

U.S. Customs and Border Protection



WITHDRAWAL OF REVOCATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF MOTORIZED UTILITY VEHICLES

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: Notice of withdrawal of revocation of three ruling letters and revocation of treatment relating to tariff classification of motorized utility vehicles.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by Section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection (“CBP”) is withdrawing its revocation of three rulings, HQ 965246, dated November 6, 2001, HQ 964598, dated November 13, 2001, and NY H87834, dated January 28, 2002, concerning the tariff classification of motorized utility vehicles under the Harmonized Tariff Schedule of the United States (HTSUS). Similarly, CBP is withdrawing its intent to revoke any treatment previously accorded by CBP to substantially identical transactions. Notice of the revocation was published in the *Customs Bulletin* Vol. 45, No. 35, on August 24, 2011.

FOR FURTHER INFORMATION CONTACT: Claudia Garver, Tariff Classification and Marking Branch: (202) 325–0024

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993 Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter “Title VI”), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are “**informed compliance**” and “**shared responsibility.**” These concepts are premised on the idea that in order to maximize voluntary

compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and to provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. §1625(c)(1)), as amended by section 623 of Title VI, notice of the proposed revocations was published in the *Customs Bulletin* Vol. 40, No. 33, on August 9, 2006.

The final notice of revocation was published on August 24, 2011, in Volume 45, Number 35, of the *Customs Bulletin*. This publication was made in error. CBP is hereby withdrawing the notice of revocation of HQ 965246, HQ 964598, and NY H87834 as well as the accompanying rulings, HQ W968312 and HQ W968313.

Dated:

MYLES B. HARMON, DIRECTOR
Commercial and Trade Facilitation Division



8 CFR Part 100

19 CFR Part 101

CLOSING OF THE PORT OF WHITETAIL, MT

AGENCY: U.S. Customs and Border Protection; DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: U.S. Customs and Border Protection (CBP) is proposing to close the port of entry of Whitetail, Montana. The proposed change is part of CBP's continuing program to more efficiently utilize its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

DATES: Comments must be received on or before October 24, 2011.

ADDRESSES: You may submit comments, identified by docket number USCBP- 2011-0017, by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2011–0017. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Kaplan, Acting Director, Office of Field Operations, Audits and Self-Inspection, (202) 325–4543 (not a toll-free number) or by e-mail at Roger.Kaplan@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background

CBP ports of entry are locations where CBP officers and employees are assigned to accept entries of merchandise, clear passengers, col-

lect duties, and enforce the various provisions of customs, immigration, agriculture and related U.S. laws at the border. The term “port of entry” is used in the Code of Federal Regulations (CFR) in title 8 for immigration purposes and in title 19 for customs purposes. For customs purposes, CBP regulations list designated CBP ports of entry in section 101.3(b)(1) of title 19. 19 CFR 101.3(b)(1).

For immigration purposes, CBP regulations list ports of entry for aliens arriving by vessel and land transportation in section 100.4(a) of title 8. 8 CFR 100.4(a). These ports are listed according to location by districts and are designated as Class A, B, or C. Whitetail, Montana is included in this list, in District No. 30, as a Class A port of entry, meaning a port that is designated as a port of entry for all aliens arriving by vessel and land transportation.¹

On July 20, 2010, the Canada Border Services Agency (CBSA) notified CBP of its intent to close the Big Beaver port of entry in Saskatchewan, Canada. The port of Big Beaver is located approximately 100 yards to the north of the CBP port of Whitetail, Montana. The factors influencing CBSA’s decision to close the port of Big Beaver include the low volume of traffic at that port and the close proximity of alternate Canadian ports of entry at Regway and Coronach. Based on these factors, CBSA determined that closing the Big Beaver port would allow for a more efficient use of Canadian funds and resources.

CBSA closed the Big Beaver port on April 1, 2011. Big Beaver’s closure has created a situation where travelers from Canada may continue to enter the United States at Whitetail but travelers leaving the United States for Canada must do so at a port other than Big Beaver.

The port of Whitetail is one of CBP’s least trafficked ports. The port has processed an average of less than 4 privately owned vehicles per day for the last 4 years. Whitetail currently operates only from morning until evening (8 a.m. through 9 p.m. during the months of June through September; 9 a.m. through 6 pm during the months of September through May). The facility was built in 1964 and has undergone little renovation since that time. CBP has determined that the facility does not have the infrastructure to meet modern operational, safety, and technological demands for ports of entry and that major renovations would be required if Whitetail were to continue operations. The costs of such renovations are discussed in Section IV of this document.

