Area	Includes	Per day charge	
		Half day	Whole day
Damages	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (including labor) plus 10% (administrative fee).		

§ 500.23 Fee schedule for photography and cinematography on grounds.

The USNA will charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. Facilities and grounds are available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of the required date. In addition to the fees listed below, supervision costs of $25.00 per hour will be charged. The USNA Director may waive fees for photography or cinematography conducted for the purpose of disseminating information to the public regarding the USNA and its mission or for the purpose of other noncommercial, First Amendment activity.

Category	Type	Notes	Per day charge	
			Half day	Whole day
Still Photography	Individual	For personal use only. Includes hand-held cameras, recorders, small non-commercial tripods.	No Charge	No Charge
	Commercial	Includes all photography which uses professional photographer and/or involves receiving a fee for the use or production of the photography. Note: This includes 5 people or less with carry on (video) equipment.	$250 plus Supervisor.	$500 plus Supervisor
Cinematography	Set Preparation	Set up sets; no filming performed	N/A	$250 plus Supervision
	Filming	Sliding scale based on number of people in cast and crew and number of pieces of equipment. 45 people and 6 pieces of equipment=$1,500. 200 people=$3,900. Note: 5 people with carry on equipment=same as still photography.		$1,200 to $3,900
	Strike Set	Take down sets, remove equipment; no filming.	N/A	$250 plus Supervision
	Music Videos	No sound involved; smaller operation	N/A	$1,000 plus Supervision
Slide Production		Providing USNA photos/slides for use in promotions/advertisements. Fee is for one-time rights.		$100 per image to reproduce
Damages	All	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (Including labor) plus 10% (administrative fee). Half Day=4 hours or less. Full Day=more than 4 hours.		

§ 500.24 Payment of fees.

Payment for use of tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to the made in the form of a check or money order. Checks and money orders are to be made payable, in U.S. funds, to the ''U.S. National Arboretum.'' The National Arboretum will provide receipts to requestors for their records or billing purposes.

Done at Washington, DC, this 26th day of August, 1997.

Edward B. Knipling,

Acting Administrator, Agricultural Research Service.

[FR Doc. 97–23217 Filed 9–2–97; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 7, 10, 148 and 178

[T.D. 97–75]

RIN 1515–AB14

Duty-Free Treatment of Articles Imported From U.S. Insular Possessions

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

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some modifications, proposed amendments to the Customs Regulations to clarify and update the legal requirements and procedures that apply for purposes of obtaining duty-free treatment on articles imported from

insular possessions of the United States other than Puerto Rico. The final regulatory amendments include certain organizational changes to improve the layout of the regulations and also clarify and update the personal exemption provisions applicable to returning residents.

EFFECTIVE DATE: October 3, 1997.

FOR FURTHER INFORMATION CONTACT: Monika Rice, Office of Regulations and Rulings (202–482–7049).

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1993, Customs published in the **Federal Register** (58 FR 40095) a notice of proposed rulemaking to amend parts 7, 10 and 148 of the Customs Regulations (19 CFR parts 7, 10 and 148) as regards duty-free treatment of articles imported from insular possessions of the United States other than Puerto Rico. The proposed amendments to part 7 included replacement of present § 7.8 by two new §§ 7.2 and 7.3, the latter section representing an update and elaboration of the substantive requirements and procedures for obtaining duty-free treatment on products of U.S. insular possessions under General Note 3(a)(iv) of the Harmonized Tariff Schedule of the United States (HTSUS). The proposed Part 10 amendments involved primarily the transfer to part 7 of a section of the regulations dealing with watches and watch movements from U.S. insular possessions. The proposed Part 148 amendments involved an updating of the regulations that implement the personal duty exemption or reduction provisions applicable to returning residents and other persons arriving from certain U.S. insular possessions or from Caribbean Basin Initiative (CBI) beneficiary countries as provided for in Subchapters IV and XVI of Chapter 98, HTSUS.

With particular regard to the requirements and procedures for obtaining duty-free treatment under General Note 3(a)(iv), HTSUS, the July 27, 1993, notice pointed out that, as compared to the regulations implementing the Generalized System of Preferences (GSP), set forth as §§ 10.171–10.178, Customs Regulations (19 CFR 10.171–10.178), and the regulations implementing the CBI, set forth as §§ 10.191–10.198, Customs Regulations (19 CFR 10.191–10.198), § 7.8 did not reflect all of the provisions of General Note 3(a)(iv), HTSUS, and did not provide adequate guidance concerning the legal effect of those provisions, particularly as to the determination of the origin of goods imported from insular possessions, the meaning of direct shipment to or from an insular possession, and the application of the maximum foreign materials content limitation. Thus, subject to variances to reflect a General Note 3(a)(iv) insular possession context, the proposed § 7.3 text adopted the more detailed approach used in the GSP and CBI regulations in setting forth, among other things, specific origin determination language (for example, ''growth or product'', ''substantially transformed'', ''new and different article of commerce'') applicable to goods from insular possessions and materials incorporated in such goods (paragraphs (b) and (c)) as well as a specific rule regarding direct shipment to or from an insular possession (paragraph (e)).

Discussion of Comments

A total of seven comments were submitted in response to the notice. All of the commenters generally favored the proposed regulatory changes, particularly with regard to the reduced documentary burden and the inclusion of the Commonwealth of the Northern Mariana Islands. However, some commenters suggested certain changes to the proposed § 7.3 texts which are discussed in detail below.

Comment: Several commenters indicated that the words ''may be eligible'' in proposed § 7.3(a) should be replaced with the words ''shall be eligible.'' Otherwise, despite compliance with the provisions of General Note 3(a)(iv), HTSUS, Customs would have impermissible discretion in allowing duty-free treatment.

Customs response: Customs disagrees. While goods imported from U.S. insular possessions which satisfy the requirements and conditions set forth in General Note 3(a)(iv), HTSUS, ''are exempt from duty'', and even though proposed §§ 7.3(a) (1) and (2) state which goods are eligible for duty-free treatment, documentary requirements were included in proposed § 7.3(f) for the specific purpose of demonstrating that the imported goods meet the statutory requirements for duty-free entry. *See Maple Leaf Petroleum, Ltd.* v. *United States,* 25 C.C.P.A. 5, 8, 9, T.D. 48976 (1937), for the proposition that it has long been the sound policy of our Government that when such grants and privileges as those involved here were allowed in customs matters, they were granted only upon the condition that there should be a compliance with regulations to be prescribed by the Secretary of the Treasury. *See also McDonnell Douglas Corp.* v. *United States,* 75 Cust. Ct. 6 (1975), C.D. 4604, and General Note 20, HTSUS. Accordingly, § 7.3(a) should not be revised by substituting the word ''may'' with ''shall.''

