

written comments that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5, Treasury Department Regulations (31 CFR 1.5), and § 103.11(b), Customs regulations (19 CFR 102.11(b)), during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC.

### 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. Thus, although this document is being issued with notice for public comment, because it 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 proposed port extension 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.

**Robert C. Bonner,**

*Commissioner of Customs.*

Approved: January 6, 2003.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 103

RIN 1515-AD18

### Confidentiality Protection for Vessel Cargo Manifest Information

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations to

provide that, in addition to the importer or consignee, parties that electronically transmit vessel cargo manifest information directly to Customs 24 or more hours before cargo is laden aboard the vessel at the foreign port may request confidentiality with respect to the name and address of the importer or consignee, related marks and identification numbers that reveal their names and addresses, and the names and addresses of their shippers. These parties must submit to Customs a letter of authorization signed by the importer or consignee with the request for confidentiality. Current regulations allow only the importer or consignee, or an authorized employee, attorney, or official of the importer or consignee, to make such requests.

**DATES:** Comments must be received on or before February 10, 2003.

**ADDRESSES:** Written comments (preferably in triplicate), regarding both the substantive aspects of the proposed rule and how it may be made easier to understand, may be submitted to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229. Submitted comments may be inspected at the U.S. Customs Service, 799 9th Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Larry Burton, Chief, Entry and Carriers Branch, Office of Regulations and Rulings, at (202) 572-8724.

### SUPPLEMENTARY INFORMATION:

#### Background

Under 19 U.S.C. 1431, Customs must make available for public disclosure certain information contained in vessel manifests except when the importer or consignee has requested confidential treatment.

On October 31, 2002, Customs published a final rule document in the **Federal Register** (67 FR 66318) that amended the Customs Regulations pertaining to the inward foreign manifest to provide that Customs must receive from the carrier the vessel's Cargo Declaration (Customs Form (CF) 1302), one document among a few that comprise the manifest, or a Customs-approved electronic equivalent of the cargo declaration, at least 24 hours before the cargo is laden aboard the vessel at the foreign port, and to require that Vessel Automated Manifest System (AMS) participants provide the cargo declaration electronically (see 19 CFR 4.7(b)(2)). The amended regulation also provides that a properly licensed or registered non-vessel operating common carrier (NVOCC) that is in possession of

an International Carrier Bond containing the provisions of § 113.64 of the regulations (19 CFR 113.64) may electronically transmit required manifest information directly to Customs through the AMS 24 or more hours before cargo it delivers to the vessel carrier is laden aboard the vessel at the foreign port. If the NVOCC chooses not to transmit the required manifest information to Customs, as described above, the amended regulation provides that the NVOCC must instead fully disclose and present the required information to the vessel carrier to allow the vessel carrier to present the information to Customs via the AMS system. (See 19 CFR 4.7(b)(3).)

The final rule amended other sections within Part 4 of the regulations and made amendments to § 113.64 having to do with bond obligations of NVOCCs that elect to transmit manifest information in accordance with § 4.7(b). Discussion of these particular amendments is not necessary in this document. (See the final rule, cited previously, for a more complete presentation of these amendments.)

In response to the notice of proposed rulemaking (NPRM) that preceded publication of the final rule discussed above, published in the **Federal Register** (67 FR 51519) on August 8, 2002, the NVOCC community submitted several comments expressing concern that certain information and data that a NVOCC would supply under the new procedures of § 4.7(b) would be subject to release for publication. Under § 103.31 of the regulations (19 CFR 103.31), vessel manifest information is made available to newspapers, commercial magazines, trade journals, and similar publications. The NVOCC group contended that such release would reveal confidential business information that could result in harm to the NVOCC community, and recommended that Customs amend the regulations to permit NVOCCs to request confidentiality on behalf of importers and consignees under § 103.31. Because the NVOCC comments concerned an issue that was not the focus of the prior rulemaking, Customs responded to these comments in the final rule document by indicating that it would soon publish another NPRM proposing to amend the regulations to address the issue within the limitations of existing law. The purpose of this NPRM is to seek further input from the trade community on the specific question whether the Customs regulations should be amended.