¹ Class B ports are designated ports of entry for aliens arriving by vessel or land transportation, who, at the time of applying for admission, are in possession of certain, specified documentation or admissible under a certain documentary waiver. Class C ports are designated ports of entry only for aliens arriving by vessel transportation as crewmen, as the term is defined by the Immigration and Nationality Act with respect to vessels.

The two ports of entry closest to Whitetail are the ports of Raymond, Montana and Scobey, Montana. Raymond is located about 60 miles east of Whitetail, and Scobey is located about 40 miles west of Whitetail. If the port of entry at Whitetail is closed, the traffic normally seen at that port will be processed at these two ports. The port of Raymond operates 24 hours, providing additional convenience to those normally crossing at the port of Whitetail.

In view of the closure of the adjacent Canadian port of Big Beaver, the limited usage of the port of Whitetail, the location of the alternative ports, and the analysis of the net benefit of the port closure discussed in Section IV of this document (including the cost of necessary renovations were the port to remain open), CBP is proposing to close the Whitetail, Montana, port of entry to better utilize CBP funds and resources. This action would further CBP's ongoing goal of more efficiently utilizing its personnel, facilities, and resources.

Consultations/Assessments

CBP will conduct further assessments focusing on how to secure the area, reroute traffic to the closest ports, and calculate any additional costs associated with the potential port closure. CBP also will consult and coordinate with CBSA and the Montana Department of Transportation regarding the planned closure. CBP is currently conducting the initial phases of an environmental study to ensure that the proposed port closure complies with applicable environmental laws such as the National Environmental Policy Act of 1969 (NEPA).

III. Congressional Notification

On September 28, 2010, the Commissioner of CBP notified Congress of CBP's intention to close the port of entry at Whitetail, Montana, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

IV. Regulatory Requirements

A. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this notice of proposed rulemaking is signed by the Secretary of Homeland Security.

B. Executive Order 12866: Regulatory Planning and Review

This rule is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563, and has

not been reviewed by the Office of Management and Budget (OMB) under that order. Below is CBP's assessment of the benefits and costs of this regulatory action.

1. Baseline Conditions

Whitetail averaged 1,261 cars and 57 trucks a year from 2007 to 2009. CBP assigns four full time staff to the crossing, costing about \$457,000 per year, including benefits. In addition, CBP spends about \$35,000 a year on operating expenses such as utilities and maintenance. The total annual cost of operating the crossing is about \$492,000. DHS has determined that the Whitetail port of entry requires significant renovation and expansion, requiring an estimated \$8 million to build facilities that meet all current safety and security standards. Since this construction is the only alternative to closing the crossing, CBP would spend about \$8.5 million the first year (construction plus operating costs) and \$0.5 million each subsequent year if the crossing were to remain open.

2. Costs of Closing the Port

The costs of the proposed closure fall into three categories—the cost to CBP to physically close the port, the cost to U.S. travelers entering the United States to drive to the next nearest port, and the cost to the economy of lost revenue resulting from potential decreased Canadian travel. CBP estimates that it will cost approximately \$158,000 to physically close the port, which involves building road barricades, boarding up the building, and managing asbestos.

In addition to the cost to the government of closing the port, we must examine the impact of this proposed closing on U.S. travelers (per guidance provided in OMB Circular A-4, this analysis is focused on costs and benefits to U.S. entities). Approximately 1,318 vehicles and 2,571 passengers cross from Canada into the United States each year at Whitetail. If the port is closed, these travelers would need to travel to an alternate port, which could cost them both time and money.

As noted, the two ports closest to Whitetail are Raymond, which is about 60 miles east, and Scobey, which is about 40 miles west. The alternate port travelers choose to use will depend on their point of origin and their destination. In general, the closer the point of origin or destination to Whitetail, the more the traveler will be affected by the closure. Because CBP does not collect data on either of these points, for the purposes of this analysis we will assume the worst case scenario—that all crossers begin their trip at a point just across the border from Whitetail and travel to a point just on the U.S. side of the

border. We estimate that such a detour would add 1 hour and 40 miles to the crossers' trip. Since it is unlikely that all crossings at Whitetail originate and end immediately at the border, this methodology likely overstates the cost to travelers.

