

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY
19 CFR PART 12
CBP Dec. 11-03

RIN 1515-AD72

EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL ORIGINATING IN ITALY AND REPRESENTING THE PRE-CLASSICAL, CLASSICAL, AND IMPERIAL ROMAN PERIODS

AGENCY: Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions imposed on certain archaeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods of its cultural heritage, ranging in date from approximately the 9th century B.C. through approximately the 4th century A.D. The restrictions, which were originally imposed by Treasury Decision (T.D.) 01-06 and extended by CBP Decision (Dec.) 06-01, are due to expire on January 19, 2011. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors continue to warrant the imposition of import restrictions. Accordingly, these import restrictions will remain in effect for an additional 5 years, and the CBP regulations are being amended to reflect this extension until January 19, 2016. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act that implemented the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This document also contains the Designated List of archaeological material of Italy that describes the articles to which

the restrictions apply. Note that the Designated List has been amended to include “Coins of Italian Types” under the category entitled “Metal.”

EFFECTIVE DATE: January 19, 2011

FOR FURTHER INFORMATION CONTACT: For legal aspects, Charles Steuart, Chief, Intellectual Property Rights and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0020; for operational aspects, Michael Craig, Chief, Interagency Requirements Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6558.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Italy on January 19, 2001, concerning the imposition of import restrictions on archeological material originating in Italy and representing the pre-Classical, Classical, and Imperial Roman periods. On January 23, 2001, the former United States Customs Service (now U.S. Customs and Border Protection (CBP)) published T.D. 01-06 in the **Federal Register** (66 FR 7399), which amended 19 CFR 12.104g(a) to indicate the imposition of these restrictions and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are “effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists” (19 CFR 12.104g(a)). On January 19, 2006, CBP published CBP Dec. 06-01 in the **Federal Register** (71 FR 3000) which amended 19 CFR 12.104g(a) to reflect the extension for an additional period of 5 years.

By diplomatic note dated December 18, 2009, the Government of Italy requested an extension of the Agreement. On October 28, 2010, after the Department of State proposed to extend the Agreement and reviewed the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, determined that the cultural heritage of Italy continues to be in jeopardy from pillage

of archaeological material representing the pre-Classical, Classical, and Imperial Roman periods and made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged on January 11, 2011, reflecting the extension of those restrictions for an additional five-year period. In addition to all the previously protected cultural material, import restrictions are also being imposed on a new subcategory of objects (coins). Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect this extension of the import restrictions on the currently protected cultural property and the new subcategory of cultural property.

The Designated List of articles that are protected pursuant to the bilateral agreement, as extended, has been revised and set forth below. We note that, pursuant to 19 U.S.C. 2604, the category entitled "Metal" has been amended to include the subcategory "Coins of Italian Types." This amendment comes in response to a Diplomatic Note from the Government of Italy requesting the Designated List be amended. Coins constitute an inseparable part of the archaeological record of Italy, and, like other archaeological objects, they are vulnerable to pillage and illicit export.

Designated List: Archaeological Material From Italy Representing Pre-Classical, Classical, and Imperial Roman Periods Ranging In Date Approximately From the 9th Century B.C. to the 4th Century A.D.

I. Stone

A. Sculpture

1. **Architectural Elements** – In marble, limestone, steatite, basalt, tufa and other types of stone. Types include abacus, acroterion, antefix, architrave, bacino, base, capital, caryatid, coffer, clipeus, column, crowning, fountain, frieze, pediment, drip molding, pilaster, mask, corbel, metope, mosaic and inlay, pluteus, pulvinar, puteal, jamb, tile, telamon, tympanum, trabeation, transenna, basin, well-head. Approximate date: 7th century B.C. to 4th century A.D.

2. **Architectural and Non-architectural Relief Sculpture** - In marble and other stone. Types include carved slabs with figural, vegetative, floral, or decorative motifs, sometimes inscribed, and carved relief vases. Used for architectural decoration, funerary, votive, or commemorative monuments. Approximate date: 2nd century B.C. to 4th century A.D.

3. **Monuments** - In marble, limestone, and other types of stone. Types include altar and shrine, cippus, funerary stele, and milestones with figural reliefs or decorative moldings. Some have dedicatory inscriptions. Approximate date: 7th century B.C. to 4th century A.D.

4. **Sepulchers** - In marble, peperino, alabaster, limestone, and tufa. Types of burial containers including urns, caskets, and sarcophagi. Some have figural scenes carved in relief or decorative moldings. Approximate date: 7th century B.C. to 4th century A.D.

5. **Large Statuary** - Primarily in marble, including fragments of statues. Subject matter includes human and animal figures and groups of figures in the round. Common types are large-scale, free-standing statuary from approximately 1 m to 2.5 m in height and life-size busts (head and shoulders of an individual). Approximate date: 6th century B.C. to 4th century A.D.

II. Metal

A. Sculpture

1. **Large Statuary** - Large-scale statues or fragments of statues in bronze or other metals including animal figures, human and divine figures, and life-size metal busts or portrait heads. Approximate date: 6th century B.C. to 4th century A.D.

2. **Small Statuary** - Iron Age Sardinian (Nuragic) and Etruscan figurines in bronze and other metals. Approximate date: 8th to 3rd century B.C.

B. Vessels - Open and closed vessels in bronze, gold, or silver, often with incised, embossed, and molded decoration in the shape of human or animal figures. Shapes include bowls, buckets, craters, pitchers, cups, and lamps, etc. Approximate date: 8th century B.C. to 4th century A.D.

C. Personal Ornaments - Etruscan and Italic rings, necklaces, earrings, crowns, bracelets, buckles, belts, pins, chains of gold, silver, bronze, and iron. Approximate date: 8th to 3rd century B.C.

D. Weapons and Armor - Body armor, including helmets, cuirasses, shin guards, and shields, and horse armor often decorated with elaborate engraved, embossed, or perforated designs. Both launching weapons (spears and javelins) and weapons for hand to hand combat (swords, daggers, etc.). Approximate date: 8th century B.C. to 4th century A.D.

E. Inscribed or Decorated Sheet Metal - Engraved inscriptions often found in funerary contexts and thin metal sheets with engraved or impressed designs often used as attachments to furniture. Approximate date: 7th century B.C. to 4th century A.D.

F. Coins of Italian Types - A type catalogue of listed currency and coins can be found in N.K. Rutter *et al.* (eds.), *Historia Numorum: Italy* (London, 2001). Others appear in G.F. Hill *Coins of Ancient Sicily* (Westminster, 1903).

1. **Lumps of bronze** (*Aes Rude*) - Irregular lumps of bronze used as an early medium of exchange in Italy from the 9th century B.C.

2. **Bronze bars** (*Ramo Secco* and *Aes Signatum*) - Cast bronze bars (whole or cut) used as a media of exchange in central Italy and

Etruria from the 5th century B.C.

3. **Cast coins** (*Aes Grave*) - Cast bronze coins of Rome, Etruscan, and Italian cities from the 4th century B.C.

4. **Struck coins** - Struck coins of the Roman Republic and Etruscan cities produced in gold, silver, and bronze from the 3rd century B.C. to c. 211 B.C., including the “Romano-Campanian” coinage.