Comment: Proposed § 7.3(b)(2) provides that goods shall be considered the product of an insular possession if they ''became a new and different article of commerce as a result of processing performed in the insular possession.'' Two comments suggested including ''a change in name, character, or use, as a result of an operation including, but not limited to, assembly, manufacturing, and processing, performed in the insular possession.'' It was claimed that such a revision would clarify that a change in any one or more of the three criteria is sufficient to produce a new and different article of commerce. This revision would also clarify any ambiguity concerning the meaning of the word ''processing'', by using the word ''operation'' and providing three non-exhaustive examples (*i.e.*, assembly, manufacturing, and processing) to indicate that various methods can be used to bring about a substantial transformation.

Customs response: Proposed § 7.3(b)(2) sets forth the basic substantial transformation rule. Customs does not believe that specific exemplars are necessary to establish how a new and different article of commerce is created because there are ample court cases and Customs rulings that explain the substantial transformation rule. Therefore, it is the opinion of Customs that specific exemplars are not appropriate for § 7.3(b)(2). However, for the sake of clarity, Customs believes that the word ''processing'' in § 7.3(b)(2) should be replaced with the words ''production or manufacture'' which more closely reflect the terminology used in General Note 3(a)(iv), HTSUS, and in proposed § 7.3(c)(2). Section 7.3(b)(2) as set forth below has been modified accordingly.

Comment: Proposed § 7.3(b) should be revised to recognize that duty-free treatment under General Note 3(a)(iv) is to be afforded to products deemed to be products of an insular possession pursuant to U.S. Note 2, Subchapter II, Chapter 98, HTSUS (under which products of the United States returned to the United States after having been advanced in value or improved in condition abroad by any process of manufacture or other means, and imported articles assembled abroad in whole or in part from U.S. products, are to be treated as foreign articles), and which otherwise meet the requirements of General Note 3(a)(iv) (but are not necessarily substantially transformed in the insular possession). Specifically, this commenter recommended inclusion

of the following as a third origin standard:

(3) The goods were a product of the United States which were returned to the United States after having been advanced in value or improved in condition in an insular possession, or assembled in an insular possession, pursuant to U.S. Note 2, Subchapter II, Chapter 98, HTSUS.

The commenter argued that this revision would clarify that goods which are not ''wholly obtained or produced'' or ''substantially transformed'' may still become a product of an insular possession and be eligible for duty-free treatment under General Note 3(a)(iv), as determined in Headquarters Ruling Letter (HRL) 557481 dated September 24, 1993, which reconsidered HRL 556381 dated March 2, 1991. In HRL 556381, Customs ruled that certain garments, produced on the U.S. mainland and screen printed or embroidered in the Virgin Islands using printing or embroidery materials produced on the U.S. mainland or Puerto Rico, were not eligible for duty-free treatment under General Note 3(a)(iv). Although no foreign-origin materials were employed in these operations, Customs held that the printed or embroidered garments were not eligible for duty-free treatment under General Note 3(a)(iv) because they were not ''products of'' the Virgin Islands and had not undergone a substantial transformation.

In HRL 557481, Customs reconsidered HRL 556381 and determined that, under the facts, the garments in question were products of the Virgin Islands and thus eligible for duty-free treatment under General Note 3(a)(iv). Specifically, Customs ruled that under 19 CFR 12.130(c) and U.S. Note 2, Subchapter II, Chapter 98, HTSUS, the U.S. good returned must be deemed a product of the non-U.S. jurisdiction in which they were advanced in value (*i.e.*, the U.S. Virgin Islands). Because the goods were a product of the Virgin Islands and otherwise met the requirements of General Note 3(a)(iv), they were entitled to duty-free treatment under that provision.

Customs response: Customs cannot agree to the regulatory text change suggested by this commenter. Pursuant to T.D. 90–17, paragraph (c) of § 12.130, Customs Regulations (19 CFR 12.130), supersedes all other provisions of § 12.130 with regard to determining the origin of textile goods. This position, however, has not been extended to other goods on a general basis. *See* the May 5, 1995, notice of proposed rulemaking (discussed below in this document under the Other Changes to the Regulatory Texts section) in which Customs noted that it has reconsidered its previously stated position that U.S. Note 2(a), Subchapter II, Chapter 98, HTSUS, has application for general country of origin purposes. Therefore, the regulatory text change suggested by this commenter would have an impermissibly broad effect since it would apply to all goods rather than only to textile goods.

Comment: It was suggested that § 7.3(c)(2), which twice uses the phrase ''new and different article of commerce'' to establish the principle of double substantial transformation, should be followed by the phrase ''that is, one which underwent a change in name, character, or use.'' This would ensure a consistent meaning of the term ''new and different article of commerce'' throughout § 7.3.

Customs response: Customs disagrees, for the same reasons stated above in response to the comment regarding the use of exemplars to explain the creation of a new and different article. Customs also notes that the use of the words ''new and different article of commerce'' in § 7.3(c)(2), without further explanation, is consistent with the approach used in the GSP and CBI regulations (*see* 19 CFR 10.177(a)(2) and 19 CFR 10.195(a), respectively) which have not given rise to interpretive problems in this regard.

Comment: General Note 3(a)(iv)(A) provides for the duty-free entry of goods from an insular possession containing foreign material up to 70 percent of their value, unless they are among the products not eligible for duty-free entry under the CBI, in which case duty-free entry is only allowed if the foreign materials do not exceed 50 percent of the value of the goods. General Note 3(a)(iv)(B) sets forth rules for identifying materials not to be considered as foreign (specifically, certain duty-free materials) for purposes of determining whether goods produced or manufactured in any such insular possession contain ''foreign materials to the value of more than 70 percent''.

