

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

#### 19 CFR Parts 101 and 122

[DHS Docket Number DHS-2005-0050]

#### Establishing a New Port-of-Entry in the Tri-Cities Area of Tennessee and Virginia and Terminating the User-Fee Status of the Tri-Cities Regional Airport

**AGENCY:** Customs and Border Protection, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Department of Homeland Security regulations pertaining to the Bureau of Customs and Border Protection's field organization by establishing a new port-of-entry in the Tri-Cities area of the States of Tennessee and Virginia, including the Tri-Cities Regional Airport. The new port-of-entry would include the same geographical boundaries of the current Customs and Border Protection User Fee Port No. 2082, which encompasses Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia. The user-fee status of Tri-Cities Regional Airport, located in Blountville, Tennessee, will be terminated. These changes will assist the Bureau of Customs and Border Protection in its continuing efforts to provide better service to carriers, importers and the general public.

**DATES:** Comments must be received on or before September 27, 2005.

**ADDRESSES:** You may submit comments, identified by Docket Number DHS-2005-0050, by one of the following methods:

- EPA Federal Partner EDOCKET Web site: <http://www.epa.gov/feddoCKET>. Follow instructions for submitting comments on the Web site.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail and Hand Delivery/Courier: Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

**Instructions:** All submissions received must include the agency name and docket number DHS-2005-0050. All comments received will be posted without change to <http://www.epa.gov/feddoCKET>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.epa.gov/feddoCKET>. You may also access the Federal eRulemaking Portal at <http://www.regulations.gov>.

Submitted comments may also be inspected at the Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dennis Dore, Office of Field Operations, 202-344-2776.

#### SUPPLEMENTARY INFORMATION:

##### Background

As part of its continuing efforts to provide better service to carriers, importers, and the general public, the Department of Homeland Security (DHS), Bureau of Customs and Border Protection (CBP) is proposing to amend 19 CFR 101.3(b)(1) by establishing a new port-of-entry at Tri-Cities Regional Airport and the area which it services in the states of Tennessee and Virginia. The new port-of-entry would include the same geographical boundaries of the current CBP User Fee Port No. 2082, which encompasses Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia. The boundaries would include Tri-Cities Regional Airport, located in Blountville, Tennessee, which currently operates and is listed as a user-fee airport at 19 CFR 122.15(b). This proposed change of status for Tri-Cities Regional Airport from a user-fee airport to inclusion within the boundaries of a port-of-entry would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

##### Port-of-Entry Criteria

The criteria considered by CBP in determining whether to establish a port-of-entry are found in Treasury Decision (T.D.) 82-37 (Revision of Customs Criteria for Establishing Ports of Entry and Stations, 47 FR 10137), as revised by T.D. 86-14 (51 FR 4559) and T.D. 87-65 (52 FR 16328). Under these criteria, CBP will evaluate whether there is a sufficient volume of import business (actual or potential) to justify the expense of maintaining a new office or expanding service at an existing location. Specifically, CBP will consider whether the proposed port-of-entry location can:

- (1) Demonstrate that the benefits to be derived justify the Federal Government expense involved;
- (2) Except in the case of land border ports, be serviced by at least two major

modes of transportation (rail, air, water, or highway); and

(3) Except in the case of land border ports, have a minimum population of 300,000 within the immediate service area (approximately a 70-mile radius).

In addition, one of the following actual or potential workload criteria (minimum number of transactions per year), or an appropriate combination thereof, must be met in the area to be serviced by the proposed port-of-entry:

- (1) 15,000 international air passengers;
- (2) 2,500 formal consumption entries (each valued over \$2,000), with the applicant location committing to optimal use of electronic data input means to permit integration with any CBP system for electronic processing of entries, with no more than half of the 2,500 entries being attributed to one private party;
- (3) For land border ports, 150,000 vehicles;
- (4) 2,000 scheduled international aircraft arrivals (passengers and/or crew); or
- (5) 350 cargo vessel arrivals.

Finally, facilities at the proposed port of entry must include, where appropriate, wharfage and anchorage adequate for oceangoing vessels, cargo and passenger facilities, warehouse space for the secure storage of imported cargo pending final CBP inspection and release, and administrative office space, inspection areas, storage areas, and other space as necessary for regular CBP operations.