5. **Struck colonial coinage** - Struck bronze coins of Roman republican and early imperial colonies and *municipia* in Italy, Sicily, and Sardinia from the 3rd century B.C. to c. A.D. 37.

6. **Coins of the Greek cities** - Coins of the Greek cities in the southern Italian peninsula and in Sicily (Magna Graecia), cast or struck in gold, silver, and bronze, from the late 6th century B.C. to c. 200 B.C.

III. Ceramic

A. Sculpture

1. **Architectural Elements** - Baked clay (terracotta) elements used to decorate buildings. These are most often found in Etruria, Latium, Sicily, and Magna Graecia. Elements include acroteria, antefixes, relief plaques, metopes, and revetments. Approximate date: 7th to 1st century B.C.

2. **Monuments** - Altars and urns decorated with relief scenes. Approximate date: 5th century B.C. to 4th century A.D.

3. **Large Statuary** - Large-scale human and animal figures, life-size portrait heads, and life-size votive objects, including fragments of statues. These are often found in temples and sanctuaries in Magna Graecia, Etruria, and Latium. Approximate date: 7th to 1st century B.C.

4. **Objects with Relief Decoration** - Plaques, tables, and other terracotta objects (masks) with relief decoration. Approximate date: 6th to 4th century B.C.

B. Vessels

1. Local Vessels

a. **Etruscan** - Decorated ceramic vessels produced by Etruscan culture, including Villanovan; Orientalizing pottery with imitations of Near Eastern designs painted on local hand-made vessels; archaic Etruscan painted pottery with polychrome decoration; funerary and cinerary vessels; Italo-Geometric pottery where production from local Etruscan workshops imitated Greek Geometric; bucchero made with a characteristic soft black paste and polished surface whose highly decorative shapes often imitate metal vessels; local imitations of black and red figure Attic; Etruscan imitations of Corinthian pottery; pottery with black glaze and orange stripes that imitates Ionic pottery; amphora in the Pontic style with painted figural decoration made

by a single workshop of immigrant Ionic potters in Vulci, Etruria; Caeretan hydria attributed to a workshop of Greek immigrants working near Caere, Etruria. Approximate date: 9th to 3rd century B.C.

b. **South Italian and Italic** - Decorated vessels locally produced, including hand-made Daunian pottery from northern Apulia; Italiote red figure pottery of Attic derivation produced in Apulian, Lucania, Campania, and Paestum; wheel-made pottery with elaborate applied relief and painted decoration made in Centuripe, Catania; pottery with plastic and polychrome (multicolor) decoration produced in Sicily and Magna Graecia; gilded pottery with a characteristic ochre yellow color imitating artifacts in bronze, mainly found in tombs in Apulia; Faliscan pottery in imitation of Attic red figure, often in oversize vessels; Gnathian pottery, named after Egnatia in Apulia and decorated in white and yellow with touches of red over a black background; overpainted pottery with a shiny black glaze; pottery overpainted with white, yellow, or red designs in imitation of Attic red figure; Messapian pottery, locally produced in Apulia and decorated with monochrome (one color) or bichrome painting (two color). Approximate date: 8th to 3rd century B.C.

2. Imported Vessels

a. **Attic Black Figure, Red Figure and White Ground Pottery** - These are made in a specific set of shapes (amphorae, craters, hydriae, oinochoi, kylikes) decorated with black painted figures on a clear clay ground (Black Figure), decorative elements in reserve with background fired black (Red Figure), and multi-colored figures painted on a white ground (White Ground). Attic pottery was widely exported, particularly to southern Italy, where it is commonly found in burials. Approximate date: 6th to 4th century B.C.

b. **Corinthian Pottery** - Painted pottery made in Corinth in a specific range of shapes for perfume and unguents and for drinking or pouring liquids. The very characteristic painted and incised designs depict figural scenes, rows of animals, and floral decoration. Corinthian pottery was exported throughout the Mediterranean, but particularly to Etruria and southern Italy. Approximate date: 8th to 6th century B.C.

IV. Glass

A. Architectural Elements - Mosaics and glass windows. Approximate date: 4th century B.C. to 4th century A.D.

B. Sculpture

1. **Intarsia** - Cut or carved glass decorative elements to inset in furniture. Approximate date: 2nd century B.C. to 4th century A.D.

2. **Small Statuary** - Glass animal statuettes as amulets or knick-knacks. Approximate date: 2nd century B.C. to 4th century A.D.

V. Painting

A. Wall Painting

1. **Domestic and Public Wall Painting** - Beginning in about 200 B.C. wall painting in private and public buildings is characterized by imitation of stucco or marble design. Later developments include “architectural” style, “ornamental” style, and “fantastic” style. Triumphant painting in temples and public buildings illustrate military campaigns and conquered lands. Approximate date: 3rd century B.C. to 4th century A.D.

2. **Tomb Paintings** - Early tomb paintings are primarily found in Etruria and Southern Italy. These paintings were directly influenced by Greek painters, but illustrate local style. Scenes often illustrate funerary celebrations, rites, symbols, and daily events. Roman funerary painting is also inspired by Greek painting, but also develops from domestic and public types of wall painting. Approximate date: 6th century B.C. to 4th century A.D.

The Designated List and accompanying image database may also be found at the following internet Web site address: <http://exchanges.state.gov/heritage/culprop/itimage.html>. The restrictions on the importation of the above-listed archaeological materials originating in Italy are to continue in effect until January 19, 2016. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). In addition, CBP has determined that such notice or public procedure would be impracticable and contrary to the public interest because the action being taken is essential to avoid interruption of the application of the existing import restrictions (5 U.S.C. 553(b)(B)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g, paragraph (a), the table is amended in the entry for Italy by removing the reference to “CBP Dec. 06 – 01” and adding in its place “CBP Dec. 11 - 03”.

Dated: January 12, 2011

DAVID V. AGUILAR
Acting Commissioner
U.S. Customs and Border Protection

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

[Published in the Federal Register, January 19, 2011 (76 FR 3012)]

19 CFR PARTS 145, 159, 173 and 174**CBP Dec. 11-02****TECHNICAL CORRECTIONS: MATTERS SUBJECT TO
PROTEST AND VARIOUS PROTEST TIME LIMITS**

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (19 CFR) by making technical corrections to certain protest provisions within part 174. The technical corrections are necessary to conform 19 CFR to reflect amendments to part 174's underlying statutory authority effected by the Customs Modernization provisions of the North American Free Trade Agreement (NAFTA) Implementation Act, the Miscellaneous Trade and Technical Corrections Act of 1999, and the Miscellaneous Trade and Technical Corrections Act of 2004. This document also makes related conforming changes to other provisions within 19 CFR, as necessitated by these statutory amendments, as well as non-substantive editorial and nomenclature changes.

DATES: The final rule is effective on January 14, 2011.

FOR FURTHER INFORMATION CONTACT: Julia H. Rieper, Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, Tel. (202) 325-0226.