One commenter suggested that § 7.3(c)(3), which defines certain materials which are not considered as ''foreign materials'' in determining the 70 percent foreign content limitation, is contrary to the legislative history of General Note 3(a)(iv) and its predecessor provisions and is contrary to longstanding practice, since it is not equally applicable to the 50 percent limitation. This commenter acknowledged that § 7.3(c)(3) is limited because General Note 3(a)(iv)(B) only refers to the ''70 percent'' value mentioned in paragraph (A); however, notwithstanding the strict language of paragraph (B), the commenter suggested that Congress intended that the rule regarding the use of duty-free foreign materials be equally applicable to products to which the 50 percent limitation applies. The commenter set forth the following analysis in support of this position:

Section 3 of the Act of March 3, 1917, Pub. L. 64–389, 39 Stat. 1133 (1917) (''the 1917 Act''), accorded duty-free treatment to products from the U.S. Virgin Islands as long as the value of the foreign materials did not exceed 20 percent. In 1950, the 1917 Act was amended to exclude from ''foreign material'' any material which could be entered into the United States free of duty. Pub. L. 81–766, 64 Stat. 784 (1950). The purpose of the legislation was to encourage the establishment of new industries in the U.S. Virgin Islands, thereby providing increased employment and revenues. S. Rep. No. 2368, 81st Cong., 2d Sess. 2 (1950). In 1954, the Customs Simplification Act, Pub. L. 83–768, title IV, section 401, 68 Stat. 1139 (1954), increased the foreign content limitation to 50 percent and continued the treatment of materials as not ''foreign'' if they could be entered into the United States free of duty.

General Headnote 3(a), Tariff Schedules of the United States (TSUS), effective August 31, 1963, continued the 50 percent foreign material limitation and the treatment of a material as not foreign if the material could be entered into the United States free of duty. Section 214 of the Caribbean Basin Economic Recovery Act (the CBI statute), Pub. L. 98–67 (1983), amended General Headnote 3(a), TSUS, by increasing the foreign materials value allowable in insular possession goods from 50 percent to 70 percent. However, for those goods that were not entitled to CBI preferential duty treatment, General Headnote 3(a), TSUS, was further amended to specify a 50 percent foreign materials value limitation for such products. In amending General Headnote 3(a), TSUS, to include the 70 percent foreign materials value limitation, Congress stated that it intended to ''maintain the competitive position of Puerto Rico and the U.S. insular possessions which might otherwise be adversely affected by the Caribbean Basin Initiative.'' However, since CBI-exempt products ''are excluded from duty-free treatment . . ., it is not necessary to increase the foreign content potential under general headnote 3(a) as an equalizing measure for the insular possessions. . . .'' H.R. Rep. No. 266, 98th Cong., 1st Sess. 22 (1983), *reprinted in* 1983 U.S. Code Cong. & Admin. News 645, 663.

Based on the above, this commenter suggested that under proposed § 7.3(c)(3), materials should also not be considered foreign materials for purposes of calculating the 50 percent foreign materials value limitation (in addition to the 70 percent value provision) if the materials may be entered into the U.S. free of duty. Therefore, despite the lack of any reference to the 50 percent value limitation in paragraph (B) of the present statutory provision, the only logical reading of paragraph (B), consistent with the congressional intent and longstanding practice, is to include in § 7.3(c)(3) the 50 percent foreign materials value reference contained in paragraph (A) of the statute.

This commenter further suggested that liberally construing this remedial statute will carry out the congressional intent. *See Atchison, Topeka and Santa Fe Railroad Co.* v. *Buell,* 480 U.S. 557, 561 (1987) (with a remedial statute, Congress adopts a ''standard of liberal construction in order to accomplish [Congress'] objects.''); *see also United States* v. *Carolina Transformer Co.,* 978 F.2d 832, 838 (4th Cir. 1992) (the provision of a remedial statute ''should be construed broadly to avoid frustrating the legislative purpose.''). Furthermore, where the literal interpretation of a statute is inconsistent with the legislative intent, the words of the statute should give way to the legislative intent. *Florida Department of Banking* v. *Board of Governors,* 760 F.2d 1135, 1139 (11th Cir. 1985).

Therefore, this commenter suggested that § 7.3(c)(3) be revised to read as follows:

(3) In the case of imported goods to which the 70 percent or 50 percent foreign materials value limitation applies as set forth in paragraph (a)(1)(i) of this section, a material which may be imported into the customs territory of the United States from a foreign country and entered free of duty either:

Customs response: Customs agrees with the commenter's suggestion to fill a gap in General Note 3(a)(iv)(B) by these regulations. Although paragraph (B) of General Note 3(a)(iv), HTSUS, clearly states that in regard to the 70 percent value, a material shall not be considered a ''foreign material'' if it may be imported into the United States and entered free of duty, that statutory provision does not address whether the same ''foreign material'' definition is applicable in the case of the 50 percent value limitation that applies to CBI-excluded goods under paragraph (A). However, based on a reading of General Note 3(a)(iv), HTSUS, and its predecessor provisions and the legislative history relating thereto, it appears that a material which could be entered into the United States free of duty has never been intended to be considered ''foreign material'' since the 1950 amendment of the 1917 Act.

As pointed out by the commenter and for the reasons stated in the comment, section 214(a) of the CBI statute amended General Headnote 3(a)(i), TSUS, by increasing the foreign materials value limitation from 50 percent to 70 percent for most goods and by retaining the 50 percent foreign materials value limitation for articles not eligible for CBI preferential treatment. However, while section 214(a) of the CBI statute also amended General Headnote 3(a)(ii), TSUS, (which referred to materials not considered foreign if they could be entered into the United States free of duty) by replacing the 50 percent value reference with a reference to 70 percent value, a reference to 50 percent value (to cover CBI-excluded goods) was not retained in this context for reasons that are not apparent from a reading of the applicable legislative history.