##### Tri-Cities' Workload Statistics

The proposal in this document to establish the Tri-Cities area as a port of entry is based on CBP's analysis of the following information:

1. Tri-Cities is serviced by three modes of transportation:
  - (a) Rail (The Norfolk Southern Railway and the CSX Corporation);
  - (b) Air (Tri-Cities Regional Airport); and
  - (c) Highway (three major U.S. highways: I-81; I-26; and U.S. 23).
2. The current population within a 60-mile service area of the Tri-Cities Regional Airport is 1,905,491.
3. Regarding the five actual or potential workload criteria, 3,522 entries were filed at Tri-Cities Regional User Fee Airport in 2003, with no more than half of the entries attributable to any one private party. The airport has averaged 3,540 entries annually over the past several years with the average value of each entry being \$24,620. In the past eight (8) years, Tri-Cities has experienced a growth rate of 409 percent in the number of entries filed.

Approximately 251 companies (primarily importers) are currently serviced by the airport.

CBP facilities are already in place at the Tri-Cities Regional User Fee Airport. CBP believes that the establishment of this port will provide significant benefits to the local community, further enhancing the economic growth that is already being experienced in this area, by providing enhanced business competitiveness for existing enterprises and enabling the retention and expansion of the number of jobs in the area.

The Tri-Cities Regional Airport is committed to continue making the optimal use of electronic data transfer capability to permit integration with the CBP Automated Commercial System for processing entries. This commitment is shown in the current financial support, furnished by the Tri-Cities Airport Commission, of an interstate dedicated data line and computer upgrades. Since October 1, 2003, two companies, each with the automated capacity to interface with CBP, have occupied established offices in the Tri-Cities Airport.

#### Description of Proposed Port-of-Entry Limits

The geographical limits of the proposed Tri-Cities, TN/VA, port of entry would be as follows:

The contiguous outer boundaries of Sullivan County, Tennessee; Washington County, Tennessee; and Washington County, Virginia.

#### Proposed Amendments to Regulations

If the proposed port of entry designation is adopted, the list of CBP ports of entry at 19 CFR 101.3(b)(1) will be amended to add Tri-Cities, TN/VA, as a port of entry in Tennessee, and "Tri-City Regional Airport" will be deleted from the list of user-fee airports at 19 CFR 122.15(b). Note that the regulations currently refer to the airport as "Tri-City" rather than the correct "Tri-Cities."

#### Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to CBP. 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) and 19 CFR 103.11(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, Customs and Border Protection, Department of Homeland Security, 799

9th Street, NW., Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768. Comments may also be accessed on the EPA Partner EDOCKET Web site or Federal eRulemaking Portal. For additional information on accessing comments via the EPA Partner EDOCKET Web Site or Federal eRulemaking Portal, see the ADDRESSES section of this document.

#### Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

#### The Regulatory Flexibility Act and Executive Order 12866

With DHS approval, CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. The Office of Management and Budget has determined that this regulatory action is not significant within the meaning of Executive Order 12866. This proposed rule also will not have a significant economic impact on a substantial number of small entities. Accordingly, it is certified that this document is not subject to the additional requirements of the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a) because the establishment of a new port-of-entry and the termination of the user-fee status of an airport are not within the bounds of those regulations for which the Secretary of the Treasury has retained sole authority. Accordingly, this notice of proposed rulemaking may be signed by the Secretary of Homeland Security (or his or her delegate).

Dated: July 25, 2005.

**Michael Chertoff,**  
Secretary.

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA-269P]

#### Schedules of Controlled Substances: Placement of Embutramide Into Schedule III

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to place the substance embutramide, including its salts, into Schedule III of the Controlled Substances Act (CSA). This proposed action is based on a recommendation from the Acting Assistant Secretary for Health of the Department of Health and Human Services (DHHS) and on an evaluation of the relevant data by DEA. If finalized, this action will impose the regulatory controls and criminal sanctions applicable to Schedule III on those who handle embutramide and products containing embutramide.

**DATES:** Written comments must be postmarked, and electronic comments must be sent, on or before August 29, 2005.

**ADDRESSES:** To ensure proper handling of comments, please reference "Docket No. DEA-269P" on all written and electronic correspondence. Written comments being sent via regular mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA **Federal Register** Representative/ODL. Written comments sent via express mail should be sent to the Deputy Administrator, Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, VA 22301. Comments may be directly sent to DEA electronically by sending an electronic message to [dea.diversion.policy@usdoj.gov](mailto:dea.diversion.policy@usdoj.gov). Comments may also be sent electronically through <http://www.regulations.gov> using the electronic comment form provided on that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. DEA will accept electronic comments containing MS Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file format other than those specifically listed here.