telecommunications network. With access to the same advanced telecommunications networks of its urban counterparts, especially broadband networks designed to accommodate distance learning, telework and telemedicine, rural America will see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. Of particular concern to the Agency are communities where broadband service is not available and where population densities are such that the cost of deployment to them is high and build-out of infrastructure is unlikely. The Agency is committed to ensuring rural communities will have access to affordable, reliable, advanced communications services, comparable to those available throughout the rest of the United States, to provide a healthy, safe and prosperous place to live and work. The Community Connect Grant Program was started as a Pilot Program with the Fiscal Year 2002 budget and has been funded ever since through the appropriations process. After administering the program as a pilot program for two years, the Agency proposed rules for the program, and on July 28, 2004, the current rules were published, and the program was formally implemented. Since then more than 670 requests for grant funds totaling over $410 million were requested through Fiscal Year 2006. Of those requests, 129 were granted for $57 million to bring broadband service to 129 communities in 26 states and Puerto Rico. While the Agency is proud of the results achieved in the Community Connect Grant Program thus far, it believes that the overall effectiveness of the program can be improved by modifying the existing rules. Through these changes, the Agency is increasing eligibility criteria to include communities that clearly meet the intent of the program. Specifically, this rule will: (1) Add the Rand McNally Atlas as a community locator; (2) change the income measure for eligibility from a national comparison to a state comparison; and (3) clarify the items that are eligible to be considered as operating expenses.

**Confirmation of Effective Date**

This is to confirm the effective date of September 17, 2007, for the direct final rule 7 CFR 1739, Community Connect Grant Program, published in the **Federal Register** on August 3, 2007.

Dated: September 11, 2007.

**James M. Andrew,**

*Administrator, Rural Utilities Service.*

[FR Doc. E7–18272 Filed 9–14–07; 8:45 am]

**BILLING CODE 3410–15–P**

## DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

## DEPARTMENT OF THE TREASURY

## 19 CFR Parts 103, 178, and 181

**[USCBP–2006–0090; CBP Dec. 07–76]**

**RIN 1505–AB58**

## NAFTA: Merchandise Processing Fee Exemption and Technical Corrections

**AGENCIES:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document amends the U.S. Customs and Border Protection (CBP) regulations to clarify that, in order to claim the exemption from the merchandise processing fee (MPF) for merchandise that is considered ''originating'' and qualifies to be marked as products of Canada or Mexico under the provisions of the NAFTA, an importer is subject to the same declaration requirement that is established for obtaining NAFTA duty preference, even if the merchandise is unconditionally free. In addition, this document amends the regulations to clarify that a Certificate of Origin is not required for a commercial importation for which the total value of originating goods does not exceed $2,500. Lastly, this document remedies two incorrect addresses and an incorrect Code of Federal Regulations citation, and incorporates non-substantive amendments to certain sections in the regulations to reflect the nomenclature changes effected by the transfer of CBP to the Department of Homeland Security and the reorganization of certain offices in CBP pursuant to the ''Security and Accountability for Every Port Act of 2006'' (or the ''Safe Port Act''), as well as certain other minor editorial changes.

**DATES:** *Effective Date:* The amendments set forth in this document are effective on October 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** Seth Mazze, Trade Agreements Branch, Office of International Trade, (202) 344–2634.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 17, 1992, the United States, Canada, and Mexico entered into the North American Free-Trade Agreement (NAFTA). The stated objectives of the NAFTA include the elimination of barriers to trade in, and the facilitation of the cross-border movement of, goods and services between the territories of the countries. The provisions of the NAFTA were adopted by the United States with the enactment of the North American Free Trade Agreement Implementation Act (the ''Act'', 19 U.S.C. 3301–3473). On September 6, 1995, U.S. Customs and Border Protection (CBP) published Treasury Decision (T.D.) 95–68 (North American Free Trade Agreement) in the **Federal Register** (60 FR 46333), adopting amendments to the regulations in title 19 of the Code of Federal Regulations (CFR) in order to implement customs-related aspects of the NAFTA. The final rule went into effect on October 1, 1995.