In 2007, Industrial Economics, Inc. (IEc) conducted a study for CBP to develop "an approach for estimating the monetary value of changes in time use for application in [CBP's] analyses of the benefits and costs of major regulations."² We follow the three-step approach detailed in IEc's 2007 analysis to monetize the increase in travel time resulting from the closure of Whitetail: (1) Determine the local wage rate, (2) determine the purpose of the trip, and (3) determine the value of the travel delay as a result of this rule. We start using the median hourly wage rate for Montana of \$13.65 per hour, as the effects of the rule are local.³ We next determine the purpose of the trip. For the purposes of this analysis, we assume this travel will be personal travel and will be local travel. We identify the value of time multiplier recommended by the U.S. Department of Transportation (DOT) for personal, local travel, as 0.5.⁴ Finally, we account for the value of the travel delay. Since the added time spent traveling is considered more inconvenient than the baseline travel, we account for this by using a factor that weighs time inconvenienced more heavily than baseline travel time. This factor, 1.47, is multiplied by the average wage rate and the DOT value of time multiplier for personal, local travel for a travel time value of \$10.04 per traveler ($\$13.65 \times 0.5 \times 1.47$).⁵

We next multiply the estimated number of travelers entering the U.S. through Whitetail in a year (2,571) by the average delay (1 hour) to arrive at the number of additional hours travelers would be delayed as a result of this rule—2,571 hours. We multiply this by the value of wait time (\$10.04) to arrive at the value of the additional

² Robinson, Lisa A. 2007. "Value of Time." Submitted to US Customs and Border Protection on February 15, 2007. The paper is contained in its entirety as Appendix D in the Regulatory Assessment for the April 2008 final rule for the Western Hemisphere Travel Initiative requirements in the land environment (73 FR 18384; April 3, 2008). See <http://www.regulations.gov> document numbers USCBP-2007-0061-0615 and USCBP-2007-0061-0616.

³ Bureau of Labor Statistics, May 2009. http://www.bls.gov/oes/current/oes_mt.htm#00-0000.

⁴ U.S. Department of Transportation (DOT), *Revised Departmental Guidance, Valuation of Travel Time in Economic Analysis*, (Memorandum from E. H. Frankel), February 2003, Tables 1.

⁵ Wardman, M., "A Review of British Evidence on Time and Service Quality Valuations," *Transportation Research Part E*, Vol. 37, 2001, pp. 107-128.

driving time travelers arriving in the United States once Whitetail is closed. Finally, we double this to account for round trip costs to reach a total time cost of \$51,626.

Besides the cost of additional travel time, we must consider the vehicle costs of a longer trip. We must first estimate the number of miles the closure of Whitetail would add to travelers' trips. The annual traffic arriving at Whitetail is 1,300 vehicles. Since we assume that the closure will add 40 miles to each crossing, the closure will add a total of 52,000 miles to travelers' trips each year. We next monetize the delay by applying the IRS's standard mileage rate for business travel of \$0.50 to these vehicles, which includes fuel costs, wear-and-tear, and depreciation of the vehicle. Because this is an estimate for business travel, it may overstate slightly costs for leisure travelers using their vehicles on leisure activities. Finally, we double the costs to account for the return trip. We estimate that a closure of Whitetail will cost U.S. citizens \$52,000 in additional vehicular costs.

The final cost we must consider is the cost to the economy of lost revenue resulting from potential decreased Canadian travel. Because of the lack of data on the nature of travel through Whitetail and its effect on the local economy, we are unable to monetize or quantify these costs. We therefore discuss this qualitatively.

Since both U.S. and foreign travelers will be inconvenienced by the closure of the port of Whitetail, it is possible that fewer foreign travelers will choose to cross the border into the United States. To the extent that these visitors were spending money in the United States, local businesses would lose revenue. Since fewer than four vehicles a day enter the United States at Whitetail, this effect is likely to be very small. Also, these revenue losses could be mitigated by those U.S. citizens who would now choose to remain in the United States. We believe that the total impacts on the economy due to decreased travel to the United States are negligible.

In summary, the closure of the port of Whitetail would cost CBP \$158,000 in direct closure costs in the first year, and U.S. travelers \$51,626 in time costs and \$52,000 in vehicle costs annually. Total costs to close the port are thus approximately \$262,000 in the first year and \$104,000 each following year.

