

paragraphs (a)(4) and (a)(5) of proposed § 4.94a which set forth two of the conditions that give rise to the bond obligation. Paragraph (a)(4) provides that all subsequent transactions with Customs involving the vessel in question, including any transaction referred to in paragraphs (b) through (d) of § 4.94a, must be carried out in the same port of entry in which the certification was filed and the bond was posted under § 4.94a (paragraphs (b) through (d) concern, respectively, exportation of the yacht within the 6-month bond period, sale of the yacht within the 6-month bond period, and expiration of the bond period). Paragraph (a)(5) provides that the vessel in question will not be eligible for issuance of a cruising license under § 4.94.

Comment: With regard to paragraph (a)(4), the commenters made the point that in matters involving the sale of large yachts of the type under consideration, there might often be protracted negotiations which could continue for weeks or even months after the conclusion of the actual boat show at which an offer of sale was made. They stated that the final regulations should make provision for that type of eventuality by specifically providing that negotiations are permitted to continue with respect to any person who viewed a yacht at a boat show, up to the expiration of the 6-month bond period.

Customs Response: Customs does not read either the statute or the language of the proposed regulations as precluding the continuation or conclusion of negotiations following a boat show so long as they do not continue beyond the expiration date of the bond. The statute merely provides that at the time of importation the importer of record must certify to Customs that the vessel is imported for sale at a yacht show and must post a bond of 6 months duration. Customs interprets the law to provide that so long as the importation is in pursuance of showing and offering a qualifying vessel for sale at a boat show, a 6-month period is provided during which a sale must be completed. Customs in this final rule document has added language to § 4.94a(c) and (d) to expressly refer to completion of the sale. A sale is completed when title passes to the new owner. The alternatives to this are that either the vessel must be exported or, once the bond expires, the entry process must be completed.

On a related matter not raised in the comments, Customs notes that whereas the prescribed bond period is 6 months and may not be extended, the obligations imposed on the importer

under the statute and the regulatory text include actions (that is, advising Customs within 30 days if the yacht is exported or completing the entry within 15 days if the yacht is sold or is neither sold nor exported within that 6-month period) that may be completed after expiration of the bond period. In order to ensure that there is an appropriate enforcement mechanism under the bond covering all obligations under the statute, including those that may lawfully be met after the bond period has expired, the terms of the bond set forth in Appendix C to Part 113 have been modified to include a reference to a claim for liquidated damages for a failure to advise Customs of an exportation or to complete the entry unless either of those actions is taken within the prescribed time limits.

Comment: Also with regard to paragraph (a)(4), the commenters stated that limited advertising should be allowed when a yacht is imported under the subject program, and they suggested that notice may be required that the vessel is “not available for boarding” during the 6-month period of bond coverage except at a boat show.

Customs Response: The commenters appear to be arguing, at least in part, against the first point they raised with respect to the continuation of negotiations. Among the mentioned activities which might ensue during after-show negotiations are sea trials during which boarding surely would be required.

Again, Customs does not find either in the new law or in the proposed regulations any limiting language which would preclude advertising a yacht imported for the stated limited purposes. Protection of the revenue is assured by virtue of the statutory bond requirement. If Customs determines that the certification of the importer of record is not honored in that the vessel was not in fact imported for sale at a boat show (such as, upon investigation, there being no evidence that the boat was shown and made available to potential buyers at a boat show), in addition to possible penalty action, a demand could be made against the bond. Customs finds no need for additional regulatory language in this regard.

Comment: Finally, the commenters referred to the language of paragraph (a)(5) and pointed out that boat shows take place in more than one location and within the jurisdiction of different Customs ports in South Florida. They noted that a typical boat show does not last longer than two weeks and that the law does not restrict the number of shows at which a vessel may be offered

for sale during the 6-month bond period. They further noted that the proposed regulation, while making clear that the vessels in question may not obtain cruising licenses, is silent with respect to whether those vessels may be granted permits to proceed between ports in the United States. The commenters urged Customs to add language to the regulations stating that the vessels under consideration may obtain a “permit to proceed”.

Customs Response: The language relating to cruising licenses was included in the proposed regulation because the terms of a cruising license specifically prohibit a licensed vessel from being brought into the United States for sale or charter to a resident of the United States, or from being so offered during the pendency of the license. A cruising license is a mere accommodation available to certain vessels which exempts them from the necessity to enter and clear at U.S. ports. Possession of a license is not necessary in order for a pleasure vessel to travel between ports of the United States. It was not the intention of Customs to suggest that a restriction would be imposed upon vessel movement. It would merely be necessary that vessels covered by § 4.94a would have to comply with the normal requirements regarding vessel entry and clearance when traversing U.S. ports. In order to clarify this issue, Customs in this final rule document has added the words and must comply with the laws respecting vessel entry and clearance when moving between ports of entry during the 6-month bond period prescribed under this section at the end of paragraph (a)(5) of § 4.94a.

Conclusion

Accordingly, based on the comments received and the analysis of those comments as set forth above, Customs believes that the proposed regulatory amendments should be adopted as a final rule with the changes discussed above, together with one editorial change, as set forth below. This document also includes an appropriate update of the list of information collection approvals contained in § 178.2 of the Customs Regulations (19 CFR 178.2).

Regulatory Flexibility Act and Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments directly reflect a statutory