The above-mentioned Congressional intention of maintaining the competitive viability of the insular possessions is also consistent with the intent behind paragraphs (C), (D), and (E) of General Note 3(a)(iv), HTSUS, which were added when the GSP and CBI statutes and the Andean Trade Preference Act (ATPA) were enacted. The legislative history of what is now General Note 3(a)(iv)(C), HTSUS, indicates that the designation of beneficiary developing countries under section 502 of the GSP statute (19 U.S.C. 2462) was not intended to impair any benefits that insular possessions receive by reason of (former) General Headnote 3(a), TSUS. S. Rep. 93–1298, *reprinted in* 1974 U.S. Code Cong. Admin. New. 7186, 7352. ''The Committee strongly believes that the products of U.S. insular possessions should under no circumstances be treated less advantageously than those of foreign countries. To the extent that such products would be entitled to better treatment under headnote 3(a), than under this title, they should receive treatment under 3(a).'' *Id.*

If the ''foreign material'' definition in General Note 3(a)(iv)(B), HTSUS, is not applied to the 50 percent value limitation, the insular possessions will receive ''no less favorable'' treatment than CBI countries since the CBI-excluded goods are dutiable. However, before the enactment of the CBI, most goods from the insular possessions, including the ''CBI-excluded'' goods, received duty-free treatment if the 50 percent value was satisfied, to which the ''foreign material'' definition applied at that time. Therefore, it would seem that if Congress had intended to remove a benefit existing prior to the CBI, it would have indicated such intent.

Prior to the amendment of General Headnote 3(a), TSUS, by section 214 of the CBI statute, another noteworthy amendment to this provision was added by Pub. L. 94–88, title I, section 1, 2, 89 Stat. 433 (1975), which increased the 50 percent foreign materials value limitation to 70 percent with respect to watches and watch movements because of a setback in both production and employment in the insular possessions. When this 70 percent value for watches was inserted into subparagraph (i) of General Headnote 3(a), subparagraph (ii) thereof remained the same. Therefore, for purposes of applying the 50 percent value then in effect, materials were not considered foreign if they could be entered into the United States free of duty, but no reference was made to the increased 70 percent value limitation for watches. However, § 7.8(d) of the Customs Regulations (19 CFR 7.8(d)) was amended to refer both to the 50 percent value and to the 70 percent value for watches in the context of determining whether a material was a foreign material.

Therefore, it is the opinion of Customs that since the legislative history of General Note 3(a)(iv), HTSUS, does not discuss the omission of a reference to the 50 percent foreign materials value limitation for CBI-excluded products from paragraph (B), and because it is apparent that since 1950 materials were not considered ''foreign materials'' in all respects if they could be entered into the United States free of duty, the 50 percent foreign materials value limitation should be referred to in § 7.3(c)(3). Thus, Customs has determined it appropriate to amend the regulations not because General Note 3 is ''remedial'' legislation which must be liberally construed, as the commenter suggested, but rather because a strict construction of this special exemption leads Customs to conclude there is an inadvertent ''gap'' in that note which Congress did not clearly intend to result in a preclusion of favorable treatment. *See, e.g., United States* v. *Allen,* 163 U.S. 499, 503 (1896) (duty exemptions must be strictly construed as a general principle). The omission of the 50 percent value reference appears to have been an oversight stemming from the addition of the 70 percent value reference for watches rather than from a clear intention to remove a benefit in existence since 1950. There is also nothing in the legislative history

relating to these amendments which specifically precludes more favorable treatment for an insular possession good under General Note 3(a)(iv), HTSUS, as compared to the GSP, CBI, or ATPA. In order to reflect this position and also simplify the text, § 7.3(c)(3) as set forth below has been modified by removing the ''[I]n the case of * * *'' clause which is no longer necessary in this regulatory context.

Comment: The ''direct shipment'' standard on goods from U.S. insular possessions in proposed § 7.3(e) should be the same as in the case of the CBI, GSP, or ATPA, which allow goods to be transshipped through third countries under certain conditions. Otherwise, § 7.3(e) is contrary to the statutory mandate of General Note 3(a)(iv) (C), (D) and (E), HTSUS, that goods from insular possessions receive no less favorable duty treatment than GSP-, CBI-, or ATPA-eligible articles. The Customs rationale not to allow exceptions to direct movement to or from an insular possession through a foreign territory or country is not compelling since goods from all CBI countries may be shipped to the United States either by water or air without passing through intervening countries.

Customs response: Customs agrees with the commenter on both points. First, none of the CBI countries are land-locked and thus shipment to the United States would not necessarily require transshipment through a foreign territory or country. Second, although General Note 3(a)(iv), HTSUS, is a more liberal provision than the GSP or CBI statutes or the ATPA, as already noted in this comment discussion, General Note 3(a)(iv) (C), (D) and (E) provide that, subject to the provisions of sections 503(b) and 504(c) of the GSP statute, section 213 of the CBI statute, and section 204 of the ATPA, goods imported from an insular possession of the United States shall receive duty treatment no less favorable than the treatment afforded such goods when they are imported from a beneficiary country under the GSP, CBI or ATPA. The GSP and CBI statutes and the ATPA require that the goods, in order to receive preferential duty treatment, meet certain qualifications including direct shipment from the beneficiary country into the United States. Sections 10.175 and 10.193 of the Customs Regulations (19 CFR 10.175 and 10.193) allow certain exceptions to the direct movement standard. Therefore, it appears that not allowing any exceptions to the strict direct shipment standard in the case of goods from insular possessions would be contrary to General Note 3(a)(iv) (C), (D), and (E), HTSUS.

Accordingly, § 7.3(e) as set forth below has been modified to include exceptions to the strict direct shipment standard and to provide for evidence of direct shipment. The modified text is based on the corresponding CBI regulatory provisions which appear to be more appropriate in an insular possession context than are the corresponding GSP regulations, but no reference is made to a waiver of evidence of direct shipment since simply having provision for not requiring submission of such evidence is a less burdensome approach.

Comment: One comment concerned the use of the Certificate of Origin (Customs Form 3229) in the case of goods which incorporate a material described in General Note 3(a)(iv)(B)(2), HTSUS, which requires ''adequate documentation * * * to show that the material has been incorporated into such goods during the 18-month period after the date on which such material is imported into the insular possession.'' The commenter noted that the Certificate of Origin would require modification because it does not currently establish the use of the material within the 18-month period. The commenter also suggested that the district director be given discretion to waive the Certificate of Origin or to accept other documentation including a blanket statement that applies to several entries, since General Note 3(a)(iv)(B)(2), HTSUS, does not describe ''adequate documentation'' or specifically require a Certificate of Origin with each shipment.

