§ 177.10 Publication of decisions.

(a) Generally. Within 90 days after issuing any interpretive decision under the Tariff Act of 1930, as amended, relating to any Customs transaction (prospective, current, or completed), the Customs Service shall publish the decision in the Customs Bulletin or otherwise make it available for public inspection. For purposes of this paragraph an interpretive decision includes any ruling letter, internal advice memorandum, or protest review decision. Disclosure is governed by 31 CFR part 1, 19 CFR part 103, and 19 CFR 177.8(a)(3).

(b) [Reserved]

(c) Changes of practice. Before the publication of a ruling which has the effect of changing an established and uniform practice and which results in the assessment of a higher rate of duty within the meaning of 19 U.S.C. 1315(d), notice that the practice (or prior ruling on which that practice was based) is under review will be published in the FEDERAL REGISTER and interested parties will be given an opportunity to make written submissions with respect to the correctness of the contemplated change.

(d) Limiting rulings. A published ruling may limit the application of a court decision to the specific article under litigation, or to an article of a specific class or kind of such merchandise, or to the particular circumstances or entries which were the subject of the litigation.

(e) Effective dates. Except as otherwise provided in §177.12(e) or in the ruling itself, all rulings published under the provisions of this part will be applied immediately. If the ruling involves merchandise, it will be applicable to all unliquidated entries, except that a change of practice resulting in the assessment of a higher rate of duty or increased duties shall be effective only as to merchandise entered for consumption or withdrawn from warehouse for consumption on or after the 90th day after publication of the change in the FEDERAL REGISTER.


§ 177.11 Requests for advice by field offices.

(a) Generally. Advice or guidance as to the interpretation or proper application of the Customs and related laws with respect to a specific Customs transaction may be requested by Customs Service field offices from the Headquarters Office at any time, whether the transaction is prospective, current, or completed. Advice as to the proper application of the Customs and related laws to a current transaction will be sought by a Customs Service field office whenever that office is requested to do so, pursuant to paragraph (b) of this section, by an importer or other person having an interest in the transaction. Advice or guidance will be furnished by the Headquarters Office as a means of assisting Customs personnel in the orderly processing of Customs transactions under consideration by them and to insure the consistent application of the Customs and related laws in the several Customs districts.

(b) Certain current transactions—(1) When a ruling has been issued—(i) Requests by field offices. If any Customs Service office has issued a ruling letter with respect to a particular Customs transaction and the Customs Service field office having jurisdiction over that transaction believes that the ruling should be modified or revoked, the field office will forward to the Headquarters Office, pursuant to §177.9(b)(1), a request that the ruling be reconsidered. The field office will notify the importer or other person to whom the ruling letter was issued, in writing, that it has requested the Headquarters Office to reconsider the ruling.

(ii) Requests by importers and others. If the importer or other person to whom a ruling letter is issued disagrees with the Customs Service field office having jurisdiction over the transaction to which the ruling relates as to the proper application of the ruling to the transaction, the field office will, upon receipt of a written request submitted in accordance with the procedure set forth in paragraph (b)(3) of this section, request advice from the Headquarters Office.
Office as to the proper application of
the ruling to the transaction. Such ad-
vice may not be requested for the pur-
pose of seeking reconsideration of a
ruling with which the importer or
other person to whom the ruling letter
was issued disagrees.

(2) When no ruling has been issued. In-
ternal advice will be sought by a Cus-
toms Service field office with respect
to a current transaction for which no
ruling was requested or issued under
the provisions of this part whenever a
difference of opinion exists as to the in-
terpretation or proper application of
the Customs and related laws to the
transaction, and the field office is re-
quested to seek such advice by an im-
porter or other person who would have
been entitled, under §177.1(c), to re-
quest a ruling with respect to the
transaction, while prospective. The re-
quest must be submitted to the field of-
office in writing and in accordance with
the provisions of paragraph (b)(3) of
this section.

(3) Form of request by importers and
others. An importer or other person re-
questing that a Customs Service field
office seek advice from the Head-
quarters Office must make such a re-
quest, in writing, to the field office
having jurisdiction over the trans-
action in question. The request shall
contain a complete statement setting
forth a description of the transaction,
the specific questions presented, the
applicable law, and an argument for
the conclusions advocated. The state-
ment must also specify whether, to the
knowledge of the person submitting
the statement, the same transaction,
or one identical to it, has ever been
considered, or is currently being con-
sidered, by any Customs Service office.
In addition, the statement should indi-
cate at which port or ports of entry
identical or substantially identical
merchandise has been entered.

(4) Review of requests by importers and
others. All requests submitted by im-
porters and other persons under para-
graph (b)(3) of this section, will be re-
viewed by the field office to which they
are submitted. In the event a difference
of opinion exists as to the description
of the transaction or as to the point or
points at issue, the person submitting
the request will be so advised in writ-
ing. If agreement cannot be reached,
both the statements of the person sub-
mitting the request and the field office
will be forwarded to the Headquarters
Office for consideration.

