

List of Subjects

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Imports, Taxes.

19 CFR Part 178

Administrative practice and procedure, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated in the preamble, under the authority of 19 U.S.C. 66 and 1624 the interim rule amending 19 CFR Part 24 which was published at 63 FR 29122 on May 28, 1998, is adopted as a final rule without change, and Part 178 of the Customs Regulations (19 CFR Part 178) is amended as set forth below.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
§ 24.26 ...	Automated Clearinghouse Credit.	1515-0218
*	*	*

Raymond W. Kelly,
Commissioner of Customs.

Approved: January 15, 1999.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 99-3619 Filed 2-12-99; 8:45 am]
BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

[T.D. 99-9]

Establishment of Port of Entry in Fort Myers, Florida

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of the Customs Service by designating Fort Myers,

Florida, as a port of entry. The geographical area of the new port consists of both Lee and Collier Counties in Florida, including Southwest Florida International Airport and the foreign trade zone at Immokalee Regional Airport. The change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers and the general public.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT:

Harry Denning, Office of Field Operations, 202-927-0196.

SUPPLEMENTARY INFORMATION:

Background

In a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** (63 FR 13025) on March 17, 1998, Customs proposed to amend the Customs Regulations pertaining to the field organization of the Customs Service by designating Fort Myers, Florida, as a port of entry. Customs proposed that Fort Myers be designated as a port of entry because it meets the current standards for port of entry designations set forth in T.D. 82-37, as revised by T.D. 86-14 and T.D. 87-65. The geographical boundaries of the proposed port were to be the same as those of Lee County, Florida, including Southwest Florida International Airport. It was also proposed to remove the user fee designation of Southwest Florida International Airport.

Five comments were received in response to the proposal.

Analysis of Comments

Comment: The commenters all supported the designation of Lee County including Southwest Florida International Airport as a Customs port of entry. In addition, they all requested that the port limits be expanded to include Collier County as well as Lee County.

According to the commenters, Collier County is one of the fastest growing areas in the country. Its rapid population growth is projected to continue into the next century, with population doubling by the year 2020. Collier County is involved in international trade by virtue of its foreign trade zone at Immokalee Regional Airport, created by the Department of Commerce in 1997, and the foreign trade zone workload is projected to increase.

Response: Customs believes that the commenters have presented sufficient information about the benefits of including Collier County in the new

port to expand the geographical description of Fort Myers to include Collier County. Ample evidence has been provided to convince Customs that because Collier County is a growing county with regard to population, trade and economic structure, the economic viability of a Fort Myers port of entry will be enhanced by the inclusion of Collier County. Customs believes that the new two-county port can be efficiently managed by available Customs resources.

Conclusion

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public, Customs is amending §§ 101.3(b)(1) and 122.15(b), Customs Regulations (19 CFR 101.3(b)(1) and 122.15(b)), by designating Fort Myers, Florida, as a port of entry and removing the designation of Southwest Florida Regional Airport as a user fee airport.

Port Limits

The geographic area of the port of Fort Myers consists of Lee County, Florida, including Southwest Florida International Airport, and Collier County, Florida, including the foreign trade zone at Immokalee Regional Airport.

Regulatory Flexibility Act and Executive Order 12866

Customs establishes, expands and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although a notice was issued for public comment on this subject matter, because the subject matter relates to agency management and organization, it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Agency organization matters such as this are exempt from consideration under Executive Order 12866.

Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

List of Subjects*19 CFR Part 101*

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Customs duties and inspection, Freight, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth above, part 101 and part 122 of the Customs Regulations are amended as set forth below.

PART 101—GENERAL PROVISIONS

1. The general authority citation for part 101 and the specific authority citation for § 101.3 continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

§ 101.3 [Amended]

2. The list of ports in § 101.3(b)(1) is amended by adding, in alphabetical order under the state of Florida, "Fort Myers" in the "Ports of entry" column and "T.D. 99-9" in the adjacent "Limits of port" column.