Pursuant to sections 403(1) and 411 of the Homeland Security Act of 2002, Pub. L. 107–296 (the ''HSA''), the United States Customs Service and certain of its functions were transferred from the Department of the Treasury to the Department of Homeland Security effective March 1, 2003. In addition, pursuant to section 1502 of the HSA, the ''Customs Service'' was renamed as the ''Bureau of Customs and Border Protection.'' Subsequently, on April 23, 2007, a Notice was published in the **Federal Register** (72 FR 20131) to inform the public that the name of the Bureau of Customs and Border Protection had been changed by the Department of Homeland Security to ''U.S. Customs and Border Protection (CBP)'', effective March 31, 2007.

On August 23, 2006, a Notice of Proposed Rulemaking was published in the **Federal Register** (71 FR 49391; the NPRM) by CBP that proposed to amend the regulations to clarify the requirements for claiming the merchandise processing fee (MPF) under the NAFTA and to effect several technical changes, as set forth below.

*Merchandise Processing Fee (MPF) Exemption*

As a means of recouping administrative expenses for the processing of imported shipments, CBP charges a MPF, as provided for in 19 U.S.C. 58c. However, under 19 U.S.C. 58c(b)(10)(B), for goods qualifying under the rules of origin set out in 19 U.S.C. 3332, the fee may not be charged with respect to goods that qualify to be marked as goods of Canada or of Mexico

(pursuant to Annex 311 of the NAFTA). In order to make a claim for NAFTA duty preference, an importer must make a declaration. The same declaration is also used for purposes of claiming the MPF exemption. That is, the importer must place the appropriate special program indicator (e.g., ''CA'' for goods of Canada and ''MX'' for goods of Mexico) opposite the good on the entry form, or in the appropriate location in an electronic filing.

The NPRM addressed situations in which an importer of an originating good does not have a duty preference incentive to make the required NAFTA declaration upon entry because the Normal Trade Relations rate of duty on the good is free (i.e., the good is unconditionally duty free). Consistent with existing law and practice, the NPRM proposed to amend 19 CFR 181.21(a) to clarify that in order to claim the MPF exemption for unconditionally free goods from a NAFTA country, an importer of an originating good must place the appropriate special program indicator opposite the good on the entry form even if the importer is not actually claiming NAFTA preference for duty purposes.

*Exemption From Providing Certificate of Origin*

Section 181.22(b) of title 19, CFR (19 CFR 181.22(b)), requires an importer who claims preferential tariff treatment on a good under 19 CFR 181.21 to provide, at the request of the port director, a copy of each Certificate of Origin pertaining to the good which is in the possession of the importer. However, certain importations are exempted from this requirement under 19 CFR 181.22(d). One of these exemptions, set forth in § 181.22(d)(1)(iii), is for a commercial importation of a good whose value does not exceed $2,500, as long as a signed statement is attached to the invoice or other documents accompanying the shipment.

In the NPRM, CBP proposed to amend the regulations to clarify that the $2,500 value refers to the total value of a shipment and not to the value of the individual goods in a shipment. In this regard, CBP specifically proposed to amend 19 CFR 181.22(d)(1)(iii) in order to clarify that a Certificate of Origin is not required for a commercial importation consisting of originating goods, the total value of which does not exceed $2,500, if the required statement is attached.

*Other Technical Corrections*

In the NPRM, CBP also proposed to make several other technical corrections to the regulations. In CBP Dec. 05–32, an Interim Rule published in the **Federal Register** (70 FR 58009) on October 5, 2005, CBP redesignated 19 CFR 12.132 as § 102.25. However, there is a reference to § 12.132 in § 181.21(a). Accordingly, CBP proposed to make a minor conforming amendment to update this reference. In addition, because CBP Dec. 05–32 removed the declaration requirement referenced in §§ 12.130(c) and 12.132, CBP proposed to remove the entries for these sections in the list of OMB control numbers in § 178.2. CBP also proposed to amend an incorrect citation to 19 CFR 181.72(a)(2)(iii) in 19 CFR 181.74(a). The correct citation is to § 181.72(a)(3)(iii). In addition, CBP proposed to amend the address in 19 CFR 181.74(e) for providing notification when the Canadian or Mexican customs administrations intend to conduct a NAFTA verification visit in the United States in order to determine whether a good imported into the United States qualifies as an originating good. Since the publication of the NPRM on August 23, 2006, some divisions, functions, and personnel from the Office of Field Operations were transferred by the Commissioner of CBP into the Office of International Trade pursuant to the authority under section 402 of the Safe Port Act (Pub. L. 109–347) (October 13, 2006). The correct address is: ''U.S. Customs and Border Protection, Office of International Trade, Commercial Targeting and Enforcement, 1300 Pennsylvania Ave. NW., Washington, DC 20229.'' CBP also proposed to amend the National Commodity Specialist Division (NCSD) address in 19 CFR 181.93(a) for purposes of submitting advance ruling requests under the NAFTA. The correct address is: ''National Commodity Specialist Division, U.S. Customs and Border Protection, One Penn Plaza, 10th Floor, New York, NY 10119.'' This address is also corrected in the list of public reading rooms in 19 CFR 103.1. In addition, CBP is expanding the declaration and other documentation on a claim for preferential treatment in § 181.21 to include electronic versions of such documents in CBP's continuing effort to modernize its procedures under the authority granted by Customs Modernization provisions in the North American Free Trade Agreement Implementation Act (commonly referred to as the ''Customs Mod Act''), Pub. L. 103–182, 107 Stat. 2057, 2170 (December 8, 1993).

Comments were solicited on the Notice of Proposed Rulemaking. The comment period closed on October 23, 2006.

**Discussion of Comments**

One comment was received in response to the solicitation and a description of the comment received and CBP's analysis are set forth below.

*Comment*

The commenter, a Canadian manufacturer, stated that changing the MPF requirements would only increase the costs associated with importing goods into the United States and result in delays during importation. The commenter further noted that additional documentary requirements would increase administrative costs for CBP as well as for importers and brokers, and would ultimately result in less money being recouped. In addition, the commenter suggested that fees should be based strictly on the country of origin as declared and that routine audits and requests for information should be relied upon to monitor importers that do not follow the guidelines.

*CBP's Response*

CBP is not changing the requirements for claiming the MPF exemption. Rather, consistent with existing law and practice, CBP is merely clarifying that an importer is subject to the same declaration requirement that is established for claiming NAFTA duty preference in order to claim the exemption of the MPF for goods that are eligible for preferential duty treatment under the NAFTA. As a clarification of existing law and practice, CBP believes that the amended regulation will serve to facilitate entry by providing certainty under the stated circumstances and will not result in either increased costs or delays during importation. With respect to the commenter's suggestion that the MPF should be based strictly on the country of origin of imported merchandise, it is CBP's position that this approach is not consistent with existing statutory law and is outside the scope of this rulemaking.

No comments were received regarding the other amendments proposed in the NPRM.

**Conclusion**

After review of the comment and further consideration, CBP has decided to adopt the proposed rule published on August 23, 2006, without substantive changes, but with the additional modifications set forth below.

**Additional Changes to the Regulations**

The final regulations incorporate non-substantive amendments to §§ 181.21, 181.22, 181.74, and 181.93 of the CFR to reflect the nomenclature changes effected by the transfer of CBP to the

Department of Homeland Security and the subsequent change of name in the **Federal Register** notice of April 23, 2007. As discussed above, the final regulation also reflects the reorganization of CBP by the Safe Port Act with the creation of the new Office of International Trade by updating the address and new office in 19 CFR 181.74(e). In addition, the language of § 181.21(a) has been edited to replace ''shall'' with ''must.'' In an effort to reflect the modernization of procedures under the Customs Mod Act, § 181.21(a) has also been edited by replacing the reference to ''written declaration'' with reference to ''formal declaration'' and a reference to ''electronic submissions'' has been added to the second sentence.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule is not considered to be a significant regulatory action under Executive Order 12866. Accordingly, a regulatory assessment is not required.

It is certified, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that the regulatory amendments set forth in this final rule will not have a significant economic impact on a substantial number of small entities. The rule merely clarifies that, consistent with existing law and CBP practice, an importer is subject to the same declaration requirement that is established for claiming NAFTA duty preference in order to claim the exemption of the MPF for goods that are eligible for preferential duty treatment under the NAFTA. CBP is also clarifying, consistent with current CBP practice, that a Certificate of Origin is not required for a commercial importation consisting of originating goods, the total value of which does not exceed $2,500, if the required statement is attached. Lastly, this document remedies two incorrect addresses and an incorrect Code of Federal Regulations citation, and incorporates non-substantive amendments to certain sections in the regulations to reflect the nomenclature changes effected by the transfer of CBP to the Department of Homeland Security and the reorganization of certain offices in CBP by the Safe Port Act as well as certain other minor editorial changes.

**Paperwork Reduction Act**

Because the changes with possible paperwork implications set forth in this document are merely clarifications of existing requirements, there is no need to amend the paperwork burden for the number previously approved by OMB for part 181 of 19 CFR. The clearance number for part 181 is 1651–0098.

**Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

**List of Subjects**

*19 CFR Part 103*

Administrative practice and procedure, Freedom of information.

*19 CFR Part 178*

Collections of information, Paperwork requirements, Reporting and recordkeeping requirements.

*19 CFR Part 181*

Canada, Customs duties and inspection, Imports, Mexico, Trade agreements (North American Free-Trade Agreement).

**Amendments to the CBP Regulations**

■ For the reasons set forth above, parts 103, 178, and 181 of title 19 of the Code of Federal Regulations (19 CFR parts 103, 178, and 181) are amended as set forth below.

## PART 103—AVAILABILITY OF INFORMATION

■ 1. The authority citation for part 103 continues to read in part as follows:

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

* * * * *

**§ 103.1 [Amended]**

■ 2. Amend § 103.1 by removing the address citation ''New York, 6 World Trade Center, New York, New York 10048'' and adding in its place the address citation ''New York, One Penn Plaza, 10th Floor, New York, NY 10119.''

## PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

■ 3. 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.*

**§ 178.2 [Amended]**

■ 4. Amend § 178.2 by removing the entries for §§ 12.130(c) and 12.132.

## PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

■ 5. The authority citation for part 181 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314.

* * * * *

■ 6. In § 181.21:

■ a. Paragraph (a) is revised.

■ b. Paragraph (b) is amended by removing the word ''Customs'' and, in its place, adding the term ''CBP''.

**§ 181.21 Filing of claim for preferential tariff treatment upon importation.**

(a) *Declaration.* In connection with a claim for preferential tariff treatment, or for the exemption from the merchandise processing fee, for a good under the NAFTA, the U.S. importer must make a formal declaration that the good qualifies for such treatment. The declaration may be made by including on the entry summary, or equivalent documentation, including electronic submissions, the symbol ''CA'' for a good of Canada, or the symbol ''MX'' for a good of Mexico, as a prefix to the subheading of the HTSUS under which each qualifying good is classified. Except as otherwise provided in 19 CFR 181.22 and except in the case of a good to which Appendix 6.B to Annex 300-B of the NAFTA applies (see also 19 CFR 102.25), the declaration must be based on a complete and properly executed original Certificate of Origin, or copy thereof, which is in the possession of the importer and which covers the good being imported.

* * * * *

**§ 181.22 [Amended]**

■ 7. In § 181.22:

■ a. Paragraph (b) introductory text is amended by removing the word ''Customs'' the first instance it appears and, in its place, adding the term ''CBP''.

■ b. In paragraph (b)(1), the three references to ''Customs Form 434'' are removed and references to ''CBP Form 434'' are added in their place; the reference to the ''Office of Field Operations, U.S. Customs Service'' is removed and the reference ''Office of International Trade, U.S. Customs and Border Protection'' is added in its place.

■ c. Paragraph (b)(4) is amended by removing the word ''Customs'' and, in its place, adding the term ''CBP''.

■ d. Paragraph (d)(1)(iii) is amended by removing the phrase ''of a good whose value'', and the phrase ''for which the total value of originating goods'' is added in its place.

**§ 181.74 [Amended]**

■ 8. In § 181.74:

■ a. Paragraph (a) is amended by removing the citation to ''181.72(a)(2)(iii)'' and adding in its place the citation to ''181.72(a)(3)(iii)'', and by removing the word ''Customs'' and, in its place, adding the term ''CBP''.

■ b. Paragraphs (b) and (c) are amended by removing the term ''Customs'' each place it appears and, in its place, adding the term ''CBP''.

■ c. In paragraph (d) introductory text, the reference to ''Customs officer'' is removed and the term ''CBP officer'' is added in its place; and the two references to ''Customs'' which follow are removed and in each instance the term ''CBP'' is added in its place.

■ d. Paragraph (e)(1) is amended, in the second sentence following the heading, by removing the word ''Customs'' and, in its place, adding the term ''CBP'', and by removing the address citation ''Project North Star Coordination Center, P.O. Box 400, Buffalo, New York 14225–0400'', and, in its place, adding the address citation ''U.S. Customs and Border Protection, Office of International Trade, Commercial Targeting and Enforcement, 1300 Pennsylvania Ave., NW., Washington, DC 20229''.

■ e. Paragraph (e)(2) is amended by removing the phrase ''Customs may'', and adding in its place the phrase ''CBP may''.

**§ 181.93 [Amended]**

■ 9. In § 181.93:

■ a. In paragraph (a), the two references to ''Commissioner of Customs'' are removed and in each instance references to ''Commissioner of U.S. Customs and Border Protection'' are added in its place, and the address citation ''National Commodity Specialist Division, United States Customs Service, 6 World Trade Center, New York, NY 10048'' is removed and the address citation ''National Commodity Specialist Division, U.S. Customs and Border Protection, One Penn Plaza, 10th Floor, New York, NY 10119'' is added in its place.

■ b. Paragraphs (b)(1)(i), (b)(1)(ii), (b)(3), (b)(4), (b)(5)(i)(A), and (d) are amended by removing the word ''Customs'' each place it appears and, in its place, adding the term ''CBP''.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

Approved: September 10, 2007.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 07–4551 Filed 9–14–07; 8:45 am]

BILLING CODE 9111–14–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 101

**[Docket No. 2006P–0487]**

## Food Labeling; Health Claims; Dietary Noncariogenic Carbohydrate Sweeteners and Dental Caries

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Interim final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing this interim final rule to amend the regulation authorizing a health claim on noncariogenic carbohydrate sweeteners and dental caries, i.e., tooth decay, to include isomaltulose, a noncariogenic sugar. FDA is taking this action in response to a health claim petition submitted on behalf of Cargill, Inc. Based on the totality of publicly available scientific evidence, FDA now has determined that the nutritive sweetener isomaltulose, like other noncariogenic carbohydrate sweeteners listed in the dental caries health claim regulation, is not fermented by oral bacteria to an extent sufficient to lower dental plaque pH to levels that would contribute to the erosion of dental enamel. Therefore, FDA has concluded that isomaltulose does not promote dental caries, and it is amending the regulation authorizing a health claim relating certain noncariogenic sweeteners and the nonpromotion of dental caries to include isomaltulose as a substance eligible for the claim.

**DATES:** This interim final rule is effective September 17, 2007. Submit written or electronic comments by December 3, 2007.

**ADDRESSES:** You may submit comments, identified by Docket No. 2006P–0487, by any of the following methods:

*Electronic Submissions*

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web site: *http://www.fda.gov/dockets/ecomments*. Follow the instructions for submitting comments on the agency Web site.

*Written Submissions*

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal or the agency Web site, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

*Instructions*: All submissions received must include the agency name and Docket No. 2006P–0487 for this rulemaking. All comments received may be posted without change to *http://www.fda.gov/ohrms/dockets/default.htm*, including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket*: For access to the docket to read background documents or comments received, go to *http://www.fda.gov/ohrms/dockets/default.htm* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Jillonne Kevala, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1450.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Nutrition Labeling and Education Act of 1990 (the 1990 amendments) (Pub. L. 101–535) amended the Federal Food, Drug, and Cosmetic Act (the act) in a number of important respects. One aspect of the 1990 amendments was that they clarified FDA's authority to regulate health claims on food labels and in food labeling.