Customs response: Customs disagrees. While it was recognized in the notice of proposed rulemaking that the Certificate of Origin must be revised to reflect all current legal requirements under General Note 3(a)(iv), HTSUS, it is General Note 3(a)(iv)(B)(2), HTSUS, and not the Certificate of Origin that specifically establishes the requirement for submission of adequate documentation to show that the material was incorporated into the goods during the 18-month period after the date on which it was imported into the insular possession. While General Note 3(a)(iv)(B)(2), HTSUS, does not define ''adequate documentation'', it is the position of Customs that the use of the Certificate of Origin with which importers are already familiar, combined with the Customs officer's verification at the port of shipment, provide adequate assurance that the material described in General Note 3(a)(iv)(B)(2), HTSUS, was, in fact, incorporated in the goods within the specified 18-month period.

Comment: One comment concerned proposed § 7.3(g) which, in accordance with existing law, allows warehouse withdrawals of goods for shipment to any insular possession without the payment of duty, or with a refund of duty if duties have been paid, but denies drawback of duties or internal revenue taxes on goods produced in the United States and shipped to any insular possession. This commenter suggested that § 7.3(g) should include the restrictions on shipments from foreign trade zones to insular possessions as specified in HRL 223828 dated July 1, 1992. That ruling held that merchandise transferred from a foreign trade zone for shipment to an insular possession is dutiable when transferred from the zone and that shipments from such a zone to an insular possession do not meet the exportation requirement of 19 U.S.C. 81c(a).

Customs response: Customs disagrees. In *Rothschild & Co.* v. *United States,* 16 Ct. Cust. App. 422 (1929), it was held that the term ''exportation'' in section 557, Tariff Act of 1922 (the predecessor provision of section 557, Tariff Act of 1930), did not include shipments to Guam. As a result of this determination, hearings before the Ways and Means Committee of the House of Representatives in 1929 resulted in a recommendation that section 557 be amended to provide that merchandise may be withdrawn for shipment to insular possessions without the payment of duties. *See Mitsubishi International Corp.* v. *United States,* 55 Cust. Ct. 319, C.D. 2597 (1965). Accordingly, section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), which permits merchandise to be entered for warehouse and withdrawn for shipment to Guam and other named possessions without payment of duties or, if duties have been paid, with a refund thereof, was the basis for 19 CFR 7.8(f) (the provision which was the basis for proposed § 7.3(g)).

The term ''exportation'' as defined by § 101.1 of the Customs Regulations (19 CFR 101.1), and as interpreted by the courts, is linked to a foreign country rather than to the Customs territory of the United States. Thus, shipments from the United States to a U.S. insular possession are not exports. Customs is of the opinion that there is no need to repeat this position in the regulatory provision at issue with respect to shipments to a U.S. insular possession from a foreign trade zone located within the United States.

Comment: General Note 3(a)(iv), HTSUS, contains provisions (*i.e.,*

paragraphs (C), (D) and (E)), which guarantee no less favorable duty treatment for goods from the insular possessions than for goods imported from GSP, CBI or ATPA beneficiary countries. It was suggested these paragraphs should at least be replicated in the regulations.

Customs response: Customs disagrees. There is little use in simply duplicating General Notes 3(a)(iv) (C), (D), and (E), HTSUS, in the regulations where there is no need for an interpretation or other explanation of the statutory provision. It is clear that the statute, which controls, requires that goods from insular possessions be granted no less favorable duty treatment than goods imported from GSP, CBI, or ATPA beneficiary countries and the regulations set forth in this document reflect that result-oriented statutory principle.

Comment: One comment questioned the conclusion in the notice of proposed rulemaking under the heading ''Regulatory Flexibility Act'' that there is no ''major rule'' since a substantial number of small entities may have significant economic impacts as a result of these amendments.

Customs response: The regulatory amendments will not have a significant economic impact on a substantial number of small entities because these regulations primarily reflect statutory requirements and administrative practices that have been in place for many years for purposes of duty-free treatment of articles imported from insular possessions of the United States.

Other Changes to the Regulatory Texts

In addition to the changes to the proposed regulatory texts discussed above in connection with the public comments, Customs has determined that a number of other changes to the proposed texts should be reflected in this final rule document.

Two of these changes involve proposed §§ 7.3 (b)(1) and (c)(1) which referred, respectively, to goods and materials that were ''wholly obtained or produced * * * within the meaning of § 102.1(e) of this chapter''. These provisions were included in the proposed texts based on, and were identified in the document as being subject to final adoption of, an earlier proposal published in the **Federal Register** on September 25, 1991 (56 FR 48448) to set forth, in a new Part 102 of the Customs Regulations (19 CFR Part 102), uniform rules governing the determination of the country of origin of imported merchandise. Subsequently, on January 3, 1994, Customs published two documents in the **Federal Register**. The first document, published at 59 FR 110, consisted of T.D. 94–4 which amended the Customs Regulations on an interim basis to implement Annex 311 of the North American Free Trade Agreement (NAFTA); the majority of the T.D. 94–4 regulatory amendments involved the adoption of a new Part 102 of the Customs Regulations setting forth the NAFTA Marking Rules. The second document published on January 4, 1994 (at 59 FR 141) consisted of a notice of proposed rulemaking setting forth proposed amendments to the scope of interim Part 102, as well as to other provisions of the Customs Regulations, in order to establish within Part 102 uniform rules governing the determination of the country of origin of imported merchandise. The latter document replaced the September 25, 1991, uniform origin rules proposal and thus included, among other things, proposed conforming changes to the GSP and CBI regulations involving appropriate cross-references to the uniform rules that would be reflected in the amended Part 102 texts, but no proposed conforming changes to the Part 7 insular possession regulations were included since final action had not been taken on the regulatory proposals that are the subject of this document. On May 5, 1995, Customs published a document in the **Federal Register** (60 FR 22312) which set forth proposed changes to the interim regulatory amendments contained in T.D. 94–4 and which republished, with some changes, the January 4, 1994, uniform origin rule regulatory proposals, for purposes of further public comment.

On June 6, 1996, Customs published in the **Federal Register** (61 FR 28932) T.D. 96–48 which adopted as a final rule, with some modifications, the NAFTA Marking Rules and other interim regulatory amendments published as T.D. 94–4 on January 3, 1994, but which did not adopt as a final rule the May 5, 1995, proposals regarding the uniform origin rule concept (including the proposed amendments to the GSP and CBI regulations). The Background portion of T.D. 96–48 stated (at 61 FR 28933) that Customs had decided that the proposal to extend the Part 102 regulations to all trade ''should remain under consideration for implementation at a later date.'' In the light of this deferral of the decision on whether to apply a uniform method of determining origin to all trade, it would not be appropriate in this document to adopt the texts of §§ 7.3 (b)(1) and (c)(1) as proposed. Accordingly, §§ 7.3 (b)(1) and (c)(1) as set forth below have been modified to remove the references to the Part 102 regulation and, similar to the present GSP and CBI regulatory approach, to refer instead to goods and materials that are ''wholly the growth or product'' of the insular possession. If in the future a final decision is taken to adopt the proposed uniform method of determining origin for all trade, the necessary regulatory amendments will include appropriate changes to the text of § 7.3.