3. Net Effect of Closure

The costs to CBP of leaving the port of Whitetail open are \$8.5 million the first year and \$500,000 each following year. The cost of closing the port are \$262,000 the first year and \$104,000 each following year. Thus, the net benefit of the Whitetail closure is about \$8.2 million the first year and \$396,000 each year after that.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

Because CBP does not collect data on the number of small businesses that use the port of Whitetail, we cannot estimate how many would be affected by this rule. However, an average of only four vehicles cross into the United States at Whitetail each day, and the total cost of the rule to the public is only about \$104,000 a year, even assuming the longest possible detour for all traffic. DHS does not believe that this cost rises to the level of a significant economic impact. DHS thus believes that this rule will not have a significant economic impact on a substantial number of small entities. DHS welcomes any comments regarding this assessment. If it does not receive any comments contradicting this finding, DHS will certify that this rule will not have a significant economic impact on a substantial number of small entities at the final rule stage.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

V. Authority

This change is proposed under the authority of 5 U.S.C. 301, 6 U.S.C. 112, 203 and 211, 8 U.S.C. 1103 and 19 U.S.C. 2, 66 and 1624.

VI. Proposed Amendment to Regulations

If the proposed closure of the port of Whitetail, Montana, is adopted, CBP will amend the lists of CBP ports of entry at 19 CFR 101.3(b)(1) and 8 CFR 100.4(a) to reflect this change.

JANET NAPOLITANO,
Secretary.

[Published in the Federal Register, August 24, 2011 (76 FR 52890)]



19 CFR Part 159

RIN 1515-AD67 (formerly RIN 1505-AC21)

COURTESY NOTICE OF LIQUIDATION; CORRECTION

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: U.S. Customs and Border Protection (“CBP”) published in the **Federal Register** of August 17, 2011, a final rule concerning the discontinuation of electronic courtesy notices of liquidation to importers of record whose entry summaries are filed in the Automated Broker Interface (“ABI”). In the preamble of the final rule document, CBP made a misstatement in a comment response regarding the availability to an importer of an Importer Trade Activity (ITRAC) report—a historical report on all of an importer’s importation activity over a set time period. CBP incorrectly stated that C-TPAT members may receive ITRAC reports for free. This document corrects the August 17, 2011 document to reflect that the Importer Self-Assessment (“ISA”) members, rather than C-TPAT members, receive free ITRAC reports.

DATES: This correction is effective August 24, 2011. The final rule is effective September 30, 2011. The implementation date will be the first day on or after September 30, 2011, that CBP can provide importers with complete liquidation reports, including liquidation dates, electronically through the ACE Portal. CBP will confirm the date of implementation through electronic notification (see *CBP.gov*).

FOR FURTHER INFORMATION CONTACT: Laurie Dempsey, Trade Policy and Programs, Office of International Trade, Customs and Border Protection, 202- 863-6509.

SUPPLEMENTARY INFORMATION:**Correction**

In the **Federal Register** issue of Wednesday, August 17, 2011, in FR Doc. 2011–20957, please make the following two corrections:

1. On page 50883, in the third column, please remove in the heading of the document “[USCBP–2010–0008; BP Dec. 11–17]” and add in its place “[USCBP–2010–0008; CBP Dec. 11– 17]”;

2. On page 50886, in the second column, the last sentence of the second full paragraph, please remove the term “a C–TPAT member” and add in its place the term “an Importer Self-Assessment (“ISA”) member”.

Dated: August 19, 2011.

JOANNE ROMAN STUMP,
Acting Director,
Regulations and Disclosure Law Division,
U.S. Customs and Border Protection.

HEIDI COHEN,
Senior Counsel for Regulatory Affairs,
Office of the Assistant General Counsel for
General Law, Ethics & Regulation,
U.S. Department of the Treasury.

[Published in the Federal Register, August 24, 2011 (76 FR 52862)]


19 CFR Parts 10 and 163**RIN 1515–AD75****DUTY-FREE TREATMENT OF CERTAIN VISUAL AND
AUDITORY MATERIALS**

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations pertaining to the filing of documentation related to free entry of certain merchandise under Chapter 98 of the Harmonized Tariff Schedule of the United States (HTSUS). The proposed amendment would permit an applicant to file the documentation required for duty-free treatment of certain visual and auditory materials of an educational, scientific, or cultural character under subheading 9817.00.40, HTSUS, at any time prior to the liquidation of the entry. The regulation currently requires the filing of

this documentation within 90 days of the date of entry. The proposed change would provide more time for the importer to provide the necessary certification documentation to CBP and would serve to align the filing of required certification documentation with a change in CBP policy that extended the liquidation cycle for entries in the ordinary course of business from 90 days to 314 days after the date of entry. The change is consistent with other regulations that govern the duty-free treatment of merchandise under Chapter 98, HTSUS.