PART 122—AIR COMMERCE REGULATIONS

1. The general authority for part 122 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

§ 122.15 [Amended]

2. The list of user fee airports in § 122.15(b) is amended by removing "Fort Myers, Florida" from the "Location" column and, on the same line, "Southwest Florida Regional Airport" from the "Name" column.

Raymond W. Kelly,
Commissioner of Customs.

Approved: January 15, 1999.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 99-3472 Filed 2-12-99; 8:45 am]

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Part 123**

[T.D. 99-10]

RIN 1515-AB88

Foreign-Based Commercial Motor Vehicles in International Traffic

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to allow certain foreign-based commercial motor vehicles, which are admitted as instruments of international traffic, to engage in the transportation of merchandise or passengers between points in the United States where such transportation is incidental to the immediately prior or subsequent engagement of such vehicles in international traffic. Any movement of these vehicles in the general direction of an export move or as part of the return movement of the vehicles to their base country shall be considered incidental to the international movement. The benefit of this liberalization of current cabotage restrictions inures in particular to both the United States and foreign trucking industries inasmuch as it allows more efficient and economical utilization of their respective vehicles both internationally and domestically.

EFFECTIVE DATE: March 18, 1999.

FOR FURTHER INFORMATION CONTACT:

Legal aspects: Glen E. Vereb, Office of Regulations and Rulings, 202-927-2320.

Operational aspects: Eileen A. Kastava, Office of Field Operations, 202-927-0983.

SUPPLEMENTARY INFORMATION:**Background**

Pursuant to 19 U.S.C. 1322, vehicles and other instruments of international traffic shall be 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.

This statutory mandate pertaining to foreign-based commercial motor vehicles is implemented in § 123.14 of the Customs Regulations (19 CFR 123.14). Section 123.14(a) states that to qualify as instruments of international traffic, such vehicles having their principal base of operations in a foreign country must be arriving in the United States with merchandise destined for points in the United States, or arriving

empty or loaded for the purpose of taking merchandise out of the United States.

Section 123.14(c), Customs Regulations, states that with one exception, a foreign-based commercial motor vehicle, admitted as an instrument of international traffic under § 123.14(a), shall not engage in local traffic in the United States. The exception, set out in § 123.14(c)(1), states that such a vehicle, while in use on a regularly scheduled trip, may be used in local traffic that is directly incidental to the international schedule.

Section 123.14(c)(2), Customs Regulations, provides that a foreign-based truck trailer admitted as an instrument of international traffic may carry merchandise between points in the United States on the return trip as provided in § 123.12(a)(2) which allows use for such transportation as is reasonably incidental to its economical and prompt departure for a foreign country.

In regard to these cabotage restrictions, Customs received a petition from the American Trucking Association (ATA) requesting a change in Customs interpretation of its regulations governing the use of foreign-based trucks in local traffic in the United States. This petition was the culmination of joint discussions beginning in July of 1994 between the ATA and the Canadian Trucking Association (CTA) to obtain mutually agreed upon parameters with respect to the liberalization of current truck cabotage restrictions in their respective countries.

After reviewing the petition, Customs published a notice in the Customs Bulletin pursuant to 19 U.S.C. 1625(c)(1) (see 31 Cust. Bull. and Dec. No. 40, 7 (October 1, 1997)), which revised the interpretation of when a foreign-based truck would be considered as used in international traffic under existing § 123.14. However, the proposal advanced by the ATA regarding the use of a foreign-based commercial motor vehicle, including a truck, in permissible local traffic under § 123.14(c) was, of course, not addressed in the Customs Bulletin notice. To effect this change required an amendment of the regulation under the Administrative Procedure Act, 5 U.S.C. 553.

Accordingly, by a document published in the **Federal Register** (63 FR 27533) on May 19, 1998, Customs proposed an amendment of § 123.14(c)(1), which would allow certain foreign-based commercial motor vehicles, admitted as instruments of international traffic, to engage in the transportation of merchandise between