Finally, in order to align on technical corrections made to the Customs Regulations in T.D. 95–78 (published in the **Federal Register** on September 27, 1995, at 60 FR 50020) to reflect the new organizational structure of Customs, § 7.3 as set forth below has been modified by inserting ''port director'' in place of each reference to ''district director''.

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).

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Act

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. The amendments primarily reflect statutory requirements and administrative practices that have been in place for many years and, thus, any economic impact arising out of these amendments would be negligible at best. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

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 Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0200. 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 in § 7.3. This information is required in connection with claims for duty-free treatment under General Note 3(a)(iv), HTSUS. This information will be used by Customs to determine whether goods imported from insular possessions are entitled to duty-free entry under that General Note. The collection of information is required to obtain a benefit. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average burden associated with the collection of information in this final rule is 11.3 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 7

Customs duties and inspection, Imports, Insular possessions.

19 CFR Part 10

Customs duties and inspection, Imports.

19 CFR Part 148

Customs duties and inspection, Imports, Personal exemptions.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, for the reasons stated in the preamble, parts 7, 10, 148 and 178, Customs Regulations (19 CFR parts 7, 10, 148 and 178), are amended as set forth below:

PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND GUANTANAMO BAY NAVAL STATION

1. The authority citation for part 7 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

2. Sections 7.2 and 7.3 are added to read as follows:

§ 7.2 Insular possessions of the United States other than Puerto Rico.

(a) Insular possessions of the United States other than Puerto Rico are also American territory but, because those insular possessions are outside the customs territory of the United States, goods imported therefrom are subject to the rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States (HTSUS) except as otherwise provided in § 7.3 or in part 148 of this chapter. The principal such insular possessions are the U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll. Pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, Public Law 94–241, 90 Stat. 263, 270, goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment as imports from Guam and thus are also subject to the provisions of § 7.3 and of part 148 of this chapter.

(b) Importations into Guam, American Samoa, Wake Island, Midway Islands, Johnston Atoll, and the Commonwealth of the Northern Mariana Islands are not governed by the Tariff Act of 1930, as amended, or the regulations contained in this chapter. The customs administration of Guam is under the Government of Guam. The customs administration of American Samoa is under the Government of American Samoa. The customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. There is no customs authority on Johnston Atoll, which is under the operational control of the Defense Nuclear Agency. The customs administration of the Commonwealth of the Northern Mariana Islands is under the Government of the Commonwealth.

(c) The Secretary of the Treasury administers the customs laws of the U.S. Virgin Islands through the United States Customs Service. The importation of goods into the U.S. Virgin Islands is governed by Virgin Islands law; however, in situations where there is no applicable Virgin Islands law or no U.S. law specifically made applicable to the Virgin Islands, U.S. laws and regulations shall be used as a guide and be complied with as nearly as possible. Tariff classification of, and rates of duty applicable to, goods imported into the U.S. Virgin Islands are established by the Virgin Islands legislature.

§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.

(a) *General.* Under the provisions of General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS), the following goods may be eligible for duty-free treatment when imported into the customs territory of the United States from an insular possession of the United States:

(1) Except as provided in Additional U.S. Note 5 to Chapter 91, HTSUS, and except as provided in Additional U.S. Note 2 to Chapter 96, HTSUS, and except as provided in section 423 of the Tax Reform Act of 1986, as amended (19 U.S.C. 2703 note), goods which are the growth or product of any such insular possession, and goods which were manufactured or produced in any such insular possession from materials that were the growth, product or manufacture of any such insular possession or of the customs territory of the United States, or of both, provided that such goods:

(i) Do not contain foreign materials valued at either more than 70 percent of the total value of the goods or, in the case of goods described in section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)), more than 50 percent of the total value of the goods; and

(ii) Come to the customs territory of the United States directly from any such insular possession; and

(2) Goods previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation, provided that:

(i) The goods were shipped from the United States directly to the insular possession and are returned from the insular possession to the United States by direct shipment; and

(ii) There was no remission, refund or drawback of such duties or taxes in connection with the shipment of the goods from the United States to the insular possession.

(b) *Origin of goods.* For purposes of this section, goods shall be considered to be the growth or product of, or manufactured or produced in, an insular possession if:

(1) The goods are wholly the growth or product of the insular possession; or

(2) The goods became a new and different article of commerce as a result of production or manufacture performed in the insular possession.

(c) *Foreign materials.* For purposes of this section, the term ''foreign materials'' covers any material incorporated in goods described in paragraph (b)(2) of this section other than:

(1) A material which was wholly the growth or product of an insular possession or of the customs territory of the United States;

(2) A material which was substantially transformed in an insular possession or in the customs territory of the United States into a new and different article of commerce which was then used in an insular possession in the production or manufacture of a new and different article which is shipped directly to the United States; or

(3) A material which may be imported into the customs territory of the United States from a foreign country and entered free of duty either:

(i) At the time the goods which incorporate the material are entered; or

(ii) At the time the material is imported into the insular possession, provided that the material was incorporated into the goods during the 18-month period after the date on which the material was imported into the insular possession.

(d) *Foreign materials value limitation.* For purposes of this section, the determination of whether goods contain foreign materials valued at more than 70 or 50 percent of the total value of the goods shall be made based on a comparison between:

(1) The landed cost of the foreign materials, consisting of:

(i) The manufacturer's actual cost for the materials or, where a material is provided to the manufacturer without charge or at less than fair market value, the sum of all expenses incurred in the growth, production, or manufacture of the material, including general expenses, plus an amount for profit; and

(ii) The cost of transporting those materials to the insular possession, but excluding any duties or taxes assessed on the materials by the insular possession and any charges which may accrue after landing; and

(2) The final appraised value of the goods imported into the customs territory of the United States, as determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a).