DATES: Written comments must be received on or before October 18, 2011.

ADDRESSES: You may submit comments, identified by *docket number*, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via Docket No. USCBP 2011–0030.
- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., (Mint Annex), Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Robert Dinerstein, Valuation and Special Programs Branch, Regulations and Rulings, Office of International Trade, (202) 325–0132.

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports such recommended change. *See* **ADDRESSES** above for information on how to submit comments.

Background

The United States signed the “Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character” made at Beirut, Lebanon (also referred to as the “Beirut Agreement”) in 1948. By Public Law 89–634, 80 Stat. 879, 19 U.S.C. 2501 (October 8, 1966), which amended the Tariff Schedules of the United States, and Executive Order 11311, 31 FR 13413 (Oct. 18, 1966), the United States implemented its obligations under the Agreement to allow certain qualifying visual and auditory materials to be imported into the United States duty-free. The provision for duty-free treatment for these materials is now set forth under subheading 9817.00.40 of the Harmonized Tariff Schedule of the United States (HTSUS).

CBP coordinates with the U.S. Department of State in administering the obligations of the United States under the Beirut Agreement. The Department of State is the agency responsible for determining whether articles qualify under the Agreement for duty-free treatment under subheading 9817.00.40 of the HTSUS, and CBP is responsible for ensuring that duty-free treatment for merchandise entered under that HTSUS subheading is provided only if the Department of State has certified that the articles qualify. The relevant regulations of the Department of State are set forth in 22 CFR part 61 and the regulation detailing the Department of State’s issuance of the certification document is set forth at 22 CFR 61.8. The relevant CBP regulation is 19 CFR 10.121. As the program currently is administered, an applicant is required to file the Department of State’s certification document in connection with an entry covering articles for which duty-free treatment is sought. *See* 19 CFR 10.121(a).

This document proposes to amend the CBP regulation regarding the time period in which a party seeking duty-free treatment under

subheading 9817.00.40 of the HTSUS must provide certification from the Department of State. If the required documentation has not been filed with CBP at the time of entry for merchandise entered under subheading 9817.00.40, HTSUS, section 10.121(b) of the CBP regulations permits liquidation to be suspended for 90 days after entry to allow an applicant time to obtain the certifying Department of State document. This proposed amendment would permit more time for the importer to provide the necessary certification documentation to CBP.

This document proposes to amend 19 CFR 10.121(b) by removing the language which provides for the suspension of liquidation of an entry for 90 days and to provide, instead, that the required documentation may be filed with CBP any time prior to liquidation. This 90-day suspension provision was promulgated in 1966 and section 10.121(b) does not reflect the subsequent amendments to 19 U.S.C. 1504 or changes to CBP policy regarding liquidation. Under current law, CBP has up to one year to liquidate an entry before it is deemed liquidated by operation of law. *See* 19 U.S.C. 1504. Historically, the majority of entries were liquidated within 90 days in the ordinary course of business; however, this policy was changed by the agency when the volume of trade increased by extending the liquidation cycle from 90 days after entry to 314 days after entry. *See* 314-Day Liquidation Cycle-Trade Notice, CSMS #97-000727 (Aug. 3, 1997). It is noted that there is no statutory provision preventing CBP from liquidating an entry at any time during the one-year period after entry of the merchandise and prior to the conclusion of the 314-day liquidation cycle if all the required documentation has been filed.

Section 10.112 of title 19 CFR (19 CFR 10.112) permits the filing of documentation related to free entry of merchandise under Chapter 98, HTSUS, at any time prior to liquidation of an entry or, if liquidated, before the liquidation becomes final. Section 10.121(b) is proposed to be amended to be consistent with 19 CFR 10.112 and the change in CBP's current liquidation practice. Therefore, the suspension of liquidation of an entry for a period of 90 days from the date of entry to allow an applicant to file the required documentation in order to qualify for an exemption from duty under subheading 9817.00.40, HTSUS, would be replaced with a suspension of liquidation of an entry for a period of 314 days from the date of entry.

Lastly, we note that this proposed change to 19 CFR 10.121(b) is also consistent with other CBP regulations that govern the duty free treatment of merchandise under Chapter 98, HTSUS. For instance, the regulations implementing the Florence Agreement on scientific instruments and apparatus were amended to merely require that the Department of Commerce's certifying documentation be submit-

ted to CBP prior to liquidation. *See* 19 CFR 10.112 and 15 CFR 301.8 (74 FR 30462, June 26, 2009).

