to be limited to the complainant and respondent, hence the *de minimis* impact requirement. Nevertheless, if in a respondent's view, the use of the simplified procedures is not appropriate, it should provide support for such assertion in its answer. In the event the Commission finds that a small controversy case has policy implications affecting an industry, or resolution of the complaint would require the respondent to take action affecting other customers that would have a cumulative effect over $100,000, it can remove the case from the simplified procedures and use the more formal procedures under Rule 206. Such decisions will be made on a case-by-case basis.

III. Effective Date

The amendments to the Commission's regulations adopted in this order on rehearing will become effective September 10, 1999.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission denies rehearing in part, grants rehearing in part, and clarifies Order No. 602 as described above, and amends Part 385, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 385.206, paragraphs (b)(7), (b)(8), (b)(9)(i), (c), (e)(3), and (h)(1) are revised, paragraph (g)(2) is removed, paragraphs (g)(1) introductory text, (g)(1)(i), (g)(1)(ii) and (g)(1)(iii) are redesignated as paragraphs (g) introductory text, (g)(1), (g)(2) and (g)(3), respectively, and newly redesignated paragraph (g)(1) is revised to read as follows:

§ 385.206 Complaints (Rule 206).

* * * * *

(b) * * *

(7) State the specific relief or remedy requested, including any request for stay or extension of time, and the basis for that relief;

(8) Include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts and affidavits;

(9) * * *

(i) Whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal dispute resolution procedures were used, or why these procedures were not used;

* * * * *

(c) *Service.* Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents. Simultaneous or overnight service is permissible for other affected entities. Simultaneous service can be accomplished by electronic mail in accordance with § 385.2010(f)(3), facsimile, express delivery, or messenger.

* * * * *

(e) * * *

(3) The respondent and any interested person who has filed a motion to intervene in the complaint proceeding may make a written request to the complainant for a copy of the complete complaint. The request must include an executed copy of the protective agreement and, for persons other than the respondent, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

* * * * *

(g) * * *

(1) The Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with §§ 385.604–385.606, in cases where the affected parties consent, or the Commission may order the appointment of a settlement judge in accordance with § 385.603;

* * * * *

(h) *Fast Track Processing.* (1) The Commission may resolve complaints using Fast Track procedures if the complaint requires expeditious resolution. Fast Track procedures may include expedited action on the pleadings by the Commission, expedited hearing before an ALJ, or expedited action on requests for stay, extension of time, or other relief by the Commission or an ALJ.

* * * * *

3. In § 385.213, paragraphs (c)(4), (c)(5)(ii), (c)(5)(iii) and (d)(2) introductory text are revised to read as follows:

§ 385.213 Answer (Rule 213).

* * * * *

(c) * * *

(4) An answer to a complaint must include documents that support the facts in the answer in possession of, or otherwise attainable by, the respondent, including, but not limited to, contracts and affidavits. An answer is also required to describe the formal or consensual process it proposes for resolving the complaint.

(5) * * *

(ii) A respondent must provide a copy of its answer without the privileged information and its proposed form of protective agreement to each entity that has either been served pursuant to § 385.206 (c) or whose name is on the official service list for the proceeding compiled by the Secretary.

(iii) The complainant and any interested person who has filed a motion to intervene may make a written request to the respondent for a copy of the complete answer. The request must include an executed copy of the protective agreement and, for persons other than the complainant, a copy of the motion to intervene. Any person may file an objection to the proposed form of protective agreement.

* * * * *

(d) * * *

(2) Any answer to a pleading or amendment to a pleading, other than a complaint or an answer to a motion under paragraph (d)(1) of this section, must be made:

* * * * *

[FR Doc. 99–19885 Filed 8–10–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 151, 174, 178

[T.D. 99–65]

RIN 1515–AB75

Detention of Merchandise

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide for procedures regarding the detention of merchandise that is undergoing extended Customs examination. The changes promulgated accurately reflect amendments to the underlying statutory

authority, enacted as part of the Customs modernization portion of the North American Free Trade Agreement Implementation Act. The regulations provide importers with an accelerated method to receive administrative or judicial review of any decision to exclude merchandise from the United States. Certain other conforming amendments are also made.

EFFECTIVE DATE: September 10, 1999.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings, 202–927–2344.

SUPPLEMENTARY INFORMATION:

Background

In a notice of proposed rulemaking (NPRM) published in the **Federal Register** (61 FR 28522) on June 5, 1996, Customs proposed to amend the provisions of part 151 of the Customs Regulations (19 CFR part 151), relating to the examination, sampling and testing of merchandise, to provide for procedures to be followed with regard to the detention of merchandise. Section 613 of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, Title VI of which is popularly known as the Customs Modernization Act (Mod Act), amended the provisions of section 499 of the Tariff Act of 1930, as amended (19 U.S.C. 1499), to provide for the detention of merchandise in any case where Customs is unable, upon initial examination, to make a determination as to whether that imported merchandise may be released into commerce or seized or denied entry because of some sort of defect regarding its admissibility into the United States. This legislation brought the law into conformity with existing Customs practice with regard to the examination and detention of merchandise.

Prior to this amendment, Customs, while having extensive examination and broad detention authority, had no specific statutory or regulatory procedures for detaining merchandise whose admissibility had not yet been determined. The Mod Act codified Customs current detention practices and provided importers with an accelerated method to receive administrative or judicial review of any decision to exclude or a deemed exclusion.

Under the provisions of section 613, Customs has five working days after merchandise is presented for examination to determine whether such merchandise should be detained or can be released. The NPRM provided that merchandise shall be considered to be presented for Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container, or instrument of international traffic in which the merchandise to be examined is contained was not to be considered to be presentation of the merchandise for Customs examination purposes so as to start the five-day period in which the decision to detain or release must be made. Further, consistent with the provisions of § 151.7 of the Customs Regulations (19 CFR 151.7), relating to the examination of merchandise at a place other than the public stores, the importer shall bear any expense involved in preparing or transporting the merchandise for Customs examination.

The NPRM required Customs to issue a written notice of detention to the importer or other party having an interest in the merchandise. The notice of detention must advise the importer or other interested party of the initiation of the detention, the specific reason for, and the anticipated length of, the detention, the nature of the tests or inquiries to be conducted and the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention. After 30 days, or such longer period authorized by law, if Customs has not made a determination to release or seize, the goods are deemed to be excluded for purposes of 19 U.S.C. 1514. Under the proposed rule, the 30-day limitation could be extended when the importer or interested party requests in writing an extension of the detention period, in order to comply with Customs requirements. Barring that, the importer or interested party may file a protest as to the exclusion. If, within 30 days after filing of the protest, Customs fails to act, the importer or interested party may seek judicial review in the Court of International Trade. The proposed regulations also permitted Customs to allow exportation of the goods in lieu of seizure with all costs of exportation being borne by the importer.

The statute compels Customs to make timely decisions, provide timely notices, disclose available testing results and descriptions of procedures and methodologies that are not proprietary to Customs or the holder of any copyright or patent, and process any exclusion protests within a prescribed statutory time period. If a notice to exclude is not issued within such time period and a court action is commenced, the burden of proof is on Customs, by a preponderance of the evidence, to show good cause as to why an admissibility decision had not been made prior to the time the importer commenced suit. If Customs makes the decision to exclude, an importer wishing to challenge the decision shall bear the burden of proof. These procedures are applicable to those cases where Customs has the responsibility and authority to determine the admissibility of the merchandise. They do not apply to those situations where the decision of admissibility is vested with another Federal agency.

One party responded to the NPRM, making various comments. A description of each comment made, followed by Customs response to the comment, is set forth below.

Discussion of Comments

Comment

The commenter suggests that the statute did not contemplate that all detentions arising from laws administered by other government agencies would be exempt from the new detention and seizure provisions. The commenter notes that the legislative history to the Mod Act simply recognized that Customs often detains merchandise on behalf of other agencies, but specifically stated that the law would not preclude application of this new procedure to those situations if agreed to by the other agency. As such, the commenter avers that Congress clearly provided authority for all imports to be governed by the same time restraints and notice procedures.

Customs Response

The legislative history to which the commenter refers expressly states that nothing in the statute is intended to change the procedures or relationship between Customs and other Federal agencies. This would not preclude application of this new procedure and remedy in those cases where Customs has the responsibility and authority to determine the admissibility of the merchandise, and such procedure and remedy are agreed to by the other agency. However, it does not authorize application of the new procedure to detentions made by Customs on behalf of another agency that retains the authority to make its own admissibility determinations.

A full reading of the legislative history makes it clear that Congress had no intention of unilaterally applying Customs detention procedures in instances where longstanding procedures of other agencies are in place. Nor would the new detention provisions apply in any situation where the determination as to admissibility of merchandise rests with the other agency. For example, the newly

legislated procedures would not be applicable to determinations of admissibility of imported merchandise as required by the Food, Drug and Cosmetic Act (see 21 U.S.C. 381). The Food and Drug Administration (FDA), and not Customs, is responsible for determinations of admissibility of importations that fall under that Act. A full complement of regulations providing for a well-established detention and hearing program for such merchandise is already in place. Customs detention procedures promulgated in this final rule are clearly inapplicable in such a setting.

Comment

The commenter asks for clarification as to whether copyright and trademark requirements are governed by the proposed regulations.

Customs Response

The regulations governing the detention of possibly piratical (copyright violations) merchandise are specifically enumerated in part 133, subpart E, Customs Regulations (19 CFR part 133, subpart E), and find their statutory origins in 17 U.S.C. 603. The regulations governing the detention of confusingly similar trademark-violative merchandise are specifically enumerated in part 133, subpart C, Customs Regulations (19 CFR part 133, subpart C) and find their statutory origins in 15 U.S.C. 1124. Section 151.16 is changed to confirm the inapplicability of its detention notice requirements to those situations involving suspected piratical or confusingly similar merchandise. It should be noted that regulatory changes have recently been issued in a separate document (T.D. 98–21, 63 FR 11825, dated March 11, 1998), which clarify detention procedures with regard to suspected copyright and trademark violations.

Comment

The commenter states that the proposed rule does not assure that the importer is aware of the date that triggers the five-working day period for decision-making by the Customs Service. It is averred that the regulation should require that Customs provide notice to the importer or broker of the date of availability of the merchandise for examination so that the importer is aware of its rights and can exercise those rights without making *ad hoc* inquiries to the Customs Service. Additionally, the commenter suggests that the notice of detention should indicate the date on which the merchandise was presented for examination.

Customs Response

Customs agrees that the date the merchandise was presented for examination should appear on the notice of detention and § 151.16(c)(1) has been amended to provide for this. It is also Customs view that it would be an unnecessary burden to send an additional notification to the importer of the date that presentation actually occurred. When intensive examination of a shipment is to be undertaken, the importer or agent of the importer (generally the Customs broker) is apprised of the fact and is instructed to arrange to present the merchandise for examination. Once the importer or his agent has arranged for the examination, it would be wasteful of resources to require the Government to send an additional notice that the merchandise for which examination has been arranged was actually presented for examination on a date certain.

Comment

The commenter proposes that Customs should be required to issue a notice of detention when it fails to act to release the goods within the initial 5-working day period, but does not make a formal decision to detain the merchandise.

Customs Response

Section 151.16(b) states that merchandise that is not released within the 5-working day period shall be considered to be detained merchandise. As such, Customs is required to send a notice of detention on this merchandise. Section 151.16(c) is amended to make this clear.

Comment

The commenter suggests, in reference to proposed § 151.16(i), that Customs retain authority to approve any protest and release or seize the merchandise up to and after a summons is filed in the Court of International Trade. The commenter states that it would be counterproductive to require an importer to go to court for a favorable decision where Customs intends to act favorably but merely misses the 30-day deadline. The commenter notes that the legislative history to the statute recognizes the continuing authority of Customs to release the merchandise where a protest is ''deemed'' denied.

Customs Response

Customs agrees that if an action concerning a deemed denial of a protest with respect to a detention has not been commenced in the Court of International Trade, Customs has the authority to act favorably on the protest and release the merchandise; however, if an action is commenced, Customs is of the view that the matter is within the jurisdiction of the Court and release could only be ordered by the Court. Also, Customs is of the view that it has the authority officially to deny the protest in accordance with § 174.30 of the Customs Regulations.

Consequently, § 151.16 is changed by adding a new paragraph (h) to reflect Customs authority to grant protests that have been deemed denied and to release detained goods or to deny protests in accordance with § 174.30 of the Customs Regulations at any time prior to initiation of a court action pursuant to 28 U.S.C. 1581.

Comment

The commenter indicates that no sensitive import information should be released to a third party based upon ''suspicion'' or without first providing a reasonable opportunity for the importer to resolve the questions concerning the detention directly with Customs. The commenter states that if Customs adopts the subject proposed rule in concert with a second separate proposed rule (58 FR 44476, dated August 23, 1993) which involves the release of sensitive information to trademark owners where merchandise is detained under suspicion that it bears an infringing trademark or copyright, then the possibility will be created that information will be provided to third persons because merchandise was ''deemed'' detained or seized. The commenter indicates that the subject proposed rule must be modified to assure that the release of information only occurs where there is an affirmative decision by Customs that there is a violation and the importer has not directly resolved the issue with Customs.

Customs Response

In Customs view, the rule as proposed and as adopted here does not provide for the release of confidential or proprietary business information to any parties. Further, the commenter does not suggest how the rule is suspect with regard to the release of this sensitive information.

Merchandise will be detained when a question as to admissibility arises and further examination or testing is required. Indeed, the final rule is careful to exempt specifically from release any information on testing procedures or methodologies that are proprietary to holders of copyrights or patents

(§ 151.16(d)). Customs believes that this final rule does not serve to assist in the illegal dissemination of trade sensitive information in violation of any law or regulation.

It is noted that the other proposed rule referred to by the commenter, which was published in the **Federal Register** (58 FR 44476) on August 23, 1993, and did address certain disclosure matters, has recently been adopted as a final rule (T.D. 98–21, *supra*).

Conclusion

In view of the foregoing, and following careful consideration of the issues raised by the commenter and further review of the matter, Customs has concluded that the proposed amendments with the modifications discussed above should be adopted.

Additional Changes

In addition, Customs has determined to change § 151.16(c) to make clear that issuance of a notice of detention is not a final determination so as to permit the filing of a protest pursuant to 19 U.S.C. 1514(a)(4). Proposed § 151.16(e), redesignated as § 151.16(j) for editorial clarity, is revised regarding seizure and forfeiture to allow Customs to deny entry or allow exportation of detained merchandise where authorized by law, with the importer responsible for paying all expenses of exportation. Proposed paragraphs (f) and (g) of § 151.16, redesignated as paragraphs (e) and (f) in this document, respectively, are changed to remove any references that would have allowed the importer or interested party to extend the time Customs has to issue a final determination with respect to detained merchandise. Customs has determined that the importer may, without the necessity of asking for an extension of time, bring the merchandise into compliance thereby lifting the detention or file a protest based upon Customs failure to issue a final determination. In this latter regard, the term ''decision'' in proposed § 151.16(f), redesignated as § 151.16(e) is changed to ''determination'', for purposes of editorial consistency with redesignated § 151.16(f). Section 151.16(e) is further revised to provide that a final determination thereunder may be the subject of a protest.

In order to bring consistency to the regulations with regard to the disallowance of any extension of time which Customs has to issue a final determination to exclude merchandise, § 174.21(b), Customs Regulations (19 CFR 174.21(b)) is amended by removing the provision which allowed for delay in issuance of a decision on a protest relating to the deemed exclusion of merchandise (at the protestant's request) insofar as that provision of the regulations is inconsistent with the provisions of 19 U.S.C. 1499(c)(5)(B).

In order to clarify the time period in which a protestant has to commence a civil action in the Court of International Trade in response to a deemed denial of a protest, Customs has amended § 174.31 by adding a new paragraph (c) to indicate that a civil action must be filed within 180 days after the date that a protest is deemed denied under proposed § 151.16(h), which is redesignated as § 151.16(g). Customs has also added the phrase ''for purposes of 28 U.S.C. 1581'' to §§ 151.16(g) and 174.21(b) to further clarify this change.

Regulatory Flexibility Act and Executive Order 12866

This final rule document accurately reflects recent amendments to statutory law, enacted as part of the Mod Act. These amendments essentially constitute a codification of existing and longstanding Customs practice with regard to the examination and detention of imported merchandise. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this rule does not have a significant economic impact on a substantial number of small entities. Thus, the rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604. Nor does the rule result in a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0210. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is contained in § 151.16(d). This information is necessary and will be used to determine the admissibility of imported merchandise and to otherwise comply with the requirements of the Mod Act and protect the revenue. The likely respondents and/or recordkeepers are businesses or other for-profit institutions.

The estimated average annual burden associated with this collection is 2 hours per respondent or recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

List of Subjects

19 CFR Part 151

Customs duties and inspection, Examination, Sampling and testing, Imports, Laboratories, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 174

Administrative practice and procedure, Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, parts 151, 174, and 178, Customs Regulations (19 CFR parts 151, 174, and 178), are amended as set forth below.

PART 151—EXAMINATION, SAMPLING AND TESTING OF MERCHANDISE

1. The general authority citation for part 151, and the specific authority for subpart A, continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States), 1624. Subpart A also issued under 19 U.S.C. 1499. * * *

2. Part 151 is amended by adding a new § 151.16 to read as follows:

§ 151.16 Detention of merchandise.

(a) *Exemptions from applicability.* The provisions of this section are not applicable to detentions effected by Customs on behalf of other agencies of the U.S. Government in whom the determination of admissibility is vested and to detentions arising from possibly piratical copies (see part 133, subpart E, of this chapter) or import of goods bearing marks which are confusingly similar to recorded trademarks or restricted gray market merchandise (see part 133, subpart C, of this chapter.)

(b) *Decision to detain or release.* Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented

for Customs examination, Customs shall decide whether to release or detain merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise. For purposes of this section, merchandise shall be considered to be presented for Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container or instrument of international traffic in which the merchandise to be examined is contained will not be considered to be presentation of merchandise for Customs examination for purposes of this section. Except when merchandise is examined at the public stores, the importer shall pay all costs relating to the preparation and transportation of merchandise for examination.

(c) *Notice of detention.* If a decision to detain merchandise is made, or the merchandise is not released within the 5-day period, Customs shall issue a notice to the importer or other party having an interest in such merchandise no later than 5 days (excluding weekends and holidays) after such decision or failure to release (see paragraph (b) of this section). Issuance of a notice of detention is not to be construed as a final determination as to admissibility of the merchandise. The notice shall be prepared by the Customs officer detaining the merchandise and shall advise the importer or other interested party of the:

(1) Initiation of the detention, including the date the merchandise was presented for examination;

(2) Specific reason for the detention;

(3) Anticipated length of the detention;

(4) Nature of the tests or inquiries to be conducted; and

(5) Nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

(d) *Providing testing results.* Upon written request by the importer or other party having an interest in detained merchandise, Customs shall provide copies of the results of any testing conducted on the merchandise together with a description of the testing procedures and methodologies used (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by Customs for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

(e) *Final determinations.* A final determination with respect to admissibility of detained merchandise will be made within 30 days from the date the merchandise is presented for Customs examination. Such a determination may be the subject of a protest.

(f) *Effect of failure to make a determination.* The failure by Customs to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for Customs examination, or such longer period if specifically authorized by law, shall be treated as a decision by Customs to exclude the merchandise for purposes of section 514(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1514(a)(4)). Such a deemed exclusion may be the subject of a protest.

(g) *Failure to decide protest.* If a protest which is filed as a result of a final determination or a deemed exclusion of detained merchandise is not allowed or denied in whole or in part before the 30th day after the day on which the protest was filed, it shall be treated as having been denied on such 30th day for purposes of 28 U.S.C. 1581.

(h) *Decision before commencement of court action.* Customs may at any time after a deemed denial of a protest as provided in paragraph (g) of this section, but before commencement of a court action as provided in paragraph (i) of this section, grant a protest and permit release of detained merchandise, or deny a protest in accordance with § 174.30 of this chapter.

(i) *Commencement of court action; burden of proof and decisions of the court.* Once a court action respecting a detention is commenced, unless Customs establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

(j) *Seizure and forfeiture; denial of entry or exportation.* If otherwise provided by law, detained merchandise may be seized and forfeited. In lieu of seizure and forfeiture, where authorized by law, Customs may deny entry and permit the merchandise to be exported, with the importer responsible for paying all expenses of exportation.

PART 174—PROTESTS

1. The general authority citation for part 174 continues to read as follows, and a specific sectional authority citation for § 174.21 is added to read as follows:

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

Section 174.21 also issued under 19 U.S.C. 1499.

2. Section 174.21 is amended by revising paragraph (b) to read as follows:

§ 174.21 Time for review of protests.

* * * * *

(b) *Protests relating to exclusion of merchandise.* If the protest relates to an administrative action involving exclusion of merchandise from entry or delivery under any provision of the Customs laws, the port director shall review and act on a protest filed in accordance with section 514(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1514(a)(4)), within 30 days from the date the protest was filed. Any protest filed pursuant to this paragraph shall clearly so state on its face. Any protest filed pursuant to this paragraph which is not allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day for purposes of 28 U.S.C. 1581.

3. Section 174.31 is amended by removing the word ''or'' following the comma at the end of paragraph (a); by removing the period at the end of paragraph (b), and adding a comma in its place, followed by the word ''or'; and by adding a new paragraph (c) thereafter to read as follows:

§ 174.31 Judicial review of denial of protest.

* * * * *

(c) The date that a protest is deemed denied in accordance with § 174.21(b), or § 151.16(g) of this chapter.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
*	*	*
151.16(d)) ..	Detention of merchandise.	1515–0210

19 CFR Section	Description	OMB control No.
* * * * *		

Commissioner of Customs,

Raymond W. Kelly.

Approved: July 8, 1999.

Deputy Assistant Secretary of the Treasury

John P. Simpson

[FR Doc. 99–20606 Filed 8–10–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4428–N–02]

RIN 2577–AB91

Section 8 Tenant-Based Assistance; Statutory Merger of Section 8 Certificate and Voucher Programs: Change in Effective Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Interim rule; change in effective date.

SUMMARY: This document advises the public that the interim rule published on May 14, 1999, which provides for the complete merger of HUD's Section 8 tenant-based Certificate and Voucher programs into a new Housing Choice Voucher Program, will take effect on October 1, 1999.

DATES: The effective date of the rule published at 64 FR 26632 (May 14, 1999) is delayed until October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477, extension 4069 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On May 14, 1999 (64 FR 26632), HUD published an interim rule to implement most of the Section 8 tenant-based program provisions contained in the Quality Housing and Work Responsibility Act of 1998 (Title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461) (the ''1998 Act''). Section 502 of the 1998 Act states that a purpose of the legislation is ''consolidating the voucher and certificate programs for rental assistance under Section 8 of the United States Housing Act of 1937 (the ''USH Act'' (42 U.S.C. 1437f)) into a single market-driven program that will assist in making tenant-based rental assistance under such section more successful at helping low-income families obtain affordable housing and will increase housing choice for low-income families.'' Accordingly, the May 14, 1999 interim rule provides for the complete merger of the Section 8 tenant-based certificate and voucher programs (section 545 of the 1998 Act, amending 42 U.S.C. 1437f(o)) into the new Housing Choice Voucher Program.

The May 14, 1999 interim rule provides for the rule to take effect on August 12, 1999. HUD has decided to delay the effective date until October 1, 1999, to allow public housing agencies (PHAs) more time to prepare for implementation of the Housing Choice Voucher Program and to allow PHAs to revise their computer software to accommodate the new subsidy formula.

The purpose of this document is to give notice that the effective date of the May 14, 1999 interim rule has been changed to October 1, 1999. Any reference in the regulatory text to an effective date or merger date earlier than October 1, 1999 will be amended at the final rule stage.

Accordingly, HUD's interim rule published on May 14, 1999 at 64 FR 26632 (Docket No. FR–4428–I–01, FR Doc. 99–12082) will take effect on October 1, 1999.

Dated: August 6, 1999.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8833]

RIN 1545–AW08

Consolidated Returns—Consolidated Overall Foreign Losses and Separate Limitation Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final consolidated return regulations relating to the treatment of overall foreign losses and separate limitation losses in the computation of the foreign tax credit limitation. The regulations replace existing guidance with respect to overall foreign losses and provide guidance with respect to separate limitation losses. These regulations affect consolidated groups that compute the foreign tax credit limitation or that dispose of property used in a foreign trade or business.

DATES: *Effective Date:* These regulations are effective August 11, 1999.

Applicability Dates: For dates of applicability of these regulations, see §§ 1.1502–9A(a)(1) and (b)(1) and 1.1502–9(e).

FOR FURTHER INFORMATION CONTACT: Trina Dang of the Office of Associate Chief Counsel (International), (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under the control number 1545–1634. Responses to this collection of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

The estimated annual burden per respondent is 1.5 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to a collection of information must be retained so long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On December 29, 1998, the IRS and Treasury published in the **Federal Register** (REG–106902–98, 63 FR 71589) a notice of proposed rulemaking modifying the rules relating to the