SUPPLEMENTARY INFORMATION:**Background**

This document amends title 19 of the Code of Federal Regulations (19 CFR) by making technical corrections to certain protest provisions within part 174 and certain related provisions in parts 145, 159 and 173. The technical corrections are necessary to conform 19 CFR to reflect amendments to part 174's underlying statutory authority effected by the Customs Modernization (Mod Act) provisions of the North American Free Trade Agreement (NAFTA) Implementation Act (Public Law 103-182, 107 Stat. 2057), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36, 113 Stat. 127), and the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429, 118 Stat. 2434). Any amendments to the CBP regulations, including regulations amended by this notice, that re-

quire statutory interpretation will not be included in this technical corrections document and will be published in a separate proposed rulemaking.

The statutory amendments affect, in pertinent part, the types of matters subject to protest, the time required for allowing or denying an application for further review of a protest, and various other protest time limits. This document also makes non-substantive editorial and nomenclature changes to reflect the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) and the subsequent renaming of the agency as U.S. Customs and Border Protection.

Statutory Changes

Section 514 of the Tariff Act of 1930, as amended (19 U.S.C. 1514), provides that certain specified decisions made by CBP can be protested before becoming final. Section 515 of the Tariff Act of 1930, as amended (19 U.S.C. 1515), sets forth standards governing the administrative review of protests filed under section 514. Section 504 of the Tariff Act of 1930, as amended (19 U.S.C. 1504), prescribes the limitations on liquidation. Regulations implementing these statutes are contained in parts 159 and 174 of title 19 of the CFR.

The Mod Act

Section 645 of the Mod Act amended section 514(c)(1) (19 U.S.C. 1514(c)(1)) by recasting the first sentence in order to, among other things, permit the transmission of a protest to CBP “electronically pursuant to an electronic data interchange system.” Section 618 of the Mod Act also repealed section 521 (19 U.S.C. 1521), which provided for the reliquidation of an entry on account of fraud.

The Miscellaneous Trade and Technical Corrections Act of 1999

Section 2408(b) of the Miscellaneous Trade and Technical Corrections Act of 1999 (“Trade Act of 1999”) amended section 514(a)(7) by the addition of a reference to subsection (d) of section 520 of the Tariff Act of 1930, as amended (19 U.S.C. 1520(d)), thereby including as a protestable decision a refusal to reliquidate an entry in response to a post-importation NAFTA claim.

The Miscellaneous Trade and Technical Corrections Act of 2004

The Miscellaneous Trade and Technical Corrections Act of 2004 (“Trade Act of 2004”) amended several statutes that impact the manner by which CBP administers protests. In this regard, the following is noted:

1. Section 2105 of the Trade Act of 2004 repealed section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)), thereby removing CBP’s authority, in situations where a valid protest has not been filed, to reliquidate an entry to correct clerical errors, mistakes of fact, and other inadvertences for entries made on or after December 18, 2004;

2. Section 2103 of the Trade Act of 2004 amended 19 U.S.C. 1514 and 1515:

i. To clarify that filing a protest is necessary to challenge clerical errors, mistakes of fact and other inadvertences for entries made on or after December 18, 2004.

ii. To extend the time to file and amend a protest from 90 days to 180 days after the date of liquidation or reliquidation, or date of the decision, order, or finding being protested for entries made on or after December 18, 2004;

iii. To extend the time for a surety to file a protest from 90 days to 180 days from the date of mailing of the notice of demand for payment against its bond for entries made on or after December 18, 2004; and

iv. To change the time to file a request for accelerated disposition of a protest from after 90 days of the filing of the protest to any time concurrent with or following the filing of a protest for entries made on or after December 18, 2004;

3. Section 1563(e) of the Trade Act of 2004 amended 19 U.S.C. 1504(a) to more specifically describe “entries” as “entries for consumption” and identify “entries or claims for drawback” as subject to liquidation by operation of law.

EXPLANATION OF AMENDMENTS

CBP has determined that the amendments to 19 U.S.C. 1504, 1514, and 1515, and repeal of 19 U.S.C. 1520(c) and 1521, as discussed above, require conforming technical corrections to the regulations. These changes are discussed in more detail below.

I. Part 174 – Protests

Section 174.11

Section 174.11 (19 CFR 174.11) identifies matters that are subject to protest. Existing paragraphs (a) through (g) set forth protestable decisions that are administrative in nature.

This document revises the overall structure of this provision to reflect the amendments to 19 U.S.C. 1514 effected by section 2103 of the Trade Act of 2004. Specifically, § 174.11 is restructured to clarify that clerical errors, mistakes of fact, and other inadvertences are protestable under section 1514 in addition to the existing administrative matters that are currently identified as being subject to protest pursuant to the statute. The changes are described below:

1. This document adds a new paragraph (a) entitled, “[C]lerical errors, mistakes of fact, and other inadvertences”, to accurately reflect the scope of matters subject to protest under this section. While the amendments to 19 U.S.C. 1514 effected by section 2103 of the Trade Act of 2004 only apply to merchandise entered, or withdrawn from warehouse for consumption, on or after December 18, 2004, protests filed under paragraph (a) are applicable to any entries, liquidations, or reliquidations made before or after this date. However, any entries, liquidations, or other customs transactions made prior to December 18, 2004, also remain subject to reliquidation under § 173.4 which implemented section 520(c) of the Tariff Act of 1930.

2. This document creates a new heading text for paragraph (b) entitled “[A]dministrative Decisions” and existing paragraphs (a) through (g) are redesignated as paragraphs (b)(1) through (b)(7) and a new paragraph (b)(8) is added to reflect the amendment of 19 U.S.C. 1514(a)(7) made by section 2408(b) of the Trade Act of 1999 regarding post-importation NAFTA claims. The following additional amendments to these redesignated paragraphs are noted:

- i. In newly redesignated paragraph (b)(3), a reference to the “Secretary of Homeland Security” is added to reflect the delegation of authority over certain revenue functions from the Secretary of the Treasury to the Secretary of Homeland Security, effected by Treasury Department Order 100–16, dated May 15, 2003; and

- ii. In paragraph (b)(4), the words “or a demand for redelivery to CBP custody” and the words “except a determination that may be appealed under 19 U.S.C. 1337” are added to the text to reflect the full terms of 19 U.S.C. 1514(a)(4).

Section 174.12

Section 174.12 (19 CFR 174.12), which sets forth the standards for the filing of protests, is amended as follows:

1. Paragraph (b) is amended to conform the text to the Mod Act section 645 amendment of 19 U.S.C. 1514 which authorizes the electronic transmission of protests. As a consequence of this change, this paragraph is amended to state that electronic submissions are not required to be filed in quadruplicate; and

2. Pursuant to section 2103 of the Trade Act of 2004, the introductory text to paragraph (e) is amended by changing the time for filing a protest from 90 days to 180 days for all merchandise entered, or withdrawn from warehouse for consumption, on or after December 18, 2004. This document also amends paragraph (e)(1) to reflect the statutory changes to 19 U.S.C. 1514 effected by section 2103(2)(B)(ii) of the Trade Act of 2004, which state that the aforementioned 180-day protest period runs from the date of liquidation or reliquidation, and not from the date of notice. Paragraph (e)(2) is amended by adding the words “or demanding redelivery to CBP custody” to conform to the change in newly redesignated § 174.11(b)(4), and by clarifying that protest of a denial of a petition filed pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), must be made within 90 days of the denial and only for those denials that pertain to entries made before December 18, 2004.

