and reimbursement of expenses in accordance with procedural guidelines adopted by the Executive Office for United States Trustees. The guidelines are to be applied uniformly by the United States Trustees, except when circumstances warrant different treatment.