



## NEWS IN BRIEF

### FDA Issues New Guidance on FMSA

The U.S. Food and Drug Administration (FDA) has launched two new pages on their website to help importers and other stakeholders access more information and resources about the Food Safety Modernization Act (FSMA). The first page is an FSMA landing page with access to information about FSMA. The second page is a Produce Safety Page that has the most current requirements and compliance resources.

The link to the first page on FSMA Information is:  
[https://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm?utm\\_campaign=FSMA%20Update%20%20FDA%20Launches%20New%20FSMA%2C%20Produce%20Safety%20Rule%20Webpages%20to%20Provide%20Information%20on%20FSMA&utm\\_medium=email&utm\\_source=Eloqua](https://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm?utm_campaign=FSMA%20Update%20%20FDA%20Launches%20New%20FSMA%2C%20Produce%20Safety%20Rule%20Webpages%20to%20Provide%20Information%20on%20FSMA&utm_medium=email&utm_source=Eloqua)

The link to the second page on the FSMA Final Rule on Produce Safety is:  
[https://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm334114.htm?utm\\_campaign=FSMA%20Update%20%20FDA%20Launches%20New%20FSMA%2C%20Produce%20Safety%20Rule%20Webpages%20to%20Provide%20Information%20on%20FSMA&utm\\_medium=email&utm\\_source=Eloqua](https://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm334114.htm?utm_campaign=FSMA%20Update%20%20FDA%20Launches%20New%20FSMA%2C%20Produce%20Safety%20Rule%20Webpages%20to%20Provide%20Information%20on%20FSMA&utm_medium=email&utm_source=Eloqua)

### President Trump Orders Safeguard Duties on Washers and Solar Panel

In December of 2017, the International Trade Commission (ITC) submitted two reports to President Trump containing affirmative determinations, per Section 202(b) of the Trader Act of 1974, that some imported large residential washers and some imported solar panels were causing serious injury to domestic industries. The Trump Administration agreed with these findings and has issued two Presidential Proclamations establishing safe guard duties for these products. These safeguard duties will go into effect on February 7, 2018. Both proclamations establish progressive safeguard duties with a beginning amount that reduces every year. The duty shall be declared on entry using subchapter 9903.

For residential washers, there is a limited number of 1,200,000 units, which will be allowed into the U.S. at a lower rate that will increase after the limitation amount has been reached. This is very similar to tariff rate quotas. For Solar cells, the safeguard duty will start at 30% and reduce for the next four years. For both proclamations there are countries that will not be subject to the safeguards. Canada and Mexico are exempt from both measures. For the washers, all GSP countries, except Thailand, are exempt. For the solar panels all GSP countries, except Thailand and the Philippines, are exempt

A fact sheet on the details can be found at:  
<https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/january/president-trump-approves-relief-us>.

The two Presidential proclamations can be found on the Federal Register website. The Presidential Proclamation for the crystalline silicon photovoltaic (CSPV) cells can be found at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-25/pdf/2018-01592.pdf> and the Presidential Proclamation for the residential washers can be found at: <https://www.gpo.gov/fdsys/pkg/FR-2018-01-25/pdf/2018-01604.pdf>.

### Reconciliation: CBP Blanket Flagging Ending

Reconciliation (Recon) is a program that allows importers that have undeterminable information at the time of entry to submit the corrections at a later date. For an entry to qualify for reconciliation, it must be "flagged" at the time entry to be allowed to be on a recon entry later. Once an entry is flagged for recon, a recon entry must be filed, whether there are changes to the original entry information or not.

Currently, there are two ways to flag an entry for recon. The importer can designate his broker to flag specific entries at the time the entry is transmitted, or they can request U.S. Customs and Border Protection (CBP) to program a "blanket flag" on all their entries. This flag makes all entries filed for the importer subject to a recon entry and none will be missed. Once an entry is not flagged it cannot be changed back to flagged.

CBP is set to end all blanket flagging on February 24. Importers will have to work with their customs broker to set up the flagging of all their entries or designate which entries they want flagged. Carmichael is contacting the clients that we file Recon on behalf of to determine if they wish to set up their profile to flag all entries or to work with them to flag specific ones.

If you are an importer that has Carmichael file your entries and you use another party to file your recon entries. You need to tell your Carmichael service contact that you need us to flag your entries. We will set up your profile for automatic flagging or coordinate with you what you need flagged. You can no longer rely on CBP to do your automatic flagging after February 24.

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## IRS Excise Taxes for Alcohol Have Decreased

On December 22, 2017, the President signed into law the Tax Cuts and Jobs Act of 2017, which makes extensive changes to the Internal Revenue Code of 1986, including excise tax rates for alcohol. Those changes are effective during calendar years 2018 and 2019. The Alcohol and Tobacco Tax and Trade Bureau (TTB) has recently created a new webpage containing our initial guidance on the changes and will be adding additional guidance and information to this page over the coming weeks. For imports, the liquor tax rates will be raised progressively, that is, they will be assessed against the quantity imported. As the number of barrels or gallons increase during the year, the IRS tax will also increase.

Here is a link to the IRS tax rate chart: [https://ttb.gov/tax\\_audit/atftaxes.shtml](https://ttb.gov/tax_audit/atftaxes.shtml) and here is a link to the announcement by TTB in their newsletter about the changes: <https://www.ttb.gov/newsletters/archives/2018/ttb-newsletter011218.html>.

While these tax reductions are in place by law, both CBP and TTB have not figured out a process to change these rates on the Customs entry. For now, we will have to file entries for beer, wine and spirits at the 2017 rate until CBP can program the changes for the entry. We have heard that CBP has said to importers that their entries can be filed with the higher rate, get their goods and then apply later for partial refund of the excise tax. We will be watching for development closely.



By **Todd Boice**, President