Section 174.14

Section 174.14, which prescribes standards for the amendment of protests, is amended as follows:

1. Paragraph (a), which prescribes the time for filing an amendment to a protest, is amended by changing the time to any time prior to the expiration of the 180-day period within which the protest may be filed pursuant to § 174.12(e), but only for amendments to protests involving entries or other customs transactions made on or after December 18, 2004; and

2. Paragraph (b) is amended to provide for the electronic amendment of protests (similar to the approach taken for the electronic filing of protests in § 174.12(b), discussed above).

Section 174.22

Section 174.22, which concerns the accelerated disposition of protests, is amended to reflect the statutory amendment to 19 U.S.C. 1515(b) effected by section 2103 of the Trade Act of 2004. The amendment removes the 90-day time limit for filing a request for accelerated disposition (which applies to protests of decisions relating to entries made before December 18, 2004) and replaces it with the

opportunity to file concurrent with or any time following the filing of a protest of a decision relating to an entry made on or after December 18, 2004.

Section 174.32

This section, which sets forth the time frame in which CBP must publish or otherwise make available protest review decisions, is amended to conform to the 90-day deadline for publication/availability set forth in 19 U.S.C. 1625 as amended by section 623 of the Mod Act. We also are updating the reference to the rules that CBP follows on Freedom of Information Act requests in § 174.32 since CBP has been organizationally aligned under the Department of Homeland Security since March 1, 2003. We are removing the reference to the Treasury Department's disclosure regulations in title 31 of the CFR and adding in its place the DHS's disclosure regulations of title 6 of the CFR. We note, however, that the publishing requirements of 5 U.S.C. 552 (a) referenced in § 174.32 are found in part 103 of title 19 CFR (*see* 19 CFR 103.4) rather than in title 6 CFR part 5.

II. Part 173 – Administrative Review in General

Part 173 of title 19 of the Code of Federal Regulations (19 CFR part 173) provides for, in pertinent part, the authority to correct a clerical error, mistake of fact, or other inadvertence in any entry, liquidation, or other CBP transaction under section 520(c)(1), Tariff Act of 1930, as amended.

As noted above, section 2105 of the Trade Act of 2004 repealed section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)), effective as of December 18, 2004, for merchandise entered or withdrawn from warehouse for consumption. Accordingly, this document amends §§ 173.0 and 173.4 to reflect this fact and to state that authority exercised under 19 U.S.C. 1520(c) only applies to any entry, liquidation, or other CBP transaction made before December 18, 2004. This document also amends § 173.0 by removing the language “and the power to reliquidate an entry on account of fraud” to reflect the repeal of 19 U.S.C. 1521 effected by section 618 of the Mod Act.

III. Part 145 – Mail Importations

The provisions of part 145 pertain to the importation of merchandise through the mails. Sections 145.22 and 145.23 (19 CFR 145.22 and 145.23), which respectively set forth the procedures for obtaining administrative review of the duty assessed on mail importations and the applicable time limits for such review, are amended to reflect the

new time periods within which to file a protest for mail entries made on or after December 18, 2004, as well as prior to that date.

IV. Part 159 – Liquidation of Duties

Section 159.1 sets forth the definition of liquidation as the final computation or ascertainment of the duties (not including vessel repair duties) or drawback accruing on an entry. This provision is amended to conform to the amendments to 19 U.S.C. 1504 effected by section 1563(e) of the Trade Act of 2004, which more specifically describe “entries” as “entries for consumption” and identify “entries or claims for drawback” as subject to liquidation by operation of law.

Section 159.6 sets forth the regulations applicable to situations where there is a difference between liquidated duties and estimated duties. Paragraph (b)(1) prescribes the terms applicable to reliquidation at the importer’s request. Due to the repeal of section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)) effected by section 2105 of the Trade Act of 2004, paragraph (b)(1) is amended to reflect that reliquidation at the importer’s request for correction under 19 U.S.C. 1520(c) is only permitted for entries made before December 18, 2004.

Section 159.9 prescribes the manner by which notice of liquidation of formal entries is provided to importers. Paragraph (c)(2) sets forth notice requirements applicable to entries that are liquidated by operation of law, as prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504). The existing text of paragraph (c)(2)(iii) provides that a protest under 19 U.S.C. 1514 and part 174 of this chapter must be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse. As noted above, the amendments to 19 U.S.C. 1514 made by the Miscellaneous Trade Act of 2004 extend the protest period for an entry made on or after December 18, 2004, from 90 to 180 days commencing from the date of liquidation of an entry, and not from the date of notice of liquidation. For an entry made before December 18, 2004, the protest period remains at 90 days commencing from the date of liquidation of an entry by operation of law or within 90 days from the date the bulletin notice thereof is posted or lodged in the customhouse. This document makes conforming changes to paragraph (c)(2)(iii) to reflect the scope of section 1514, as amended.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE

Because the technical corrections set forth in this document are necessary to conform parts 145, 159, 173 and 174 of title 19 of the CFR to reflect amendments to 19 U.S.C. 1514 and 1515 effected by

the Customs Modernization (Mod Act) provisions of the North American Free Trade Agreement (NAFTA) Implementation Act, the Miscellaneous Trade and Technical Corrections Act of 1999, and the Miscellaneous Trade and Technical Corrections Act of 2004, pursuant to 5 U.S.C. 553(b)(B), CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary. For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

THE REGULATORY FLEXIBILITY ACT

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

EXECUTIVE ORDER 12866

As these amendments are technical corrections to the regulations to reflect statutory changes, these amendments do not meet the criteria for “significant regulatory action” as specified in Executive Order 12866.

SIGNING AUTHORITY

This document is limited to technical corrections of the CBP regulations. Accordingly, it is being signed under the authority of 19 CFR 0.1(b)(1).

LIST OF SUBJECTS

19 CFR PART 145

Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

19 CFR PART 159

Customs duties and inspection, Entry procedures, Imports, Liquidation of entries for merchandise.

19 CFR PART 173

Administrative practice and procedure, Customs duties and inspection.

19 CFR PART 174

Administrative practice and procedure, Confidential business information, Customs duties and inspection, Protests, Reporting and recordkeeping requirements.

AMENDMENTS TO THE REGULATIONS

For the reasons stated in the preamble, parts 145, 159, 173 and 174 (19 CFR parts 145, 159, 173 and 174) are amended as set forth below.

PART 145 – MAIL IMPORTATIONS

1. The authority citation for part 145 is revised to read as follows:

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

* * * * *

Sections 145.22 through 145.23 also issued under 19 U.S.C. 1501, 1514;

* * * * *

2. In § 145.22:

a. The introductory sentence is amended by adding, after the word “entry”, the following language, “made before December 18, 2004”;

b. Paragraphs (a) and (b) are amended by removing the word “Customs” each place it appears and adding the term “CBP”; and

c. Paragraph (c) is amended by adding, after the first sentence, the following language, “For mail entries made before December 18, 2004, a protest must be filed no later than 90 days after payment of the duties by the addressee. All other mail entries must be protested within 180 days after payment of the duties by the addressee.”