(e) *Direct shipment*—(1) *General.* For purposes of this section, goods shall be considered to come to the United States directly from an insular possession, or to be shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment, only if:

(i) The goods proceed directly to or from the insular possession without passing through any foreign territory or country;

(ii) The goods proceed to or from the insular possession through a foreign territory or country, the goods do not enter into the commerce of the foreign territory or country while en route to the insular possession or the United States, and the invoices, bills of lading, and other shipping documents show the insular possession or the United States as the final destination; or

(iii) The goods proceed to or from the insular possession through a foreign territory or country, the invoices and other shipping documents do not show the insular possession or the United States as the final destination, and the goods:

(A) Remained under the control of the customs authority of the foreign territory or country;

(B) Did not enter into the commerce of the foreign territory or country except for the purpose of sale other than at retail, and the port director is satisfied that the importation into the insular possession or the United States results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

(C) Were not subjected to operations in the foreign territory or country other than loading and unloading and other activities necessary to preserve the goods in good condition.

(2) *Evidence of direct shipment.* The port director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the goods were shipped to the United States directly from an insular possession or shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment within the meaning of paragraph (e)(1) of this section, and such evidence of direct shipment shall be subject to such verification as deemed necessary by the port director. Evidence of direct shipment shall not be required when the port director is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the goods qualify for duty-free treatment under General Note 3(a)(iv), HTSUS, and paragraph (a) of this section.

(f) *Documentation.* (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, there shall be filed with the entry/entry summary a properly completed certificate of origin on Customs Form 3229, signed by the chief or assistant chief customs officer or other official responsible for customs administration at the port of shipment, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin shall not be required for any shipment eligible for informal entry under § 143.21 of this chapter or in any case where the port director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

(2) When goods in a shipment not eligible for informal entry under § 143.21 of this chapter are sought to be admitted free of duty as provided in paragraph (a)(2) of this section, the following declarations shall be filed with the entry/entry summary unless the port director is satisfied by reason of the nature of the goods or otherwise that the goods qualify for such duty-free entry:

(i) A declaration by the shipper in the insular possession in substantially the following form:

I, _____ (name) of _____ (organization) do hereby declare that to the best of my knowledge and belief the goods identified below were sent directly from the United States on _____, 19____, to _____ (name) of _____ (organization) on _____ (insular possession) via the _____ (name of carrier) and that the goods remained in said insular possession until shipped by me directly to the United States via the _____ (name of carrier) on _____, 19____.

Marks	Numbers	Quantity	Description	Value

Dated at _____, this _____ day of _____, 19____.

Signature: _____

(ii) A declaration by the importer in the United States in substantially the following form:

I, _____ (name), of _____ (organization) declare that the (above) (attached) declaration by the shipper in the insular possession is true and correct to the best of my knowledge and belief, that the goods in question were previously imported into the customs territory of the United States and were shipped to the insular possession from the United States without remission, refund or drawback of any duties or taxes paid in connection with that prior importation, and that the goods arrived in the United States directly from the insular possession via the _____ (name of carrier) on _____, 19____.

_____
(Date)

_____
(Signature)

(g) *Warehouse withdrawals; drawback.* Merchandise may be withdrawn from a bonded warehouse under section 557 of the Tariff Act of 1930, as amended (19 U.S.C. 1557), for shipment to any insular possession of the United States other than Puerto Rico without payment of duty, or with a refund of duty if the duties have been paid, in like manner as for exportation to foreign countries. No drawback may be allowed under section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), on goods manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under 19 U.S.C. 1313 on goods manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands or Johnston Atoll.

3. Section 7.8 and footnote 5 thereto are removed.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

2. Section 10.181 is redesignated as § 7.4, and newly redesignated § 7.4 is amended as follows:

a. Paragraph (b) is amended by adding the word ''the'' before the words ''Department of Commerce''.

b. Paragraph (g), second sentence, is amended by removing the words ''Form ITA–360'' and adding, in their place, the words ''Form ITA–361''.

c. Paragraph (h) is amended by removing the word ''Department'' and adding, in its place, the word ''Departments''.

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);

* * * * *

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

* * * * *

§ 148.2 [Amended]

2. Section 148.2(b), first sentence, is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

3. Section 148.12(b)(1)(i) is revised to read as follows:

§ 148.12 Oral declarations.

* * * * *

(b) * * *

(1) * * *

(i) The aggregate fair retail value in the country of acquisition of all accompanying articles acquired abroad by him and of alterations and dutiable repairs made abroad to personal and household effects taken out and brought back by him does not exceed:

(A) $400; or

(B) $600 in the case of a direct arrival from a beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries; or

(C) $1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than $400 of which shall have been acquired elsewhere than in such locations except that up to $600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter;

* * * * *

§ 148.17 [Amended]

4. Sections 148.17(b) and (c) are amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.31 [Amended]

5. Section 148.31(a), first sentence, is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

6. Section 148.31(b) is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.32 [Amended]

7. Section 148.32(d)(2) is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

8. Section 148.33 is amended by revising paragraphs (a), (b), (d) and (f) to read as follows:

§ 148.33 Articles acquired abroad.

(a) *Exemption.* Each returning resident is entitled to bring in free of duty and internal revenue tax under subheadings 9804.00.65, 9804.00.70 and 9804.00.72, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), articles for his personal or household use which were purchased or otherwise acquired abroad merely as an incident of the foreign journey from which he is returning, subject to the limitations and conditions set forth in this section and §§ 148.34–148.38. The aggregate fair retail value in the country of acquisition of such articles for personal and household use shall not exceed:

(1) $400, and provided that the articles accompany the returning resident;

(2) Whether or not the articles accompany the returning resident, $600 in the case of a direct arrival from a

beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than $400 of which shall have been acquired elsewhere than in beneficiary countries; or

(3) Whether or not the articles accompany the returning resident, $1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than $400 of which shall have been acquired elsewhere than in such locations except that up to $600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter.

(b) *Application to articles of highest rate of duty.* The $400, $600 or $1,200 exemption shall be applied to the aggregate fair retail value in the country of acquisition of the articles acquired abroad which are subject to the highest rates of duty. If an internal revenue tax is applicable, it shall be combined with the duty in determining which rates are highest.

