

Register Document 98-22170) is corrected as follows:

On page 44128, in column 2, in the fourth line of the heading, by correcting "Airspace Docket No. 97-ACE-21" to read "Airspace Docket No. 98-ACE-21".

Issued in Kansas City, MO on September 2, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98-25745 Filed 9-24-98; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 18, 122, 123, 127, 148, 178 and 192

[T.D. 98-74]

RIN 1515-AB99

Lay Order Period; General Order; Penalties

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, proposed amendments to the Customs Regulations regarding the obligation of the owner, master, pilot, operator, or agent of an arriving carrier to provide notice to Customs and to a bonded warehouse of the presence of merchandise or baggage that has remained at the place of arrival or unloading beyond the time period provided by regulation without entry having been completed. The document requires one of the arriving carrier's obligated parties, or any subsequent in-bond carrier or party who accepts custody under a Customs-authorized permit to transfer, to provide notice of the unentered merchandise or baggage to a bonded warehouse. The notice to the bonded warehouse proprietor initiates his obligation to arrange for transportation and storage of the unentered merchandise or baggage at the risk and expense of the consignee. The document also amends the Customs Regulations to provide for penalties or liquidated damages against the owner or master of any conveyance, or agent thereof, for failure to provide the required notice to Customs or to a bonded warehouse proprietor. The document also provides for the assessment of liquidated damages against any subsequent in-bond carrier or other party who accepts custody of the merchandise or baggage under a Customs-authorized permit to transfer

and who fails to notify Customs and a bonded warehouse of the presence of such unentered merchandise or baggage and also against the warehouse operator who fails to take required possession of the merchandise or baggage. These regulatory changes reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. In addition, this document makes certain conforming changes to the Customs Regulations in order to reflect a number of other statutory amendments and repeals enacted by the Customs Modernization provisions and in order to reflect the recent recodification and reenactment of title 49, United States Code.

EFFECTIVE DATE: October 26, 1998.

FOR FURTHER INFORMATION CONTACT: For legal matters: Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202) 927-2344. For operational matters: Steven T. Soggin, Office of Field Operations, (202) 927-0765.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of enactment of the North American Free Trade Agreement Implementation Act, Public Law 103-182, 107 Stat. 2057. Title VI of that Act sets forth Customs Modernization provisions that are popularly referred to as the Mod Act.

Section 656 of the Mod Act amended section 448(a) of the Tariff Act of 1930 (19 U.S.C. 1448(a)) to provide, *inter alia*, that: (1) the owner or master of any vessel or vehicle, or the agent thereof, shall notify Customs of any merchandise or baggage unladen for which entry is not made within the time prescribed by law or regulation; (2) the Secretary of the Treasury shall by regulation prescribe administrative penalties not to exceed \$1,000 for each bill of lading for which notice is not given; (3) any such administrative penalty shall be subject to mitigation and remission under section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618); and (4) such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 490 of the Tariff Act of 1930, as amended (19 U.S.C. 1490). On July 31, 1997, Customs published a notice of proposed rulemaking in the **Federal Register** (62 FR 40992) proposing to revise paragraph (a) of § 4.37 of the Customs Regulations

(19 CFR 4.37) and add new § 122.50 and § 123.10 (19 CFR 122.50 and 19 CFR 123.10) to implement these Mod Act statutory changes for air, land and sea carriers. Under the proposed regulatory text, importing carriers were to be afforded a five-working-day lay order period after the conclusion of an initial five-working-day period after unloading or arrival of merchandise to notify Customs, in writing or by any Customs-authorized electronic data interchange system, of the presence of the unentered merchandise or baggage. Penalties could be imposed if, after the five-day lay order period, Customs had not been notified of the presence of the unentered merchandise.

Section 658 of the Mod Act amended section 490 of the Tariff Act of 1930 (19 U.S.C. 1490) to provide that: (1) except in the case of U.S. government importations, the carrier shall notify the bonded warehouse of any imported merchandise for which entry is not made within the time prescribed by law or regulation, or for which entry is incomplete because of failure to pay estimated duties, fees or interest, or for which entry cannot be made for want of proper documents or other cause, or which Customs believes is not correctly and legally invoiced; and (2) after such notification from the carrier, the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. The July 31, 1997, notice of proposed rulemaking also proposed to revise paragraph (b) of § 4.37 of the Customs Regulations (19 CFR 4.37) and to include in new §§ 122.50 and 123.10 provisions to implement these Mod Act statutory changes. The proposed regulatory text would have required the carrier to provide the appropriate notification, in writing or by any Customs-authorized electronic data interchange system, and also would have required that the bonded warehouse operator take possession of the merchandise within five working days after receipt of such notification or else be liable for liquidated damages under the terms and conditions of his custodial bond. The proposed regulatory changes also included a cross-reference to § 113.63(a)(1) of the Customs Regulations (19 CFR 113.63(a)(1)) so as to reflect the existing basis for such custodial bond liability. In addition, the document proposed to amend paragraph (d) of § 4.37 by replacing the word "owner" with "consignee" to align on the corresponding statutory language.

Section 611 of the Mod Act amended section 436 of the Tariff Act of 1930 (19 U.S.C. 1436), *inter alia*, by including

therein a reference to 46 U.S.C. App. 91, with the result that penalties for violations of outbound vessel manifest filing requirements would be incurred under the provisions of 19 U.S.C. 1436 rather than under 46 U.S.C. App. 91. The July 31, 1997, document also proposed to amend § 192.4 of the Customs Regulations (19 CFR 192.4) to reflect this change.

Section 690 of the Mod Act provided for the repeal of a number of statutory provisions, some of which are still referred to in Parts 4 and 122 of the Customs Regulations (19 CFR Parts 4 and 122). The July 31, 1997, document also proposed to correct those outdated references by removing them or replacing them with references to their successor statutory provisions.

Finally, Public Law 103-272, 108 Stat. 745, dated July 5, 1994, reenacted and recodified the provisions of title 49, United States Code. Section 2(b) thereof reenacted as a new section (19 U.S.C. 1644a) certain title 49 provisions dealing with the application, to civil aircraft, of the laws and regulations regarding the entry and clearance of vessels. The July 31, 1997, document proposed to amend Parts 122, 123 and 148 of the Customs Regulations (19 CFR Parts 122, 123 and 148) by updating the "49 U.S.C. App." statutory references therein to reflect the changes made by section 2(b) or other provisions of Public Law 103-272.

The July 31, 1997, notice of proposed rulemaking made provision for the submission of public comments on the proposed regulatory changes for consideration before adoption of those changes as a final rule, and the prescribed public comment period closed on September 29, 1997. A total of 56 responses to this solicitation of comments were received by Customs. The comments submitted are summarized and responded to below.

Discussion of Comments

Comment: Forty-one commenters suggested that the proposed five-day period after landing of merchandise, during which the carrier was required to notify Customs of unentered merchandise, was too short and did not reflect current commercial reality. One of the 41 commenters opposed to the five-day time period indicated that, under current procedures, approximately 3 percent of arriving merchandise remains unentered and qualifies for general order. That same commenter indicated that, under the proposed rule, some 60 percent of cargo would qualify for general order. If that were to be the case, general order space would be overtaxed, unnecessary extra

paperwork would ensue, and damage to cargo moving unnecessarily to general order would occur.

One commenter suggested that while 5 working days was too short, 10 working days recognized commercial realities and would be sufficient time to allow for unentered merchandise to remain in the custody of the arriving carrier.

Customs response: Customs notes that many of the comments opposed to the proposed five-day period indicated that the current regulations provide for a 30-day lay order period, and those commenters objected that the proposed rule involved a drastic reduction in that regulation-mandated lay order period. However, these commenters are operating under a misconception that the current regulations provide for a 30-day lay order period. They do not. The current regulation addressing lay order (19 CFR 4.37) requires that merchandise remaining on the wharf or pier after the fifth working day after unloading shall be deposited in the public stores or a general order warehouse, except that, at the written request of the owner, agent, or master of the vessel, the port director may issue a lay order allowing such merchandise or baggage to remain on the wharf or pier properly protected for a further period which shall be specified in the order. As a matter of practice, many port directors allow for a lay order period of 30 days, but such practice is discretionary with the port director and is not required by regulation.

After review of these comments, Customs agrees that there should be an increase in the proposed time period during which unentered merchandise may remain at the place of unloading before notification to Customs of the presence of such merchandise so that it can be moved into general order. In order to establish uniformity and in consideration of these comments, the final regulatory texts set forth below provide for 15 calendar days, rather than the proposed five working days, during which unentered merchandise may remain at the place of unloading without notification to Customs.

Accordingly, Customs must be notified of the presence of merchandise that remains unentered at the wharf, pier, or place of unloading after the fifteenth calendar day after unloading. In addition, the headings of § 4.37 and of proposed new §§ 122.50 and 123.10 have been changed to read "[g]eneral order" as there will no longer be a lay order period for unentered merchandise beyond the original 15-calendar-day time period after its unloading. The final regulatory texts refer to calendar days for ease of use of current electronic

systems. Additionally, port directors will not have discretion to extend the time period during which unentered merchandise may remain on the wharf, pier or place of unloading.

Comment: Three commenters stated that the proposed regulatory provision for penalties for the carrier's failure to notify Customs of landed cargo not covered by a permit for its release is unnecessary and should be removed.

Customs response: Customs does not agree. As previously noted, section 656 of the Mod Act amended section 448(a) of the Tariff Act of 1930 (19 U.S.C. 1448(a)) to provide that the owner or master of any vessel or vehicle, or the agent thereof, shall notify Customs of any merchandise or baggage unladen for which entry is not made within the time prescribed by law or regulation. Section 656 also provides that the Secretary of the Treasury shall by regulation prescribe administrative penalties not to exceed \$1,000 for each bill of lading for which notice is not given. The language of the statute is clear. The proposed regulatory texts merely reflected that which is required by statute.

Comment: Two commenters objected to the wording of the proposed regulations that stated that Customs "may" issue penalties for failure to notify. The commenters argued that the language of the statute was mandatory.

Customs response: Customs disagrees. The language of the statute is mandatory in that the Secretary "shall" promulgate regulations. Assessment of the monetary penalties remains a matter of enforcement discretion, and the proposed regulatory language therefore should not be changed from the discretionary "may" to the mandatory "shall."

As noted above, in addition to the notification to Customs by the master, owner, or agent thereof of the presence of unentered cargo pursuant to 19 U.S.C. 1448(a), the carrier, pursuant to 19 U.S.C. 1490, except in the case of U.S. government importations, is required to notify the bonded warehouse of any imported merchandise for which entry is not made within the time prescribed by law or regulation, or for which entry is incomplete because of failure to pay estimated duties, fees, or interest, or for which entry cannot be made for want of proper documents or other cause, or which Customs believes is not correctly and legally invoiced; and after such notification from the importing carrier, the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. Thus, the regulatory proposals in the July 31, 1997, document placed an obligation on the

carrier to notify Customs of the presence of unentered merchandise within five working days after the initial five-day period; they also placed an additional obligation on the carrier to notify the bonded warehouse within a third consecutive five-day period. However, the proposed regulations were confusing as to the time periods in which the carrier or its master or owner or agent was required to act. Accordingly, the final regulatory texts as set forth below have been simplified to require the owner or master of any vessel or agent thereof, the owner or pilot of any aircraft or agent thereof, or the owner or operator of a vehicle or agent thereof to notify Customs and a bonded warehouse of all merchandise that remains unentered after a 15-calendar-day period after its landing. This notification must be provided within 20 calendar days after landing of the merchandise. Although not specifically stated in the regulatory texts, it should be understood that if the 20th calendar day is a Saturday, Sunday, or holiday, the deadline for notice automatically will be extended to the next working day after that 20th calendar day. As provided in the statute and in the proposed regulatory texts, the final texts set forth below state that a failure to provide timely notification to Customs may result in the assessment of monetary penalties of up to \$1,000 per bill of lading; however, the final regulatory texts have been modified to allow for penalties equal to the value of the merchandise on the bill of lading when that value is less than \$1,000.

Comment: One commenter raised a question as to the obligation to notify Customs of unentered merchandise or baggage that travels under an immediate transportation (IT) entry to a port of destination or moves within a port under a permit to transfer to a bonded facility such as a container station and remains unreleased or unentered after arrival at the port of destination or bonded facility.

Customs response: Customs agrees that the proposed regulations did not specifically reflect the obligation of a party to notify Customs and a Customs-authorized bonded warehouse of such merchandise or baggage when it remained unreleased and unentered, even though there was nothing in the statute or proposed texts to distinguish the merchandise or baggage described by the commenter from any other merchandise or baggage that was landed from the arriving carrier and remained unreleased and unentered. In order to clarify this point, a new paragraph (b) text has been included in § 4.37 and in new §§ 122.50 and 123.10 to specify the

obligation to notify Customs and a bonded warehouse of the party who initiates a bonded movement or who receipts for merchandise or baggage under a permit to transfer when the merchandise or baggage remains unentered and becomes eligible for general order. If the party fails to notify Customs or a bonded warehouse of the unentered or unreleased merchandise or baggage within the applicable 20-day period, he may be liable for liquidated damages under the terms and conditions of his custodial bond. See 19 CFR 113.63(c)(4). It should be noted that a claim for liquidated damages arising from the failure to provide this notification is not considered to constitute a claim involving merchandise and therefore the liquidated damages must be assessed at \$1,000 per violation.

Comment: Several commenters averred that while the proposed paragraph (b) text of § 4.37 and of new §§ 122.50 and 123.10 indicated that Customs may impose a penalty against the owner, master, or agent for the failure to notify Customs of the presence of the unentered merchandise, no comparable penalty or liquidated damages action are stated with regard to the failure to provide notification to the bonded warehouse. The commenters suggested that penalties or liquidated damages against the carrier for the failure to notify the bonded warehouse should be stated.

Customs response: Customs agrees that the carrier should be subject to claims for liquidated damages for failure to provide notification to the bonded warehouse. The underlying statute (19 U.S.C. 1490) states that a carrier "shall notify" the bonded warehouse of such merchandise or baggage. Inasmuch as the carrier retains such obligation, it is the view of Customs that claims for liquidated damages in such circumstances are consistent with the basic intent and requirement of the statute. In this regard, it should be noted that the carrier remains responsible for the loss or theft of any such unentered merchandise or baggage until it is properly transferred from the carrier's control. Moreover, Customs notes that, as in the case of the proposed paragraph (a) texts discussed above, the proposed paragraph (b) texts did not address the obligation of a custodian of unentered merchandise or baggage to provide notification when the merchandise or baggage travels under an IT entry or moves under a permit to transfer. Accordingly, the proposed paragraph (b) texts (redesignated below as paragraph (c) in the texts of §§ 4.37, 122.50 and 123.10 as a consequence of the addition

of new paragraph (b)) have been modified to place the obligation to notify the bonded warehouse on the carrier or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry. For purposes of clarification, those texts have also been modified to indicate that the claim for liquidated damages arising for failure to notify the bonded warehouse shall be assessed at \$1,000 per bill of lading for which notification is not given.

Comment: Several commenters indicated that no provision exists to allow for the warehouse proprietor to refuse cargo. One of these commenters pointed out that there may be instances where local ordinances would prohibit a warehouse proprietor from taking possession of certain classes of merchandise, such as hazardous merchandise. That same commenter indicated that there must be a provision in the regulations to allow the proprietor to have a say over what cargo may be accepted.

Customs response: Customs agrees that there may be situations where the general order warehouse may be incapable of storing certain types of merchandise that require specialized storage facilities. Customs also acknowledges that no general order warehouse facilities exist at certain ports. Accordingly, new paragraph (e) texts have been added to § 4.37 and have been included in new §§ 122.50 and 123.10 as set forth below to allow the port director, in ports where there is no bonded warehouse to accept general order merchandise or if merchandise requires specialized storage facilities which are unavailable in a bonded facility, to direct the storage of merchandise by the carrier or by any other appropriate means. However, Customs does not agree with the suggestion that the regulations be amended to allow the bonded warehouse operator to decline to accept merchandise he is capable of storing. The underlying general order statute does not allow for such discretion on the part of the general order warehouse operator.

Comment: Two commenters inquired as to whether carriers can delay delivery of freight to bonded warehouses if freight charges have not been satisfied.

Customs response: Customs notes that the regulations do not authorize such delay. The current applicable regulation (19 CFR 127.31) provides for the payment of liens for freight from the proceeds of sale of the unentered merchandise.

Comment: One commenter indicated that a bonded warehouse operator should not be subject to liquidated damages for untimely taking possession of such merchandise unless he has given consent to handle the merchandise.

Customs response: Customs disagrees. The underlying statutory authority does not mention that bonded warehouse operators must consent to the acceptance of any merchandise. Customs is unwilling to impose such a condition by regulation.

Additional Changes to the Regulations

In addition to, or as a consequence of, the changes mentioned above in the discussion of the public comments, the final regulatory text amendments set forth below reflect the following changes that were not included in the July 31, 1997, proposals.

1. Section 4.37 is set forth as an entirely revised section in order to accommodate the changes discussed above as well as the following further changes:

a. The texts of present paragraphs (e) and (f) have been omitted from the revised section because they are not consistent with the current statutory responsibilities as reflected elsewhere in the section text;

b. The text of the last sentence of proposed paragraph (b) is set forth separately as a new paragraph (d) in the revised section text;

c. The text of present paragraph (c) is designated as paragraph (f) in the revised section and the text of the paragraph has been modified to be more consistent with the language of the underlying statutory authority (19 U.S.C. 1457); and

d. The text of present paragraph (d) is designated as paragraph (g) in the revised section and the text of the paragraph has been modified by removing the reference to the public stores.

2. The organizational and other changes described above in the case of revised § 4.37 are also reflected in new §§ 122.50 and 123.10 except that the two new sections have no counterpart to paragraph (f) of revised § 4.37. Thus, paragraphs (a) through (f) of new §§ 122.50 and 123.10 correspond to paragraphs (a) through (e) and (g) of revised § 4.37.

3. In Part 18 of the regulations (19 CFR Part 18): the reference to a lay order period has been removed from the first sentence of paragraph (a)(1) of § 18.2; paragraph (d) of § 18.12 is revised in order to conform to the new requirements relating to the arrival of IT entry merchandise at the port of

destination; paragraph (e) of § 18.12 is removed because it is superseded by the new general order regulatory provisions; and, in § 18.25, the cross-reference to the regulatory provision covering the import bond is corrected to refer to the custodial bond provision.

4. Section 659 of the Mod Act amended section 491 of the Tariff Act of 1930 (19 U.S.C. 1491) to provide that any entered or unentered merchandise which shall remain in a bonded warehouse pursuant to 19 U.S.C. 1490 for 6 months (rather than 1 year) from the date of importation thereof, without all estimated duties having been paid, shall be considered unclaimed and abandoned to the Government and shall be appraised and sold by Customs at public auction or retained for official use by a government agency. This document modifies the provisions of 19 CFR 18.11(a), 18.12(a), 127.2, 127.4, 127.11 and 127.28(d) to reflect the 6-month period set forth in the statute.

5. Finally, in §§ 122.117(b)(1) and 122.120(d)(1), the references to lay order are replaced by references to general order in order to reflect the change in terminology discussed above in connection with the comments on § 4.37 and new §§ 122.50 and 123.10.

Conclusion

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

The Regulatory Flexibility Act and Executive Order 12866

For the reasons set forth above and because the amendments conform the Customs Regulations to statutory requirements that are already in effect, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Further, this document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final rule was not proposed in the preceding notice of proposed rulemaking. The collection of information has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507(j) and assigned control number 1515-0220. 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.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503, with a copy to the U.S. Customs Service, Information Services Group, Office of Finance, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Any such comments should be submitted not later than 60 days after the date of publication of this document in the **Federal Register**. Comments are specifically requested concerning: (a) whether the collection of information is necessary for the proper performance of the functions of the U.S. Customs Service, including whether the information will have practical utility; (b) the accuracy of the estimated burden associated with the collection of information (see below); (c) how to enhance the quality, utility, and clarity of the information to be collected; (d) how to minimize the burden of complying with the collection of information, including the application of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this regulation is in §§ 4.37, 122.50 and 123.10. This information is required to ensure that merchandise and baggage imported into the United States is properly entered or otherwise accounted for in accordance with statutory requirements. This information will be used by Customs to determine whether private parties have carried out their statutory responsibilities, and to assess monetary penalties or liquidated damage claims for failure to meet those responsibilities, and this information also will be used by private parties in order to enable them to carry out their statutory responsibilities and thus avoid a liability for monetary penalties or

liquidated damages for failing to do so. The collection of information is mandatory. The likely respondents and/or recordkeepers are individuals and business organizations, including importers and carriers.

Estimated total annual reporting and/or recordkeeping burden: 7,500 hours.

Estimated average annual burden per respondent/recordkeeper: .25 hours.

Estimated number of respondents and/or recordkeepers: 30,000.

Estimated annual frequency of responses: 1.

List of Subjects

19 CFR Part 4

Cargo vessels, Common carriers, Customs duties and inspection, Entry, Exports, Fishing vessels, Imports, Maritime carriers, Passenger Vessels, Penalties, Reporting and recordkeeping requirements, Shipping, Vessels, Yachts.

19 CFR Part 18

Bonded transportation, Bonds, Common carriers, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements.

19 CFR Part 122

Air carriers, Aircraft, Airports, Air transportation, Baggage, Bonds, Customs duties and inspection, Foreign commerce and trade statistics, Freight, Imports, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 123

Aircraft, Canada, Customs duties and inspection, Imports, International boundaries, International traffic, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Trade agreements, Vehicles, Vessels.

19 CFR Part 127

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

19 CFR Part 148

Aliens, Baggage, Crewmembers, Customs duties and inspection, Declarations, Foreign officials, Government employees, International organizations, Privileges and Immunities, Reporting and recordkeeping requirements.

19 CFR Part 178

Administrative practice and procedure, Reporting and recordkeeping requirements.

19 CFR Part 192

Aircraft, Customs duties and inspection, Export Control, Penalties,

Reporting and recordkeeping requirements, Seizures and forfeiture, Vehicles, Vessels.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, Parts 4, 18, 122, 123, 127, 148, 178 and 192 of the Customs Regulations (19 CFR Parts 4, 18, 122, 123, 127, 148, 178 and 192) are amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for Part 4 and the specific authority citations for §§ 4.7a, 4.36 and 4.37 continue to read, and the specific authority citations for §§ 4.9 and 4.68 are revised to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.
* * * * *

Section 4.7a also issued under 19 U.S.C. 1498, 1584;

* * * * *

Section 4.9 also issued under 42 U.S.C. 269;

* * * * *

Section 4.36 also issued under 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. App. 100;

Section 4.37 also issued under 19 U.S.C. 1448, 1457, 1490;

* * * * *

Section 4.68 also issued under 46 U.S.C. App. 817d, 817e;

* * * * *

2. Part 4 is amended by removing and reserving footnotes 17, 24, 71, and 74 in §§ 4.7a(a), 4.12(a)(3), 4.36(c) and 4.37(d).

§ 4.6 [Amended]

3. In § 4.6, paragraph (c) is amended by removing the reference "19 U.S.C. 1585" and adding, in its place, the reference "19 U.S.C. 1436".

§ 4.7a [Amended]

4. In § 4.7a, the first sentence of paragraph (a) is amended by removing the words ", required by section 432, Tariff Act of 1930, to be separately specified".

§ 4.36 [Amended]

5. In § 4.36, paragraph (c) is amended by removing the words "a cargo within the purview of the proviso to the first subdivision of section 431, Tariff Act of 1930" and adding, in their place, the word "cargo".

6. The heading and text of § 4.37 are revised to read as follows:

§ 4.37 General order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the

fifteenth calendar day after landing. No later than 20 calendar days after landing, the master or owner of the vessel or the agent thereof shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the master or owner of the vessel or the agent thereof. If the value of the merchandise on the bill is less than \$1,000, the penalty shall be equal to the value of such merchandise.

(b) Any merchandise or baggage that is taken into custody from an arriving carrier by any party under a Customs-authorized permit to transfer or in-bond entry may remain in the custody of that party for 15 calendar days after receipt under such permit to transfer or 15 calendar days after arrival at the port of destination. No later than 20 calendar days after receipt under the permit to transfer or 20 calendar days after arrival under bond at the port of destination, the party shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. If the party fails to notify Customs of the unentered merchandise or baggage in the allotted time, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(c)(4) of this chapter).

(c) In addition to the notification to Customs required under paragraphs (a) and (b) of this section, the carrier (or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry) shall provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system and shall be provided within the applicable 20-day period specified in paragraph (a) or (b) of this section. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the carrier,

master, or person in charge of the importing vessel or the agent thereof or party to whom the merchandise has been transferred under a Customs authorized permit to transfer or in-bond entry, until it is properly transferred from his control in accordance with this paragraph. If the party to whom custody of the unentered merchandise or baggage has been transferred by a Customs-authorized permit to transfer or in-bond entry fails to notify a Customs-approved bonded warehouse of such merchandise or baggage within the applicable 20-calendar-day period, he may be liable for the payment of liquidated damages of \$1,000 per bill of lading under the terms and conditions of his international carrier or custodial bond (see §§ 113.63(b), 113.63(c) and 113.64(b) of this chapter).

(d) If the bonded warehouse operator fails to take possession of unentered and unreleased merchandise or baggage within five calendar days after receipt of notification of the presence of such merchandise or baggage under this section, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

(e) In ports where there is no bonded warehouse authorized to accept general order merchandise or if merchandise requires specialized storage facilities which are unavailable in a bonded facility, the port director, after having received notice of the presence of unentered merchandise or baggage in accordance with the provisions of this section, shall direct the storage of the merchandise by the carrier or by any other appropriate means.

(f) Whenever merchandise remains on board any vessel from a foreign port more than 25 days after the date on which report of arrival of such vessel was made, the port director, as prescribed in section 457, Tariff Act of 1930, as amended (19 U.S.C. 1457), may take possession of such merchandise and cause it to be unladen at the expense and risk of the owners of the merchandise. Any merchandise so unladen shall be sent forthwith by the port director to a general order warehouse and stored at the risk and expense of the owners of the merchandise.