3 In § 145.23:

a. The first sentence is amended by adding, after the word “entry”, the following language, “made before December 18, 2004”;

b. The second sentence is amended by removing the word “shall” and adding the word “must”; and

c. The third sentence is removed and the following language is added in its place, “For a mail entry made before December 18, 2004, protests under § 145.22(c) of this chapter must be filed no later than 90 days after payment of the duties by the addressee, but may be acted upon by CBP after expiration of that 90-day period. For a mail entry made on or after December 18, 2004, protests under § 145.22(c) of this chapter must be filed no later than 180 days after payment of the duties by the addressee, but may be acted upon by CBP after expiration of that 180-day period.”

PART 159 – LIQUIDATION OF DUTIES

4. The authority citation for part 159 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1500, 1504, 1624.

* * * * *

Section 159.6 also issued under 19 U.S.C. 1321, 1505;

* * * * *

5. Section 159.1 is amended by removing the text following the word “of” and adding in its place the language, “duties on entries for consumption or drawback entries”.

6. In § 159.6:

a. Paragraph (a) is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” and adding in its place the term “CBP”.

b. The introductory text to paragraph (b) is amended by removing the word “shall” and adding in its place the word “will”;

c. Paragraph (b)(1) is amended: by adding, after the word “or”, the following language, “, for entries made before December 18, 2004,”, and; by removing the word “shall” and adding in its place the word “will”;

d. Paragraph (b)(2) is amended by removing the word “shall” and adding in its place the word “will”;

e. Paragraph (c) is amended by removing the word “shall” each place it appears and adding the word “will”; and

f. Paragraph (d) is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” and adding in its place the word “customs”.

6. In § 159.7:

a. Paragraphs (a) and (c) are amended: by removing the word “shall” each place it appears and adding the word “will”; and

b. Paragraph (b) is amended by removing the word “shall” and adding in its place the word “will”, and by removing the word “Customs” each place it appears and adding the word “customs”, and by removing the term “Customs custody” and adding in its place the words “CBP custody”.

7. Section 159.8 is amended by removing the word “shall” and adding in its place the word “will”.

8. In § 159.9:

a. Paragraph (a) is amended: by removing the word “shall” and adding in its place the word “will”, and; by removing the word “Customs” and adding in its place the term “CBP”;

b. Paragraph (b) is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” each place it appears and adding the word “customs”;

c. Paragraph (c)(1) is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” and adding the term “CBP”;

d. Paragraphs (c)(2)(i) and (ii) are amended by removing the word “shall” each place it appears and adding the word “will”;

e. Paragraph (c)(2)(iii) is revised; and

f. Paragraph (d) is amended: by removing the word “Customs” each place it appears and adding the term “CBP”, and; by removing the word “shall” and adding in its place the word “will”.

The revisions to § 159.9(c)(2)(iii) read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) * * *

(2) * * *

(iii) Pursuant to section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) and part 174 of this chapter, a protest of a decision relating to an entry made before December 18, 2004, must be filed within 90 days from the date of liquidation of an entry by operation of law or within 90 days from the date the bulletin notice thereof is posted or lodged in the customhouse, or, in the case of a protest of a decision relating to an entry made on or after December 18, 2004, within 180 days from the date of liquidation of an entry by operation of law.

9. Section 159.10 is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” each place it appears and adding the term “CBP”.

10. Section 159.11 is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” each place it appears and adding the term “CBP”.

11. Section 159.12 is amended: by removing the word “shall” each place it appears and adding the word “will”, and; by removing the word “Customs” each place it appears and adding the term “CBP”.

PART 173 – ADMINISTRATIVE REVIEW IN GENERAL

12. The authority citation for part 173 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1501, 1520, 1624.

13. Section 173.0 is amended: by adding after the word “amended,” the language, “for entries made before December 18, 2004, and”, and; by removing the language “, and the power to reliquidate an entry on account of fraud”.

14. Section 173.3(b) is amended by removing the word “shall” and adding in its place the word “will”.

15. Section 173.4 is revised to read as follows:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004.* Even though a valid protest was not filed, the port director, upon timely application and for entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended, a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section, by reliquidation or other appropriate action.

(1) *Transactions that may be corrected.* Correction may be made to any entry, liquidation, or other customs transaction made before December 18, 2004, if the clerical error, mistake of fact, or other inadvertence:

(i) Does not amount to an error in the construction of a law;

(ii) Is adverse to the importer; and

(iii) Is manifest from the record or established by documentary evidence.

(2) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section must be brought to the attention of the director of the port of entry or other appropriate CBP officer within 1 year after the date of liquidation or exaction. The party requesting reliquidation under this section must state, to the best of his or her knowledge, whether the entry for which correction is requested is the subject of a drawback claim, or whether the entry has been referenced on a certificate of delivery or certificate of manufacture and delivery so as to enable a party to make such entry the subject of drawback (see §§ 181.50(b) and 191.81(b) of this chapter).

(b) *Entries of merchandise made, or withdrawn from warehouse for consumption, on or after December 18, 2004.* For merchandise entered, or withdrawn from warehouse for consumption, on or after December 18, 2004, CBP does not have the authority, in situations where a valid protest has not been filed, to reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence. For merchandise entered or withdrawn from warehouse for consumption on or after December 18, 2004, and except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the

Tariff Act of 1930, as amended, a CBP decision involving any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation, may be corrected by protest only. *See* 19 CFR 174.11.

(c) “*Liquidation*” includes *reliquidation*. “Liquidation,” as used in this section, includes *reliquidation* of an entry.

16. In § 173.5:

a. The first sentence is amended by adding, after the word “if”, the following language, “entry was made before December 18, 2004 and”; and

b. The second sentence is amended: by removing the word “shall” and adding the word “will”, and; by removing the word “Customs” and adding the term “CBP”.

PART 174 - PROTESTS

17. The authority citation for part 174 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1514, 1515, 1624.

18. Section 174.11 is revised to read as follows:

§ 174.11 Matters subject to protest.

The following decisions of CBP, including the legality of all orders and findings entering into those decisions, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) *Clerical errors, mistakes of fact, and other inadvertences*. Except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the Tariff Act of 1930, as amended, any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation is subject to protest. In addition, any entry, liquidation, or other CBP transaction that occurred prior to December 18, 2004, also may be the subject of a reliquidation request made pursuant to the terms set forth in § 173.4 (19 CFR 173.4).

(b) *Administrative decisions*. CBP administrative decisions involving the following subject matters are subject to protest:

(1) The appraised value of merchandise;

(2) The classification and rate and amount of duties chargeable;

(3) All charges or exactions of whatever character, including the accrual of interest, within the jurisdiction of the Secretary of Homeland Security or the Secretary of the Treasury;

(4) The exclusion of merchandise from entry, delivery, or a demand for redelivery to CBP custody under any provision of the customs laws except a determination that may be appealed under 19 U.S.C. 1337;

(5) The liquidation or reliquidation of an entry, or any modification of an entry;

(6) The refusal to pay a claim for drawback;

(7) The refusal to reliquidate an entry made before December 18, 2004, under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)); or

(8) The refusal to reliquidate an entry under section 520(d), Tariff Act of 1930, as amended (19 U.S.C. 1520(d)).

19. Section 174.12, paragraphs (b) and (e), are revised to read as follows:

§ 174.12 Filing of protests.