Under 19 U.S.C. 1431(c), only importers and consignees are authorized to make such confidentiality requests to

protect their name and address from disclosure as well as the name and address of their shippers. The regulations implementing this Section provide that authorized employees, attorneys, or officials of importers or consignees may make such requests (19 CFR 103.31(d)). Consistent with the view that authorized representatives of the importers or consignees may file confidential requests, this document proposes to amend § 103.31(d) of the Customs Regulations to allow parties that transmit directly to Customs manifest information in accordance with §§ 4.7(b) and 4.7a to file a biennial certification requesting confidentiality on behalf of an importer or consignee when authorized to do so by the importer or consignee. This amendment allowing such parties, including NVOCCs and vessel carriers, to make confidentiality requests will enhance the new procedures set forth in the final rule, as these parties will be relieved from any disadvantage that might result from publication of certain manifest information.

#### Comments

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5 of the Treasury Department Regulations (31 CFR 1.5), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC. To make arrangements to inspect submitted comments, call Mr. Joseph Clark at (202) 572-8768.

#### Executive Order 12866

This document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

#### Regulatory Flexibility Act

Inasmuch as adoption of the proposed amendment would expand the parties who may request confidentiality of business sensitive information for the purpose of protecting their competitive standing or advantage, and thus would benefit this segment of the importing community, it is certified, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the proposed amendments to the Customs Regulations, if adopted, will not have a significant economic impact on a substantial number of small

entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

#### Paperwork Reduction Act

The collection of information contained in § 103.31 has previously been approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1515-0124 (Disclosure by Customs of information on cargo declarations of inward vessel manifests). This notice of proposed rulemaking (NPRM) contains an additional collection of information that has been submitted to OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The additional collection of information in this proposed rule document is contained in § 103.31(d)(i). This information is required to allow a party transmitting vessel cargo manifest information directly to Customs in accordance with the procedures of § 4.7(b) of this chapter to submit a confidentiality certification on behalf of an importer or consignee. The likely respondents are businesses such as non-vessel operating common carriers and vessel carriers that must submit to Customs the information required under the regulation when choosing to obtain confidentiality for importers and consignees.

The estimated burden to the public resulting from the additional collection is as follows:

*Estimated total annual reporting and/or recordkeeping burden:* 250 hours.

*Estimated average annual burden per respondent/recordkeeper:* 30 minutes.

*Estimated number of respondents and/or recordkeepers:* 500.

*Estimated annual frequency of responses:* 1.

Comments on the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to Customs at the address set forth in the **ADDRESSES** section of this document.

#### Drafting Information

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

#### List of Subjects in 19 CFR Part 103

Administrative practice and procedure; Confidential business information, Electronic filing, Freedom of Information, Imports, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

For the reasons stated in the preamble, Part 103 of the Customs Regulations (19 CFR Part 103) is proposed to be amended as follows:

#### PART 103—AVAILABILITY OF INFORMATION

1. The general authority citation for part 103 and the specific authority citation for § 103.31 continue to read as follows:

**Authority:** 5 U.S.C. 301; 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Section 103.31 also issued under 19 U.S.C. 1431;

\* \* \* \* \*

2. Section 103.31 is proposed to be amended by revising paragraph (d)(1)(i) to read as follows:

#### § 103.31 Information on vessel manifests and summary statistical reports.

\* \* \* \* \*

(d) *Confidential treatment*—(1) *Inward manifest.* \* \* \*

(i) An importer or consignee, or authorized employee, attorney or official of the importer or consignee, must submit a certification (as described in paragraph (d)(1)(ii) of this section) to claim confidential treatment of the data set forth in paragraph (d)(1) of this section. In addition, a party that either electronically directly transmits, or uses a service provider to transmit, the Customs Form 1302 Cargo Declaration to Customs in accordance with the procedures of § 4.7(b) of this chapter may submit a certification to claim confidential treatment of the data set forth in paragraph (d)(1) of this section on behalf of an importer or consignee if the importer or consignee designates such party as its attorney-in-fact authorized to submit a certification on the importer's or consignee's behalf. The party so designated/authorized must provide Customs with a letter of authorization signed by the importer or consignee, or its authorized employee, attorney or official, to support any

submission of a certification under this paragraph.

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**Robert C. Bonner,**

*Commissioner of Customs.*

Approved: January 3, 2003.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 69

[GU02-02; FRL-7433-4]

#### Clean Air Act Interim Approval of the Alternate Permit Program; Territory of Guam

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to grant interim approval of the alternate permit program submitted by the Territory of Guam (Guam). In EPA's November 13, 1996 direct final rule, EPA granted Guam, as well as owners and operators of certain sources within Guam, an exemption from title V requirements on the condition that Guam promulgate and administer an approved alternative permit program. EPA granted these conditional exemptions under the authority of section 325 of the Clean Air Act (Act). Interim approval of Guam's alternate permit program will allow sources to be permitted under an approved alternate permit program while also requiring Guam to make additional submissions to fulfill all of the requirements of the conditional exemption.

In the rules and regulations section of this **Federal Register**, we are granting interim approval of these local rules as Guam's alternate permit program in a direct final action without prior proposal because we believe this action is not controversial and do not anticipate adverse comment. A detailed rationale for this approval is set forth in the direct final rule. If we do not receive adverse comments, no further activity is planned. If EPA receives adverse comments, however, we will publish a timely withdrawal of the direct final action and address the comments in a subsequent final action based on this proposed rule. We will not open a second comment period, so anyone interested in commenting should do so at this time.

**DATES:** Any comments on this proposal must arrive by March 10, 2003.

**ADDRESSES:** Mail comments to Gerardo Rios, Chief of the Permits Office (AIR-3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Copies of the submitted program and other supporting information used in evaluating the alternate permit program are available for inspection during normal business hours at the following location: Pacific Insular Area Program, U.S. EPA-Region IX (CMD-5), 75 Hawthorne Street, San Francisco, California 94105.

**FOR FURTHER INFORMATION CONTACT:** Ben Machol, EPA Region IX, at (415) 972-3770, ([Machol.Ben@epa.gov](mailto:Machol.Ben@epa.gov)), Pacific Insular Area Program, or Robert Baker, at (415) 972-3979, ([Baker.Robert@epa.gov](mailto:Baker.Robert@epa.gov)) Permits Office, Air Division, at the EPA-Region IX address listed above.

**SUPPLEMENTARY INFORMATION:** See the information provided in the direct final rule of the same title which is located under the rules and regulations section of this **Federal Register**.

Dated: December 17, 2002.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 18

RIN 1018-AH86

#### Florida Manatees; Incidental Take During Specified Activities; Extension of Public Comment Period

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, provide notice that the public comment period for the proposed regulations that would authorize for the next five years the incidental, unintentional take of a small number of Florida manatees (*Trichechus manatus latirostris*) resulting from government activities related to watercraft and watercraft access facilities is extended to allow all interested parties to submit written comments on the proposal and the draft environmental impact statement. Comments previously submitted during the comment period

need not be resubmitted as they will be incorporated into the public record and will be fully considered in the final determination on the proposal.

**DATES:** The original comment period is scheduled to close on January 13, 2003. The comment period is hereby extended until January 27, 2003. Comments from all interested parties must be received by the closing date. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

**ADDRESSES:** If you wish to comment, you may submit your comments by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, Jacksonville Field Office, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216.

2. You may hand-deliver written comments to our Jacksonville Field Office, at the above address, or fax your comments to 904/232-2404.

3. You may send comments by electronic mail (e-mail) to [manatee@fws.gov](mailto:manatee@fws.gov). For directions on how to submit electronic comment files, see the "Public Comments Solicited" section.

We request that you identify whether you are commenting on the proposed rule or draft environmental impact statement. Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours from 8 a.m. to 4:30 p.m. Monday through Friday, at the above address. You may obtain copies of the draft environmental impact statement from the above address or by calling 904/232-2580, or from our Web site at <http://northflorida.fws.gov>. Information regarding this proposal is available in alternative formats upon request.

**FOR FURTHER INFORMATION CONTACT:** Pete Benjamin, Assistant Field Supervisor (*see ADDRESSES* section), telephone 904/232-2580; or visit our Web site at <http://northflorida.fws.gov>.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Marine Mammal Protection Act (MMPA) of 1972 (16 U.S.C. 1361-1407) sets a general moratorium, with certain exceptions, on the taking and importation of marine mammals and marine mammal products and makes it unlawful for any person to take, possess, transport, purchase, sell, export, or offer to purchase, sell, or export, any marine mammal or marine mammal product