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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

8 CFR Chapter I

19 CFR Chapter I

[USCBP-2017-0035]

Reducing Regulation and Controlling Regulatory Costs

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

ACTION: Request for Information.

SUMMARY: As part of its implementation of Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” issued by the President on January 30, 2017, and Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” issued by the President on February 24, 2017, U.S. Customs and Border Protection (CBP) within the Department of Homeland Security (DHS) is seeking comments and information from interested parties to assist CBP in identifying existing regulations, paperwork requirements, and other regulatory obligations that can be modified or repealed, consistent with law, to achieve savings of time and money while continuing to achieve CBP’s statutory obligations.

DATES: Written comments and information are requested on or before [INSERT 90 days after publication].

ADDRESSES: You may submit suggestions identified by docket number by submitting them to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2017-0035. All submissions received must include the agency name and docket number for this rulemaking. All suggestions received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Any member of the public may access the docket to read suggestions received.

FOR FURTHER INFORMATION CONTACT: Elena Ryan, Special Advisor, Programs and Policy Analysis, U.S. Department of Homeland Security, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, MS1177, Washington, DC 20229. Telephone: 202-325-0004. Email: regulatoryreformsuggestion@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION: On January 30, 2017, the President issued Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” That Executive Order stated that the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Executive Order also stated that it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. Toward that end, for fiscal year 2017, the Executive Order requires that:

(a) “Unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least two existing regulations to be repealed.” Sec. 2(a).

(b) “For fiscal year 2017 the total incremental cost of all new regulations, including repealed regulations, to be finalized this year shall be no greater than zero, unless otherwise required by law or consistent with advice provided in writing by the Director of the Office of Management and Budget.” Sec. 2(b); and

(c) “Any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.” Sec. 2(c).

Further, the Executive Order requires that for fiscal year 2018, and for each fiscal year thereafter, the head of each agency shall identify, for each regulation that increases incremental cost, offsetting regulations, and provide the agency’s best approximation of the total costs or savings associated with each new regulation or repealed regulation.

Additionally, on February 24, 2017, the President issued Executive Order 13777, “Enforcing the Regulatory Reform Agenda”. The Executive Order established a Federal policy to alleviate unnecessary regulatory burdens placed on the American people.

Section 3(a) of the Executive Order directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement, or modification. The Executive Order further asks that each Task Force attempt to identify regulations that:

- (i) Eliminate jobs, or inhibit job creation;
- (ii) Are outdated, unnecessary, or ineffective;
- (iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or

(vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

The Office of Management and Budget has directed that agency policies (such as guidance and interpretative documents) and information collections that impose costs on the public may also be identified under the above criteria, in addition to regulations.

Section 3(e) of the Executive Order calls on the Task Force to seek input and other assistance on this task, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and Tribal governments, small businesses, consumers, non-governmental organizations, and trade associations.

Request for Suggestions

CBP is, through this document, seeking input from entities affected by CBP, including state, local, and tribal governments, small businesses, consumers, non-governmental organizations, manufacturers, and their trade associations. These entities are in the best position to help CBP identify rules that are obsolete, unnecessary, unjustified, or simply no longer make sense, or rules that could be better modernized to accomplish their objectives.

Consistent with CBP's commitment to public participation in the rulemaking process, CBP is soliciting views from the public on specific regulations or paperwork requirements that could be altered or eliminated to reduce burdens while still allowing CBP to meet its mission.

While CBP promulgates rules in accordance with the law and to the best of its analytic capability, it is difficult to be certain of the consequences of a rule, including its costs and benefits, until it has been tested. Because knowledge about the full effects of a rule is widely dispersed in society, members of the public are likely to have useful information and perspectives on the benefits and burdens of existing requirements and how regulatory obligations may be updated, streamlined, revised, or repealed to better achieve regulatory objectives, while minimizing regulatory burdens, consistent with applicable law.

Accordingly, CBP is asking you to consider the following questions when providing your input:

(1) Are there CBP rules or reporting requirements that have become outdated and, if so, how can they be modernized to better accomplish their objective?

(2) Are there CBP rules that are still necessary, but have not operated as well as expected such that a modified, or slightly different approach at lower cost is justified?

(3) Are there CBP rules that unnecessarily obstruct, delay, curtail, or otherwise impose significant costs on the secure flow of legitimate trade and travel to and from the United States?

(4) Does CBP currently collect information that it does not need or use effectively?

(5) Are there regulations, reporting requirements, or regulatory processes that are unnecessarily complicated or could be streamlined to achieve statutory obligations in more efficient ways?

(6) Are there rules or reporting requirements that have been overtaken by technological developments? Can new technologies be leveraged to modify, streamline, or do away with existing regulatory or reporting requirements?

To allow CBP to more effectively evaluate suggestions, CBP requests that commenters identify with specificity the regulation (in either Title 19 CFR Chapter I, or Title 8 CFR, Chapter I) or reporting requirement at issue, and provide the legal citation where available. Please note that certain regulations which reflect statutory requirements cannot be eliminated until the statute is amended or repealed to eliminate that requirement. CBP also requests that the submitter provide, in as much detail as possible, an explanation why a regulation or reporting requirement should be modified, streamlined, or repealed, as well as specific suggestions of ways CBP can do so while achieving its regulatory objectives. In addition, supporting data or other information, such as cost information, for any suggestions would be useful.

Comments from the public are crucial to understanding regulatory burden and helping CBP find solutions that are cost effective, facilitate legitimate trade and travel, and enhance homeland security. While CBP intends to fully consider all input received in response to this notice, CBP will not respond individually to comments and none of the comments submitted will bind CBP to take any further action.

Dated: September 6, 2017

Mark Koumans

Deputy Executive Assistant Commissioner,

Operations Support

U.S. Customs and Border Protection

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