* * * * *

(b) *Form and number of copies.* A written protest against a decision of CBP must be filed in quadruplicate on CBP Form 19 or a form of the same size clearly labeled “Protest” and setting forth the same content in its entirety, in the same order, addressed to CBP. All schedules or other attachments to a protest (other than samples or similar exhibits) must also be filed in quadruplicate. A protest against a decision of CBP may also be transmitted electronically pursuant to any electronic data interchange system authorized by CBP for that purpose. Electronic submissions are not required to be filed in quadruplicate.

* * * * *

(e) *Time of filing.* Protests must be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days of a decision relating to an entry made before December 18, 2004, or within 180 days of a decision relating to an entry made on or after December 18, 2004, after any of the following:

(1) The date of notice of liquidation or reliquidation, or the date of liquidation or reliquidation, as determined under §§ 159.9 or 159.10 of this chapter;

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (for example: the date of an exaction; the date of written notice excluding merchandise from entry, delivery or demanding redelivery to CBP custody under any provision of the customs laws; the date of written notice of a denial of a claim filed under section 520(d), Tariff Act of 1930, as amended (19

U.S.C. 1520(d)), or; within 90 days of the date of denial of a petition filed pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), relating to an entry made before December 18, 2004): or

* * *

* * * *

20. Section 174.14 is revised to read as follows:

§ 174.14 Amendment of protests.

(a) *Time for filing.* A protest may be amended at any time prior to the expiration of the period within which the protest may be filed under § 174.12(e). The amendment may assert additional claims pertaining to the administrative decision that is the subject of the protest, or may challenge an additional administrative decision relating to the same category of merchandise that is the subject of the protest. For the presentation of additional grounds or arguments in support of a valid protest after the applicable protest period set forth in § 174.12(e) has expired, *see* § 174.28.

(b) *Form and number of copies of amendment.* If the protest was not filed electronically, an amendment to the protest must be filed in quadruplicate on CBP Form 19 or on a form of the same size, clearly labeled “Amendment to Protest” at the top of the form. Schedules or other attachments (other than samples or similar exhibits) must also be filed in quadruplicate. A protest that was transmitted to CBP electronically may be amended only through an electronic data interchange system authorized by CBP for that purpose. Electronic submissions are not required to be filed in quadruplicate.

* * * *

21. Section 174.22 is revised to read as follows:

§ 174.22 Accelerated disposition of protest.

(a) *Request for accelerated disposition.* Accelerated disposition of a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) may be obtained at any time after 90 days from the filing of such protest for entries made before December 18, 2004, or at any time concurrent with or following the filing of the protest for entries made on or after December 18, 2004, by filing by registered or certified mail a written request for accelerated disposition with the port director or other CBP officer with whom the protest was filed.

22. Section 174.32 is revised to read as follows:

§ 174.32 Publication.

Within 90 calendar days after issuing a protest review decision, CBP will publish the decision in the Customs Bulletin or otherwise make it available for public inspection. Disclosure is governed by 6 CFR part 5 and 19 CFR part 103.

Dated: January 10, 2011

ALAN BERSIN
Commissioner
U.S. Customs and Border Protection

[Published in the Federal Register, January 14, 2011 (76 FR 2573)]

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**QUARTERLY IRS INTEREST RATES USED IN
CALCULATING INTEREST ON OVERDUE ACCOUNTS AND
REFUNDS ON CUSTOMS DUTIES**

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning January 1, 2011, the interest rates for overpayments will be 2 percent for corporations and 3 percent for non-corporations, and the interest rate for underpayments will be 3 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

EFFECTIVE DATE: January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Ron Wyman, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614-4516.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621

was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2010–31, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2011, and ending on March 31, 2011. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For corporate overpayments, the rate is the Federal short-term rate (1%) plus one percentage point (1%) for a total of two percent (2%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). These interest rates are subject to change for the calendar quarter beginning April 1, 2011, and ending June 30, 2011.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under-payments</u> (percent)	<u>Over-payments</u> (percent)	<u>Corporate Overpayments</u> (Eff. 1–1–99) (percent)
070174	063075	6%	6%	
070175	013176	9%	9%	
020176	013178	7%	7%	
020178	013180	6%	6%	
020180	013182	12%	12%	
020182	123182	20%	20%	
010183	063083	16%	16%	
070183	123184	11%	11%	
010185	063085	13%	13%	
070185	123185	11%	11%	
010186	063086	10%	10%	

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under-payments</u> (percent)	<u>Over-payments</u> (percent)	<u>Corporate Overpayments</u> (Eff. 1-1-99) (percent)
070186	123186	9%	9%	
010187	093087	9%	8%	
100187	123187	10%	9%	
010188	033188	11%	10%	
040188	093088	10%	9%	
100188	033189	11%	10%	
040189	093089	12%	11%	
100189	033191	11%	10%	
040191	123191	10%	9%	
010192	033192	9%	8%	
040192	093092	8%	7%	
100192	063094	7%	6%	
070194	093094	8%	7%	
100194	033195	9%	8%	
040195	063095	10%	9%	
070195	033196	9%	8%	
040196	063096	8%	7%	
070196	033198	9%	8%	
040198	123198	8%	7%	
010199	033199	7%	7%	6%
040199	033100	8%	8%	7%
040100	033101	9%	9%	8%
040101	063001	8%	8%	7%
070101	123101	7%	7%	6%
010102	123102	6%	6%	5%
010103	093003	5%	5%	4%
100103	033104	4%	4%	3%
040104	063004	5%	5%	4%
070104	093004	4%	4%	3%
100104	033105	5%	5%	4%
040105	093005	6%	6%	5%

<u>Beginning Date</u>	<u>Ending Date</u>	<u>Under-payments</u> (percent)	<u>Over-payments</u> (percent)	<u>Corporate Overpayments</u> (Eff. 1-1-99) (percent)
100105	063006	7%	7%	6%
070106	123107	8%	8%	7%
010108	033108	7%	7%	6%
040108	063008	6%	6%	5%
070108	093008	5%	5%	4%
100108	123108	6%	6%	5%
010109	033109	5%	5%	4%
040109	123110	4%	4%	3%
010111	033111	3%	3%	2%

Dated: January 7, 2011

ALAN BERSIN
Commissioner
U.S. Customs and Border Protection

[Published in the Federal Register, January 13, 2011 (76 FR 2404)]

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**DATES AND DRAFT AGENDA OF THE FORTY-SEVENTH
SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF
THE WORLD CUSTOMS ORGANIZATION**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security, and U.S. International Trade Commission.

ACTION: Publication of the dates and draft agenda for the forty-seventh session of the Harmonized System Committee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

DATES: January 18, 2011

FOR FURTHER INFORMATION CONTACT: Joan A. Jackson, Staff Assistant, Tariff Classification and Marking Branch, U.S. Customs and Border Protection (202-325-0010), or David Beck, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202-205-2592).

SUPPLEMENTARY INFORMATION:**BACKGROUND**

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System (“Harmonized System Convention”). The Harmonized Commodity Description and Coding System (“Harmonized System”), an international nomenclature system, forms the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee (“HSC”). The HSC is composed of representatives from each of the contracting parties to the Harmonized System Convention. The HSC’s responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the forty-seventh and it will be held from March 7, 2011 to March 18, 2011.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), the Department of Homeland Security, represented by U.S. Customs and Border Protection, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission (“ITC”), jointly represent the U.S. government at the sessions of the HSC. The Customs and Border Protection representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either Customs and Border Protection or the ITC. Comments on agenda items may be directed to the above-listed individuals.

IEVA K. O’ROURKE,

Chief

Tariff Classification and Marking Branch

Attachment



WORLD CUSTOMS ORGANIZATION
 ORGANISATION MONDIALE DES DOUANES
 Established in 1952 as the Customs Co-operation Council
 Créée en 1952 sous le nom de Conseil de coopération douanière

HARMONIZED SYSTEM
 COMMITTEE
 -
 47th Session
 -

NC1607E1a

O. Eng.

Brussels, 13 January 2011.

DRAFT AGENDA FOR THE 47TH SESSION
 OF THE HARMONIZED SYSTEM COMMITTEE

From : Monday, 7 March 2011 (11.00 a.m.)

To : Friday, 18 March 2011

N.B. : Thursday, 3 March 2011 (10.00 a.m.) and Friday, 4 March 2011 :
 Presessional Working Party (to examine the questions under
 Agenda Item VII)

Monday, 7 March 2011 (9.30 a.m. - 10.30 a.m.) : Adoption of the
 Report of the 41st Session of the Review Sub-Committee

I. ADOPTION OF THE AGENDA

1. Draft Agenda NC1607E1a

2. Draft Timetable NC1608B1a

II. REPORT BY THE SECRETARIAT

1. Position regarding Contracting Parties to the HS Convention and related matters NC1609E1a

2. Report on the last meeting of the Policy Commission (64th Session) NC1610E1a

3. Approval of decisions taken by the Harmonized System Committee at its 46th Session NG0171E1a
 NC1605E1a
 NC1606E1a

4. Capacity building activities of the Nomenclature and Classification Sub-Directorate NC1611E1a

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|--|-----------|
| 5. Co-operation with other international organisations | NC1612E1a |
| 6. New information provided on the WCO Web site | NC1613E1a |
| 7. Other | |

III. GENERAL QUESTIONS

- | | |
|---|-----------|
| 1. Possible amendments to Correlation Tables | NC1614E1a |
| 2. Correlation between the Harmonized System and the product coverage of selected international Conventions (amendments consequential to the Article 16 Recommendation of 26 June 2009) | NC1615E1a |
| 3. Preparation and timing of HS 2012 publications and progress report on the implementation of the HS 2012 | NC1616E1a |
| 4. Possible new version of the Compendium of Classification Opinions | NC1617E1a |

IV. RECOMMENDATIONS

Amendment of the following Council Recommendations consequential to the Article 16 Recommendation of 26 June 2009 :

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| 1. Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the collection and comparison of data on the international movement of substances controlled by virtue of amendments to the Montreal Protocol on substances that deplete the ozone layer (20 June 1995) | NC1618E1a |
| 2. Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the collection and comparison of data on the international movement of substances controlled by virtue of amendments to the Montreal Protocol on substances that deplete the ozone layer (1 July 2006) | NC1619E1a |

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| 3. | Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings for substances controlled under the Convention on the Prohibition of the development, production, stockpiling and use of Chemical Weapons and on their destruction (18 June 1996) (Amended 25 June 1999 and 1 July 2006) | NC1620E1a |
| 4. | Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings for substances controlled under the Convention on the Prohibition of the development, production, stockpiling and use of Chemical Weapons and on their destruction (26 June 2009) | NC1621E1a |
| 5. | Recommendation of the Customs Co-operation Council on the use of standard units of quantity to facilitate the collection, comparison and analysis of international statistics based on the Harmonized System (1 July 2006) | NC1622E1a
NC1607E1a |
| 6. | Recommendation of the Customs Co-operation Council on the insertion in national statistical nomenclatures of subheadings to facilitate the monitoring and control of products specified in the Protocol concerning firearms covered by The UN Convention against Transnational Organized Crime (29 June 2002) | NC1623E1a |
| V. <u>REPORT OF THE SCIENTIFIC SUB-COMMITTEE</u> | | |
| 1. | Report of the 26 th Session of the Scientific Sub-Committee | NS0226E1a
(SSC/26) |
| 2. | Matters for decision | NC1624E1a |
| VI. <u>REPORT OF THE REVIEW SUB-COMMITTEE</u> | | |
| 1. | Report of the 41 th Session of the Review Sub-Committee | NR0844E1b
(RSC/41) |
| 2. | Matters for decision | NC1625E1a |

3. Amendments to the Explanatory Note to heading 01.02 consequential upon the Article 16 Recommendation of 26 June 2009 NC1626E1a

VII. REPORT OF THE PRESESSIONAL WORKING PARTY

1. Amendments to the Compendium of Classification Opinions to reflect the decision to classify three products in subheading 2208.90 NC1627E1a, Annex A
2. Amendments to the Compendium of Classification Opinions to reflect the decision to classify two products referred to as “Bakeshure® 251” and “Bakeshure® 419” in subheading 2106.90 NC1627E1a, Annex B
3. Amendments to the Compendium of Classification Opinions to reflect the decision to classify a round-shaped particle board referred to as “RT290” in subheading 4410.11 NC1627E1a, Annex C
4. Amendments to the Compendium of Classification Opinions to reflect the decision to classify a “Bluetooth®” headset in subheading 8517.62 NC1627E1a, Annex D
5. Amendments to the Compendium of Classification Opinions to reflect the decision to classify the “Asus MS227N” monitor in subheading 8528.51 NC1627E1a, Annex E
6. Amendments to the Compendium of Classification Opinions to reflect the decision to classify an electronic cigarette in subheading 8543.70 NC1627E1a, Annex F
7. Amendments to the Compendium of Classification Opinions to reflect the decision to classify certain network analyzers in subheading 9030.40 NC1627E1a, Annex G

VIII. FURTHER STUDIES

1. Draft amendments to the Nomenclature in respect of “Turbots (*Psetta maxima*)” (HS 2012) NC1628E1a
2. Application of General Interpretative Rule 2 (a) in respect of the classification of car-assembly sets (Request by the Russian Federation) NC1629E1a

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| 3. | Possible amendment of the Explanatory Notes in respect of technologies used in the manufacture of ethyl alcohol | NC1530E1a
(HSC/45) |
| 4. | Classification of certain “motorcycle parts” (Request by Peru) | NC1630E1a |
| 5. | Classification of a dissolution testing unit (Request by Saudi Arabia) | NC1631E1a |
| 6. | Possible amendment of the Explanatory Note to heading 73.21 (Proposal by Jordan) | NC1632E1a |
| 7. | Classification of an assembly of two electrical switching devices (Request by Iran (Islamic Republic of)) | NC1633E1a |
| 8. | Classification of tyres for career dump-body tucks (Request by the Russian Federation) | NC1634E1a |
| 9. | Classification of spare cartridges for electronic cigarettes | NC1635E1a |
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| IX. | <u>NEW QUESTIONS</u> | |
| 1. | Amendments to the Compendium of Classification Opinions consequential to the Article 16 Recommendation of 26 June 2009 | NC1636E1a |
| 2. | Classification of the product named “Freia® Solbaertoddy” (Request by Norway) | NC1637E1a |
| 3. | Classification of the product named “Nervinetas®” (Request by Switzerland) | NC1638E1a |
| 4. | Scope of the term “whisky” (Request from India) | NC1639E1a |
| X. | <u>ADDITIONAL LIST</u> | |
| 1. | | NC1607E1a |
| XI. | <u>AMENDMENTS TO THE HARMONIZED SYSTEM 2012 MADE BY CORRIGENDUM (COMPREHENSIVE TEXT)</u> | NC1640E1a |
| XII. | <u>AMENDMENTS TO THE EXPLANATORY NOTES CONSEQUENTIAL TO THE ARTICLE 16 RECOMMENDATION OF 26 JUNE 2009 (COMPREHENSIVE TEXT)</u> | NC1641E1a |

XIII. OTHER BUSINESS

1. List of questions which might be examined at a future session NC1642E1a

XIV. ELECTIONS

XV. DATES OF NEXT SESSIONS

**NOTICE OF CANCELLATION OF CUSTOMS BROKER
LICENSES DUE TO DEATH OF THE LICENSE HOLDER**

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General Notice

SUMMARY: Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations at section 111.51(a), the following individual Customs broker license and any and all permits have been cancelled due to the death of the broker:

<i>Name</i>	<i>License #</i>	<i>Port Name</i>
Robert F. Barnes, Sr.	06332	Dallas / Fort Worth
Stephen W. Marlow	15469	Champlain

Dated: January 4, 2011

DANIEL BALDWIN
Assistant Commissioner
Office of International Trade

[Published in the Federal Register, January 18, 2011 (76 FR 2918)]

**NOTICE OF CANCELLATION OF CUSTOMS BROKER
LICENSES**

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security

ACTION: General Notice

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the U.S. Customs and Border Protection regulations (19 CFR 111.51), the following Customs broker licenses and all associated permits are cancelled without prejudice.

<i>Name</i>	<i>License #</i>	<i>Issuing Port</i>
Robert F. Barnes, Jr.	06324	Houston
Robert F. Barnes, Jr.	05683	Norfolk

Robert F. Barnes, Jr.	07084	Dallas / Fort Worth
Hensel, Bruckmann & Lorbacher, Inc.	01135	New York
Gallop Fargo Customs Brokers, Inc.	27658	Los Angeles

Dated: January 4, 2011

DANIEL BALDWIN
Assistant Commissioner
Office of International Trade

[Published in the Federal Register, January 18, 2011 (76 FR 2918)]

AGENCY INFORMATION COLLECTION ACTIVITIES:

Record of Vessel Foreign Repair or Equipment Purchase

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0027.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Record of Vessel Foreign Repair or Equipment Purchase (CBP Form 226). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13).

DATES: Written comments should be received on or before March 21, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 5th Floor, Washington, DC. 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 5th Floor, Washington, DC. 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Record of Vessel Foreign Repair or Equipment Purchase

OMB Number: 1651–0027

Form Number: CBP Form 226

Abstract: 19 U.S.C. 1466(a) provides for a 50 percent *ad valorem* duty assessed on a vessel master or owner for any repairs, purchases, or expenses incurred in a foreign country by a commercial vessel registered in the United States. CBP Form 226, Record of Vessel Foreign Repair or Equipment Purchase, is used by the master or owner of a vessel to declare and file entry on equipment, repairs, parts, or materials purchased for the vessel in a foreign country. This information enables CBP to assess duties on these foreign repairs, parts or materials. CBP Form 226 is provided for by 19 CFR 4.7 and 4.14 and is accessible at http://forms.cbp.gov/pdf/CBP_Form_226.pdf.

Current Actions: CBP proposes to extend the expiration date of this information collection with a change to the burden hours. There is no change to the information being collected.

Type of Review: Extension (with change)

Affected Public: Businesses

Estimated Number of Respondents: 100

Estimated Number of Responses per Respondent: 11

Estimated Number of Total Annual Responses: 1,100

Estimated Time per Response: 45 minutes

Estimated Total Annual Burden Hours: 825

Dated: January 12, 2011

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection

[Published in the Federal Register, January 19, 2011 (76 FR 3151)]

AGENCY INFORMATION COLLECTION ACTIVITIES:**Ship's Store Declaration**

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651-0018.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Ship's Stores Declaration (CBP Form 1303). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13).

DATES: Written comments should be received on or before March 14, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 5th Floor, Washington, DC. 20229-1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 5th Floor, Washington, DC. 20229-1177, at 202-325-0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Ship's Stores Declaration

OMB Number: 1651-0018

Form Number: CBP Form 1303

Abstract: CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel, such as sea stores, ship's stores, controlled narcotic drugs, bunker coal, or bunker oil in a format that can be readily audited and checked by CBP. The form was developed as a single international standard ship's stores declaration form to replace the different forms used by various countries for the entrance and clearance of vessels. CBP Form 1303 collects information about the ship, the ports of arrival and departure, and the articles on the ship. It is pursuant to the provisions of section 432, Tariff Act of 1930 and provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85, & 4.87. This form is accessible at http://forms.cbp.gov/pdf/CBP_Form_1303.pdf

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change)

Affected Public: Businesses

Estimated Number of Respondents: 8,000

Estimated Number of Responses per Respondent: 13

Estimated Number of Total Annual Responses: 104,000

Estimated Total Annual Burden Hours: 26,000

Dated: January 10, 2010

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection

**AGENCY INFORMATION COLLECTION ACTIVITIES:
Canadian Border Boat Landing Permit (CBP Form I-68)**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651-0108.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Canadian Border Boat Landing Permit (CBP Form I-68). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the information collected. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (75 FR 61508) on October 5, 2010, allowing for a 60-day comment period. No comments were received. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before February 17, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

SUPPLEMENTARY INFORMATION:

U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Canadian Border Boat Landing Permit

OMB Number: 1651–0108

Form Number: CBP Form I-68

Abstract: The Canadian Border Boat Landing Permit (CBP Form I-68) allows participants entering the United States along the northern border by small pleasure boats less than 5 tons to telephonically report their arrival without having to appear in person for an inspection by a CBP officer. United States citizens, Lawful Permanent Residents of the United States, Canadian citizens, Landed Commonwealth Residents of Canada, and Landed Residents of Canada who are nationals of Visa Waiver Program countries listed in 8 CFR 217.2(a) are eligible to participate.

The information collected on CBP Form I-68 allows people who enter the United States from Canada by small pleasure boats to be inspected only once during the boating season, rather than each time they make an entry. This information collection is provided for by 8 CFR 235.1(e) and Section 235 of Immigration and Nationality Act. CBP Form I-68 is accessible at http://forms.cbp.gov/pdf/CBP_Form_I68.pdf

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change)

Affected Public: Individuals or Households

Estimated Number of Respondents: 68,000

Estimated Time per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 11,288

Estimated Annual Cost: \$1,088,000

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 5th Floor, Washington, DC. 20229-1177, at 202-325-0265.

Dated: January 11, 2011

TRACEY DENNING
Agency Clearance Officer
U.S. Customs and Border Protection

[Published in the Federal Register, January 18, 2011 (76 FR 2917)]