* * * * *

(d) *Tobacco products and alcoholic beverages.* Cigars, cigarettes, manufactured tobacco, and alcoholic beverages may be included in the exemption to which a returning resident is entitled, with the following limits:

(1) No more than 200 cigarettes and 100 cigars may be included, except that in the case of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Virgin Islands of the United States the cigarette limit is 1,000, not more than 200 of which shall have been acquired elsewhere than in such locations;

(2) No alcoholic beverages shall be included in the case of an individual who has not attained the age of 21; and

(3) No more than 1 liter of alcoholic beverages may be included, except that:

(i) An individual returning directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States may include in the exemption not more than 5 liters of alcoholic beverages, not more than 1 liter of which shall have been acquired elsewhere than in such locations and not more than 4 liters of which shall have been produced elsewhere than in such locations; and

(ii) An individual returning directly from a beneficiary country as defined in § 10.191(b)(1) of this chapter may include in the exemption not more than 2 liters of alcoholic beverages if at least 1 liter is the product of one or more beneficiary countries.

* * * * *

(f) *Remainder not applicable to subsequent journey.* A returning resident who has received a total exemption of less than the $400, $600 or $1,200 maximum in connection with his return from one journey is not entitled to apply the unused portion of that maximum amount to articles acquired abroad on a subsequent journey.

§ 148.34 [Amended]

9. Section 148.34(a) is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

10. Section 148.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 148.35 Length of stay for exemption of articles acquired abroad.

(a) *Required for allowance of $400, $600 or $1,200 exemption.* Except as otherwise provided in this paragraph or in paragraph (b) of this section, the $400, $600 or $1,200 exemption for articles acquired abroad shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. The $400 exemption may be allowed on articles acquired abroad by a returning resident arriving directly from Mexico without regard to the length of time the person has remained outside the territorial limits of the United States.

(b) *Not required for allowance of $1,200 exemption on return from Virgin Islands.* The $1,200 exemption applicable in the case of the arrival of a returning resident directly or indirectly from the Virgin Islands of the United States may be allowed without regard to the length of time such person has remained outside the territorial limits of the United States.

* * * * *

§ 148.36 [Amended]

11. Section 148.36 is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.37 [Amended]

12. Section 148.37 is amended by removing the words ''$400 or $800'' wherever they appear and adding, in their place, the words ''$400, $600 or $1,200''.

§ 148.38 [Amended]

13. Section 148.38 is amended by removing the words ''$400 or $800'' and adding, in their place, the words ''$400, $600 or $1,200''.

14. Section 148.51 is amended by revising paragraph (a)(2) to read as follows:

§ 148.51 Special exemption for personal or household articles.

(a) * * *

(2) A returning resident who is not entitled to the $400, $600 or $1,200 exemption for articles acquired abroad under subheading 9804.00.65, 9804.00.70 or 9804.00.72, HTSUS (see Subpart D of this part).

* * * * *

§ 148.64 [Amended]

15. Section 148.64(a), first sentence, is amended by removing the words ''subheadings 9804.00.30 or 9804.00.70,'' and adding, in their place, the words ''subheading 9804.00.30, 9804.00.65, 9804.00.70 or 9804.00.72,''.

§ 148.74 [Amended]

16. Section 148.74(c)(3) is amended by removing the words ''subheading 9804.00.65 and 9804.00.70,'' and adding, in their place, the words ''subheading 9804.00.65, 9804.00.70 or 9804.00.72,''.

§ 148.101 [Amended]

17. In § 148.101, the sixth sentence is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and example 2 is amended by removing the figure ''$2,900'' in the example text and adding, in its place, the figure ''$4,900'', by removing the figure ''$800'' wherever it appears in the example text and table and adding, in its place, the figure ''$1,200'', by removing the figure ''$1,600'' in the table column headed ''Fair retail value'' and adding, in its place, the figure ''$2,400'', by removing the figure ''$4,100'' in the table column headed ''Fair retail value'' and adding, in its place, the figure ''$4,900'', and by removing the figure ''$1,00'' in the table column headed ''Duty'' and adding, in its place, the figure ''$100''.

18. Section 148.102 is amended by revising paragraphs (a) and (b) to read as follows:

§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in Canada, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 10 percent of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the*

Virgin Islands. The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 5 percent of the fair retail value in the location in which acquired.

* * * * *

§ 148.104 [Amended]

19. Section 148.104(c) is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,000''.

Subpart K [Amended]

20. The heading to Subpart K is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''.

§ 148.110 [Amended]

21. In § 148.110, the first paragraph is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and the second paragraph is amended by adding after ''Guam'' the words '', the Commonwealth of the Northern Mariana Islands,''.

§ 148.111 [Amended]

22. In § 148.111, the introductory text is amended by adding after ''Guam,'' the words ''the Commonwealth of the Northern Mariana Islands,''; and paragraph (a) is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,200''.

§ 148.113 [Amended]

23. Section 148.113(a), first sentence, is amended by removing the figure ''$800'' and adding, in its place, the figure ''$1,200''.

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.
* * * * * * *		
§ 7.3	Claim for duty-free entry of goods imported from U.S. insular possessions.	1515–0055
* * * * * * *		

Approved: May 27, 1997.

George J. Weise,

Commissioner of Customs.

[FR Doc. 97–23308 Filed 9–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug applications (ANADA) filed by Equi Aid Products, Inc. The ANADA provides for using pyrantel tartrate Type A medicated articles to make Type B medicated feeds used as equine anthelmintics.

EFFECTIVE DATE: September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Equi Aid Products, Inc., 1517 West Knudsen Dr., Phoenix, AZ 85027, filed ANADA 200–168, which provides for using pyrantel tartrate Type A medicated articles to make Type B medicated feeds for horses for prevention of *Strongylus vulgaris* larval infections and control of the following parasites in horses: (1) Large strongyles (adults) *S. vulgaris, S. edentatus, Triodontophorus* spp.; (2) small strongyles (adults and fourth-stage larvae) *Cyathostomum* spp., *Cylicocyclus* spp., *Cylicostephanus* spp., *Cylicodontophorus* spp., *Poteriostomum* spp.; (3) pinworm (adults and fourth-stage larvae) *Oxyuris equi*; and (4) ascarids (adults and fourth-stage larvae) *Parascaris equorum*.

Equi Aid's ANADA 200–168 is approved as a generic copy of Pfizer's NADA 140–819. The ANADA is approved as of September 3, 1997 and 21 CFR 558.485(a) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.485 is amended by adding new paragraph (a)(28) to read as follows: