

**Commercial Customs Operations Advisory
Committee (COAC)
Next Generation Facilitation Subcommittee
Regulatory Reform Working Group
Background**

February 2019



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In February 2018, COAC launched the Regulatory Reform Working Group (RRWG) to identify CBP regulations and requirements appropriate for modification or repeal to achieve savings of time and money for the trade community. The RRWG included stakeholders from the various segments of the supply chain, including importers, customs brokers, carriers, couriers, attorneys, and other parties that Title 19 regulates, to identify a cross-section of regulations and requirements that, if modified or repealed, would achieve maximum cost savings.

Initially, the RRWG considered the responses that CBP received regarding its September 2017 Federal Register Request for Information (“Request”) seeking comments from parties in this regard. CBP issued the Request to address Executive Order (EO) 13771, “Reducing Regulation and Controlling Regulatory Costs,” and EO 13777, “Enforcing the Regulatory Reform Agenda,” that the President issued in early 2017. Essentially, those EOs required agencies such as CBP to: identify at least two existing regulations for repeal before promulgating a new regulation, ensure all new regulations would result in no annual cost, and offset incremental costs associated with new regulations by eliminating existing costs.

In formulating the recommendations, the RRWG intended to consider whether:

- a statute limited potential changes to the regulation,
- CBP already was in the process of modifying or reconsidering the regulation,
- the cost-benefit impact of the reform to the industry and Government was high and
- automation/ACE programming would be required or recommended for successful implementation of the reform.

To reach its objectives, the RRWG held one in-person meeting and numerous telephonic meetings throughout the year. The RRWG divided the parts of Title 19 amongst three teams to manage the work load as follows:

Cargo and Commercial Operations	Parts 4, 18, 19, 112, 114, 115, 118, 122, 123, 125, 128, 141, 142, 143, 144, 145, 146, 147, 149, 151, 163, 192
Compliance and Enforcement	Parts 10, 11, 12, 102, 127, 133, 134, 152, 161, 162, 165, 171, 172, 181
Customs Requirements, Processes and Procedures	Parts 7, 24, 54, 101, 103, 111, 113, 132, 148, 158, 159, 173, 174, 175, 176, 177, 178, 191

The three teams reviewed Title 19 section by section and part by part, recording comments and findings throughout the process. Although the RRWG's primary focus was identifying recommendations for repeal or modification as the EO instructed, the teams also found opportunities to:

- clarify, consolidate or more succinctly express requirements,
- modernize regulations in light of current or evolving technology, automation or processes,
- provide consistency by eliminating outdated or obsolete information or requirements and
- regulate parties through a more account-based as opposed to transactional approach.

Some of these examples include:

- obsolete communication methods such as telex, telegram, CD ROM, collect calls, etc.,
- outdated references to trade agreements such as the Andean Trade Preference Act,
- consolidating complementary provisions such as bonds (part 113 and 122); entry and invoices (parts 141, 142 and 143); lost, damaged merchandise (parts 140, 158) and duty-free merchandise (parts 10 and 54),
- providing information or documentation only upon request such as for certain classes of merchandise (section 141.89) or regarding vessels (CBP Form 1300, Vessel Entrance or Clearance Statement; CBP Form 1302, Cargo Declaration; CBP Form 1303, Ship's Stores Declaration; CBP Form

1304, Crew's Effects Declaration; I-418, Crew List/Passenger List; CBP Form 5129, Crew Member's Declaration; and CBP Form 226, Record of Vessel Foreign Repair or Equipment Purchase),

- implicitly granting permission for routine activities such as automatically extending broker permits for port closures or downtimes and
- granting full extension periods such as for TIBs up to 3 years instead of requiring 3 one-year extensions.

Accordingly, in addition to providing high level recommendations, the RRWG has submitted, as background, its findings and priorities at the part and section levels. As CBP has numerous regulatory rewrites that it must prioritize and address, the RRWG understands that CBP may not be in a position to readily accept or consider the volume of specific comments submitted, noting that some of them in addition to identifying potential areas for modification or repeal first may also require thorough policy consideration and in some cases warrant a comprehensive overhaul of that part of the regulations.

In any event, the RRWG submitted its recommendations at the strategic level and its background findings at the tactical level to emphasize the Trade's sense of priorities and opportunities for overall regulatory reform as CBP proceeds through its rewrite of the most critical regulatory areas. Further, the RRWG and COAC hope that its work will spawn additional COAC or other public-private sector working groups to further consider the regulations identified that would most benefit from a more detailed review.