(5) Refusal by Headquarters Office to
furnish advice. The Headquarters Office
may refuse to consider the questions
presented to it in the form of a request
for internal advice whenever (i) the
Headquarters Office determines that
the period of time necessary to give
adequate consideration to the ques-
tions presented would result in a with-
holding of action with respect to the
transaction, or in any other situation,
that is inconsistent with the sound ad-
ministration of the Customs and re-
lated laws, and (ii) the questions pre-
sented can subsequently be raised by
the importer or other interested party
in the form of a protest filed in accord-
ance with the provisions of part 174 of
this chapter.

(6) Effect of advice received from the
Headquarters Office. Advice furnished
by the Headquarters Office in response
to a request therefor represents the of-
official position of the Customs Service
as to the application of the Customs
laws to the facts of a specific trans-
action. If the field office believes that
the advice furnished by the Head-
quarters Office should be reconsidered,
it shall promptly request such recon-
sideration. Otherwise, the advice fur-
nished by the Headquarters Office will
be applied by the field office in its dis-
position of the Customs transaction in
question.

(7) Publication. Within 90 days after
issuing an internal advice memo-
randum, the Customs Service shall
publish the decision in the Customs
Bulletin or otherwise make it available
for public inspection. Disclosure is gov-
erned by 31 CFR part 1 and 19 CFR part
103.

(8) Judicial review of importers’ re-
quests. A refusal by the Headquarters
Office to consider the questions raised
by an importer in the form of a request
for internal advice may be appealed to
the Court of International Trade if the
importer demonstrates to the Court
that he would be irreparably harmed
unless given an opportunity to obtain
judicial review prior to the importation of the merchandise.


§ 177.12 Modification or revocation of interpretive rulings, protest review decisions, and previous treatment of substantially identical transactions.

(a) General. An interpretive ruling, which includes an internal advice decision, issued under this part, or a holding or principle covered by a protest review decision issued under part 174 of this chapter, if found to be in error or not in accord with the current views of Customs, may be modified or revoked by an interpretive ruling issued under this section. In addition, an interpretive ruling issued under this section may have the effect of modifying or revoking the treatment previously accorded by Customs to substantially identical transactions. A modification or revocation under this section must be carried out in accordance with the notice procedures set forth in paragraph (b) or paragraph (c) of this section except as otherwise provided in paragraph (d) of this section, and the modification or revocation will take effect as provided in paragraph (e) of this section.

(b) Interpretive rulings or protest review decisions. Customs may modify or revoke an interpretive ruling or holding or principle covered by a protest review decision that has been in effect for less than 60 calendar days by simply giving written notice of the modification or revocation to the person to whom the original ruling was issued or whose current transaction was the subject of the internal advice decision or, in the case of a protest review decision, to the person identified on the Customs Form 19 as the protestant or to any other person designated to receive notice of denial of a protest under §174.30(b) of this chapter. However, when Customs contemplates the issuance of an interpretive ruling that would modify or revoke an interpretive ruling or holding or principle covered by a protest review decision which has been in effect for 60 or more calendar days, the following procedures will apply:

(1) Publication of proposed action. A notice proposing the modification or revocation and inviting public comment on the proposal will be published in the Customs Bulletin. The notice will refer to all previously issued interpretive rulings or protest review decisions that Customs has identified as being the subject of the proposed action and will invite any member of the public who has received another interpretive ruling or protest review decision involving the issue that is the subject of the proposed action to advise Customs of that fact. Interested parties will have 30 calendar days from the date of publication of the notice to submit written comments on the proposed modification or revocation and to advise Customs in writing that they are recipients of an affected interpretive ruling or protest review decision that was not identified in the notice.

(2) Notice of final action. In the absence of extraordinary circumstances, within 30 calendar days after the close of the public comment period, any submitted comments will be considered and a final modifying or revoking notice or notice of other appropriate final action on the proposed modification or revocation will be published in the Customs Bulletin. In addition, a written decision will be issued to the person to whom, or on whose transaction, the original interpretive ruling was issued or, in the case of a protest review decision, to the person identified on the Customs Form 19 as the protestant or to any other person designated to receive notice of denial of a protest under §174.30(b) of this chapter. Publication of a final modifying or revoking notice in the Customs Bulletin will have the effect of modifying or revoking any interpretive ruling or holding or principle covered by a protest review decision that involves merchandise or an issue that is substantially identical in all material respects to the merchandise or issue that is the subject of the modification or revocation, including an interpretive ruling or holding or principle covered by a protest review decision which has been in effect for 60 or more calendar days.]