Other Changes

This document also proposes to make a non-substantive change to a listing in the Appendix to part 163—Interim (a)(1)(A) List. The listing “§ 10.121 Certificate from USIA for visual/ auditory materials” currently references USIA (United States Information Agency). Since USIA was abolished in 1999 by the Foreign Affairs Reform and Restructuring Act of 1998, and its functions were transferred to the U.S. Department of State, this listing is outdated. This document will amend the listing in the Appendix to Part 163 to reflect the State Department rather than USIA.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), we have considered whether this proposed rule would have a significant impact on a substantial number of small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

As this proposed amendment would provide more time for an importer to obtain the State Department certificate, CBP certifies under 5 U.S.C. 605(b) that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. CBP welcomes any comments regarding this finding.

Executive Order 12866

This proposed rule is not a “significant regulatory action” as defined by Executive Order 12866.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by Office of Management and Budget (OMB). The information collected under 19 CFR 10.121 is included under OMB control number 1651–0067. There are no new collections of information proposed in this document.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations pertaining to certain customs revenue functions.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Entry, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

Proposed Amendments to the CBP Regulations

For the reasons set forth above, it is proposed to amend parts 10 and 163 of title 19 of the Code of Federal Regulations as set forth below.

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

1. The general authority citation for part 10 continues to read and a specific authority is added for § 10.121 as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Section 10.121 also issued under 19 U.S.C. 2501;

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2. Section 10.121(b) is revised to read as follows:

§ 10.121 Visual or auditory materials of an educational, scientific, or cultural character.

* * * * *

(b) Articles entered under subheading 9817.00.40, HTSUS, will be released from CBP custody prior to submission of the document required in paragraph (a) of this section only upon the deposit of

estimated duties with the port director. Liquidation of an entry which has been released under this procedure will be suspended for a period of 314 days from the date of entry or until the required document is submitted, whichever comes first. In the event that documentation is not submitted before liquidation, the merchandise will be classified and liquidated in the ordinary course, without regard to subheading 9817.00.40, HTSUS.

PART 163—RECORDKEEPING

3. The authority citation for part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

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Appendix to Part 163—[Amended]

4. Section IV is amended by removing the listing “§ 10.121 Certificate from USIA for visual/auditory materials” and adding in its place the listing “§ 10.121 Certificate from the U.S. Department of State for visual/auditory materials”.

Dated: August 16, 2011.

ALAN D. BERSIN,
Commissioner,

U.S. Customs and Border Protection.

TIMOTHY E. SKUD,

Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 19, 2011 (76 FR 51914)]

AGENCY INFORMATION COLLECTION ACTIVITIES: PETITION FOR REMISSION OR MITIGATION OF FORFEITURES AND PENALTIES INCURRED

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security

ACTION: 30-Day notice and request for comments; Extension of an existing information collection.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred (Form 4609). This is a proposed extension of an

information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (76 FR 34245) on June 13, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before September 21, 2011

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104-13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Petition for Remission or Mitigation of Forfeitures and Penalties Incurred.

OMB Number: 1651-0100.

Form Number: CBP Form 4609.

Abstract: CBP Form 4609, *Petition for Remission of Forfeitures and Penalties Incurred*, is completed and filed with the CBP Port

Director by individuals who have been found to be in violation of one or more provisions of the Tariff Act of 1930, or other laws administered by the CBP. Persons who violate the Tariff Act are entitled to file a petition seeking mitigation of any statutory penalty imposed or remission of a statutory forfeiture incurred. This petition is submitted on CBP Form 4609. The information provided on this form is used by CBP personnel as a basis for granting relief from forfeiture or penalty. CBP Form 4609 is authorized by 19 U.S.C. 1618 and provided for by 19 CFR 171.11. It is accessible at http://forms.cbp.gov/pdf/CBP_Form_4609.pdf.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses, Travelers.

Estimated Number of Respondents: 28,000.

Estimated Total Annual Responses: 28,000.

Estimated Time per Respondent: 14 minutes.

Estimated Total Annual Burden Hours: 6,500.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229-1177, at 202-325-0265.

Dated: August 17, 2011.

TRACEY DENNING,
Agency Clearance Officer,
U.S. Customs and Border Protection.

[Published in the Federal Register, August 22, 2011 (76 FR 52339)]