(g) Merchandise taken into the custody of the port director pursuant to section 490(b), Tariff Act of 1930, as amended (19 U.S.C. 1490(b)), shall be sent to a general order warehouse after 1 day after the day the vessel was entered, to be held there at the risk and expense of the consignee.

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority citation for Part 18 and the specific authority citation for §§ 18.11 and 18.12 are revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623.

* * * * *
Section 18.11 also issued under 19 U.S.C. 1484;

Section 18.12 also issued under 19 U.S.C. 1448, 1484, 1490;

* * * * *

§ 18.2 [Amended]

2. In § 18.2(a)(1), the first sentence is amended by removing the words “any lay order period and extension thereof have expired and”.

§ 18.11 [Amended]

3. Section 18.11(a) is amended by removing the words “1 year” and adding, in their place, the words “6 months”.

4. In § 18.12(a), the first and second sentences are amended by removing the words “1 year has” and adding, in their place, the words “6 months have”.

5. Section 18.12(d) is revised to read as follows:

§ 18.12 Entry at port of destination.

* * * * *

(d) All merchandise included in an immediate transportation without appraisal entry (including carnets) not entered within 15 calendar days after delivery at the port of destination shall be disposed of in accordance with the applicable procedures in § 4.37 or § 122.50 or § 123.10 of this chapter.

* * * * *

6. Section 18.12(e) is removed.

§ 18.25 [Amended]

7. Section 18.25(b) is amended by removing the reference “§ 113.62” and adding, in its place, the reference “§ 113.63”.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

§ 122.2 [Amended]

2. Section 122.2 is amended by removing the reference “49 U.S.C. App. 1509(c)” and adding, in its place, the reference “19 U.S.C. 1644 and 1644a”.

§ 122.49 [Amended]

3. Section 122.49(f) is amended by removing the words “sections 440 (concerning post entry) and 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1440, 1584), apply” and adding, in their place, the words “section 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1584), applies”.

4. In Subpart E, § 122.50 is added to read as follows:

§ 122.50 General order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the fifteenth calendar day after landing. No later than 20 calendar days after landing, the pilot or owner of the aircraft or the agent thereof shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the pilot or owner of the aircraft or the agent thereof. If the value of the merchandise on the bill is less than \$1,000, the penalty shall be equal to the value of such merchandise.

(b) Any merchandise or baggage that is taken into custody from an arriving carrier by any party under a Customs-authorized permit to transfer or in-bond entry may remain in the custody of that party for 15 calendar days after receipt under such permit to transfer or 15 calendar days after arrival at the port of destination. No later than 20 calendar days after receipt under the permit to transfer or 20 calendar days after arrival under bond at the port of destination, the party shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. If the party fails to notify Customs of the unentered merchandise or baggage in the allotted time, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(c)(4) of this chapter).

(c) In addition to the notification to Customs required under paragraphs (a) and (b) of this section, the carrier (or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry) shall

provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system and shall be provided within the applicable 20-day period specified in paragraph (a) or (b) of this section. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the carrier, pilot, or person in charge of the importing aircraft, or the agent thereof, or party to whom the merchandise has been transferred under a Customs authorized permit to transfer or in-bond entry, until it is properly transferred from his control in accordance with this paragraph. If the party to whom custody of the unentered merchandise or baggage has been transferred by a Customs-authorized permit to transfer or in-bond entry fails to notify a Customs-approved bonded warehouse of such merchandise or baggage within the applicable 20-calendar-day period, he may be liable for the payment of liquidated damages of \$1,000 per bill of lading under the terms and conditions of his international carrier or custodial bond (see §§ 113.63(b), 113.63(c) and 113.64(b) of this chapter).

(d) If the bonded warehouse operator fails to take possession of unentered and unreleased merchandise or baggage within five calendar days after receipt of notification of the presence of such merchandise or baggage under this section, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

(e) In ports where there is no bonded warehouse authorized to accept general order merchandise, or if merchandise requires specialized storage facilities that are unavailable in a bonded facility, the port director, after having received notice of the presence of unentered merchandise or baggage in accordance with the provisions of this section, shall direct the storage of the merchandise by the carrier or by any other appropriate means.

(f) Merchandise taken into the custody of the port director pursuant to section 490(b), Tariff Act of 1930, as amended (19 U.S.C. 1490(b)), shall be sent to a general order warehouse after 1 day after the day the aircraft arrived,

to be held there at the risk and expense of the consignee.

§ 122.117 [Amended]

5. In § 122.117(b)(1), the second sentence is amended by removing the words "lay order period, or an authorized extension period (see § 4.37 of this chapter)" and adding, in their place, the words "general order period (see § 122.50)".

§ 122.120 [Amended]

6. In § 122.120(d)(1), the third sentence is amended by removing the words "lay order" and adding, in their place, the words "general order".

§ 122.161 [Amended]

7. In § 122.161, the first sentence is amended by removing the reference "§ 122.14" and adding, in its place, the words "subpart S of this part" and by removing the reference "49 U.S.C. App. 1474" and adding, in its place, the reference "19 U.S.C. 1644 and 1644a".

§ 122.165 [Amended]

8. In § 122.165, the first sentence of paragraph (a) is amended by removing the parenthetical reference "(49 U.S.C. App. 1508(b))" and adding, in its place, the parenthetical reference "(49 U.S.C. 41703)", and the second sentence of paragraph (b) is amended by removing the reference "49 U.S.C. App. 1471" and adding, in its place, the reference "49 U.S.C. Chapter 463".

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for Part 123 and the specific authority citation for § 123.8 are revised to read, and the specific authority citation for § 123.1 continues to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624.

Section 123.1 also issued under 19 U.S.C. 1459;

* * * * *

Section 123.8 also issued under 19 U.S.C. 1450-1454, 1459;

* * * * *

§ 123.11 [Amended]

2. The specific authority citation for § 123.11 is removed.

§ 123.1 [Amended]

3. In § 123.1, paragraph (a)(2) is amended by removing the words "sections 1433 or 1644 of title 19, United States Code (19 U.S.C. 1433, 1644), or section 1509 of title 49, United States Code App. (49 U.S.C. App. 1509)," and adding, in their place, the

words "section 1433, 1644 or 1644a of title 19, United States Code (19 U.S.C. 1433, 1644, 1644a)."

4. In Subpart A, § 123.10 is added to read as follows:

§ 123.10 General order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the fifteenth calendar day after landing. No later than 20 calendar days after landing, the owner or operator of the vehicle or the agent thereof shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the owner or operator of the vehicle or the agent thereof. If the value of the merchandise on the bill is less than \$1,000, the penalty shall be equal to the value of such merchandise.

(b) Any merchandise or baggage that is taken into custody from an arriving carrier by any party under a Customs-authorized permit to transfer or in-bond entry may remain in the custody of that party for 15 calendar days after receipt under such permit to transfer or 15 calendar days after arrival at the port of destination. No later than 20 calendar days after receipt under the permit to transfer or 20 calendar days after arrival under bond at the port of destination, the party shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. If the party fails to notify Customs of the unentered merchandise or baggage in the allotted time, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(c)(4) of this chapter).

(c) In addition to the notification to Customs required under paragraphs (a) and (b) of this section, the carrier (or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry) shall provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any appropriate Customs-authorized

electronic data interchange system and shall be provided within the applicable 20-day period specified in paragraph (a) or (b) of this section. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the carrier, master, or person in charge of the importing vehicle or the agent thereof or party to whom the merchandise has been transferred under a Customs authorized permit to transfer or in-bond entry until it is properly transferred from his control in accordance with this paragraph. If the party to whom custody of the unentered merchandise or baggage has been transferred by a Customs-authorized permit to transfer or in-bond entry fails to notify a Customs-approved bonded warehouse of such merchandise or baggage within the applicable 20-calendar-day period, he may be liable for the payment of liquidated damages of \$1,000 per bill of lading under the terms and conditions of his international carrier or custodial bond (see §§ 113.63(b), 113.63(c) and 113.64(b) of this chapter).

(d) If the bonded warehouse operator fails to take possession of unentered and unreleased merchandise or baggage within five calendar days after receipt of notification of the presence of such merchandise or baggage under this section, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

(e) In ports where there is no bonded warehouse authorized to accept general

order merchandise, or if merchandise requires specialized storage facilities which are unavailable in a bonded facility, the port director, after having received notice of the presence of unentered merchandise or baggage in accordance with the provisions of this section, shall direct the storage of the merchandise by the carrier or by any other appropriate means.

(f) Merchandise taken into the custody of the port director pursuant to section 490(b), Tariff Act of 1930, as amended (19 U.S.C. 1490(b)), shall be sent to a general order warehouse after 1 day after the day the vehicle arrived, to be held there at the risk and expense of the consignee.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

1. The authority citation for part 127 continues to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 7553.

§ 127.2 [Amended]

2. Section 127.2 is amended by removing the words “1 year” wherever they appear and adding, in their place, the words “6 months” and by removing the words “1-year period” in paragraph (b) and adding, in their place, the words “6-month period”.

§ 127.4 [Amended]

3. In § 127.4, the second sentence is amended by removing the words “1 year” and adding, in their place, the words “6 months”.

§ 127.11 [Amended]

4. Section 127.11 is amended by removing the words “1 year” and

adding, in their place, the words “6 months”.

§ 127.28 [Amended]

5. Section 127.28(d) is amended by removing the words “1 year” and adding, in their place, the words “6 months”.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for part 148 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States).

* * * * *

§ 148.67 [Amended]

2. In § 148.67, paragraph (b) is amended by removing the words “section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), or section 1474 of title 49, United States Code,” and adding, in their place, the references “19 U.S.C. 1453 or 19 U.S.C. 1644 and 1644a”.

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 new listings to the table in numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control No.
* * * * *	* * * * *	* * * * *
§ 4.37	Notification regarding imported merchandise or baggage for which entry has not been made	1515-0220
* * * * *	* * * * *	* * * * *
§ 122.50	Notification regarding imported merchandise or baggage for which entry has not been made	1515-0220
* * * * *	* * * * *	* * * * *
§ 123.10	Notification regarding imported merchandise or baggage for which entry has not been made	1515-0220
* * * * *	* * * * *	* * * * *

PART 192—EXPORT CONTROL

1. The authority citation for Part 192 continues to read as follows:

Authority: 19 U.S.C. 66, 1624, 1627a, 1646a.

§ 192.4 [Amended]

2. In § 192.4, the first sentence is amended by removing the reference “46 U.S.C. App. 91” and adding, in its place, the reference “19 U.S.C. 1436” and the second sentence is amended by

removing the words “a liability of not more than \$1,000 nor less than \$500 will be incurred” and adding, in their

place, the words "a liability for penalties may be incurred".

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: August 3, 1998.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 98-25634 Filed 9-24-98; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 and 178

[T.D. 98-76]

RIN 1515-AB59

Andean Trade Preference

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without any changes, proposed amendments to the Customs Regulations to implement the duty preference provisions of the Andean Trade Preference Act (the Act). The final regulatory texts set forth the country of origin and related rules which apply for purposes of duty-free or reduced-duty treatment on imported goods under the Act and specify the documentary and other procedural requirements which apply to any claim for such preferential tariff treatment under the Act.

EFFECTIVE DATE: October 26, 1998.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Tony Mazzocchi, Office of Field Operations (202-927-0564). Legal Aspects: Craig Walker, Office of Regulations and Rulings (202-927-1116).

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1991, President Bush signed into law the Andean Trade Preference Act (Pub. L. 102-182, Title II, Sections 201-206, 105 Stat. 1236-1244) ("the Act", commonly referred to as the ATPA), the provisions of which are codified at 19 U.S.C. 3201 through 3206. Sections 202 and 204(c) of the Act (19 U.S.C. 3201 and 3203(c)) authorize the President to proclaim duty-free treatment for all eligible articles, and duty reductions for certain other goods, from any country designated by the President as a beneficiary country pursuant to section 203 of the Act (19 U.S.C. 3202). On July 2, 1992, President Bush signed Proclamation 6455 (57 FR

30069) which (1) proclaimed the duty treatment authorized by the Act, (2) designated Colombia as a beneficiary country for purposes of the Act, and (3) modified the Harmonized Tariff Schedule of the United States (HTSUS) to incorporate the substance of the relevant provisions of the Act; under the terms of the proclamation, the proclaimed duty treatment was effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 22, 1992. On the same date President Bush signed Proclamation 6456 (57 FR 30097) designating Bolivia as a beneficiary country for purposes of the Act, similarly effective July 22, 1992. On April 13, 1993, President Clinton signed Proclamation 6544 (58 FR 19547) which, among other things, designated Ecuador as a beneficiary country for purposes of the Act, effective April 30, 1993. On August 11, 1993, President Clinton signed Proclamation 6585 (58 FR 43239) designating Peru as a beneficiary country for purposes of the Act, effective August 26, 1993. The modifications to the HTSUS contained in Proclamation 6455 setting forth the substance of the relevant provisions of the Act are now contained in General Note 11, HTSUS, and eligible articles and other goods to which preferential duty treatment under the Act applies are identified within the HTSUS by the designation "J" appearing with or without an asterisk in the "Special" rate of duty subcolumn.

Sections 204(a)-(c) of the Act (19 U.S.C. 3203(a)-(c)) set forth the standards which govern the eligibility of articles for duty-free or reduced-duty treatment under the Act. Section 204(a), which contains the basic origin and related rules for purposes of duty-free treatment, was based on section 213(a) of the Caribbean Basin Economic Recovery Act, as amended (19 U.S.C. 2703(a)), which sets forth the origin and related rules governing duty-free treatment under the Caribbean Basin Initiative (CBI). Thus, in order to be eligible for duty-free treatment under the Act, an article imported from a designated beneficiary country must meet three basic requirements: (1) it must be imported directly from a beneficiary country into the customs territory of the United States; (2) it must have its origin in a beneficiary country, that is, it either must be wholly the growth, product, or manufacture of a beneficiary country or must be a new or different article of commerce that has been grown, produced, or manufactured in a beneficiary country; and (3) it must have a minimum domestic value

content, that is, at least 35 percent of its appraised value must be attributed to the sum of the cost or value of materials produced in one or more beneficiary countries plus the direct costs of processing operations performed in one or more beneficiary countries. The provisions of section 204(a) of the Act further parallel the provisions of section 213(a) of the CBI statute in the following regards: (1) simple combining or packaging operations or mere dilution with water or another substance does not confer beneficiary country origin on an imported article or on a constituent material of an imported article; (2) the term "beneficiary country" is defined as including the Commonwealth of Puerto Rico and the U.S. Virgin Islands for purposes of determining compliance with the 35 percent value content requirement; (3) the cost or value of materials produced in the customs territory of the United States (other than in Puerto Rico) may be counted toward the 35 percent value content requirement to a maximum of 15 percent of the appraised value of the imported article; and (4) the expression "direct costs of processing operations" is defined in the same manner.

However, the origin and related rules of section 204(a) of the Act differ from the corresponding provisions in section 213(a) of the CBI statute in two principal respects: (1) section 204(a) of the Act specifically allows input attributable to one or more CBI beneficiary countries for purposes of the 35 percent value content requirement (the corresponding CBI statutory provision makes no mention of input attributable to beneficiary countries under the Act); and (2) section 204(a) of the Act has no provision corresponding to section 213(a)(4) of the CBI statute which was added to facilitate the addition of value to an article in Puerto Rico and the granting of duty-free treatment after final exportation of an article from a CBI beneficiary country. Section 204(b) of the Act lists eight categories of goods excluded from the duty-free treatment provided for in section 204(a), one of which refers to articles to which reduced rates of duty apply under section 204(c) of the Act. Section 204(c) directs the President to proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves and leather wearing apparel that: (1) are the product of any beneficiary country; and (2) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences (GSP) under Title V of the Trade Act of 1974 (19 U.S.C. 2461-2466). These reduced duty rates, which