§ 181.98 Situations in which no NAFTA advance ruling may be issued.

(a) General. No advance ruling letter will be issued in response to a request therefor which fails to comply with the provisions of this subpart. No advance ruling letter will be issued in regard to a completed transaction.

(b) Pending matters. Where a request for an advance ruling involves an issue that is under review in connection with an origin verification under subpart G of this part or that is the subject of an administrative review procedure provided for in subpart J of this part or in part 174 of this chapter, Customs may decline to issue the requested advance ruling. In addition, no NAFTA advance ruling letter will be issued with respect to any issue which is pending before the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of an advance ruling letter, provided neither Customs nor any of its officers or agents is named as a party to the action.

§ 181.99 Issuance of NAFTA advance rulings or other advice.

(a) NAFTA advance ruling letters—(1) General. Except as otherwise provided in paragraph (a)(2) of this section, Customs will, within 120 calendar days of receipt of a request, including any required information supplemental thereto, issue an advance ruling letter in the English language setting forth the position of Customs and the reasons therefor with respect to a specifically described Customs transaction whenever a request for such an advance ruling is submitted in accordance with the provisions of this subpart and it is in the sound administration of the NAFTA provisions to do so. Otherwise, a request for an advance ruling may be answered by a letter stating that no advance ruling can be issued. In the course of evaluating the advance ruling request Customs may solicit supplemental information from the person requesting the advance ruling. The submission of supplemental information...
will extend the time for response. The
time for response will also be extended
if it is necessary to obtain information
from other government agencies or in
the form of a laboratory analysis.

(2) Submission of NAFTA advance rul-
ing letters to field offices. Any importer
engaging in a NAFTA transaction with
respect to which an advance ruling let-
ter has been issued under this subpart
either must ensure that a copy of the
advance ruling letter is attached to the
documents filed with the appropriate
Customs office in connection with that
transaction or must otherwise indicate
with the information filed for that
transaction that an advance ruling has
been received. Any person receiving an
advance ruling stating Customs deter-
mination must set forth such deter-
mination in the documents or informa-
tion filed in connection with any subse-
quent entry of that merchandise; fail-
ure to do so may result in a rejection
of the entry and the imposition of such
penalties as may be appropriate. An ad-
vance ruling received after the filing of
such documents or information must
immediately be brought to the atten-
tion of the appropriate Customs field
office.

(3) Disclosure of NAFTA advance ruling
letters. No part of the advance ruling
letter, including names, addresses, or
information relating to the business
transactions of private parties, shall be
deemed to constitute privileged or con-
fidential commercial or financial infor-
mation or trade secrets exempt from
disclosure pursuant to the Freedom of
Information Act, as amended (5 U.S.C.
552), and part 103 of this chapter, or
shall be deemed to be subject to the con-
fidentiality principle set forth in §181.93(b)(7) of this part, unless, as provided
in §181.93(b)(7) of this part, the infor-
mation claimed to be exempt from dis-
closure is clearly identified and a valid
basis for nondisclosure is set forth. Be-
fore the issuance of the advance ruling
letter, the person submitting the ad-
vance ruling request will be notified of
any decision adverse to his request for
nondisclosure and will, upon written
request to Customs within 10 working
days of the date of notification, be
permitted to withdraw the advance ruling
request. If, in the opinion of Customs an
impasse exists on the issue of confiden-
tiality and the person who submitted
the advance ruling request does not
withdraw the request, Customs will de-
cline to issue the advance ruling. All
advance ruling letters issued by Cus-
toms will be available, upon written re-
quest, for inspection and copying by
any person (with any portions deter-
mined to be exempt from disclosure de-
leted).

(4) Penalties for misrepresented or omit-
ted material facts or for noncompliance. If
Customs determines that an issued ad-
vance ruling was based on incorrect in-
formation, the person to whom the ad-
vance ruling was issued may be subject
to appropriate penalties unless that
person demonstrates that he used rea-
sonable care and acted in good faith in
presenting the facts and circumstances
on which the advance ruling was based.
In addition, Customs may apply such
measures as the circumstances may
warrant in a case where a person to
whom an advance ruling was issued has
failed to act in accordance with the
terms and conditions of the advance
ruling.

(b) Other NAFTA advice and guidance.
The Headquarters Office may on its
own initiative from time to time issue
other external advice and guidance
with respect to issues or transactions
arising under the NAFTA which come
to its attention. Such NAFTA advice
and guidance, which represent the offi-
cial position of Customs and which are
likely to be of widespread interest and
application, are published in the Cus-
toms Bulletin, as described in §181.101
of this part. Nothing in this subpart
shall preclude Customs from issuing
advice and guidance to its field offices
concerning the application of the
NAFTA.

§ 181.100 Effect of NAFTA advance rul-
ing letters; modification and rev-
ocation.

(a) Effect of NAFTA advance ruling let-
ters—(1) General. An advance ruling let-
ter issued by Customs under the provi-
sions of this subpart represents the of-
official position of Customs with respect
to the particular transaction or issue
described therein and is binding on all
Customs personnel in accordance with
the provisions of this subpart until
modified or revoked. In the absence of