

use the authority provided in paragraph (b) to request approval from the Federal Aviation Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent release of uncontained debris from the turbine exhaust case (TEC) following an internal engine failure, which can result in damage to the aircraft, accomplish the following:

(a) At the next removal of the TEC from the low pressure turbine case "P" flange for overhaul, where the No. 4 bearing, carbon seals, lubrication pressurization lines, or scavenge lines are removed for maintenance after the effective date of this AD, but not later than 48 months after the effective date of this AD, accomplish the following:

(1) For PW JT9D-3A, -7, -7A, -7AH, -7H, -7F, -7J, -20, and -20J series turbofan engines, accomplish any one of the following actions:

(i) Install a thicker-walled TEC, with Part Numbers (P/N's) listed in PW SB No. 6113, dated April 13, 1993, as applicable; or

(ii) Install a modified TEC that incorporates a containment shield, with P/N's listed in PW SB No. 5907, dated March 27, 1990, as applicable; or

(iii) Install a modified TEC that incorporates a replacement "P" flange and case wall, with P/N's listed in PW SB No. 6118, Revision 3, dated January 10, 1996.

(2) For PW JT9D-7Q and -7Q3 series turbofan engines, accomplish any one of the following actions:

(i) Install a thicker-walled TEC, with P/N's listed in PW SB No. 5977, dated December 14, 1990; or

(ii) Install a modified TEC that incorporates a containment shield, with P/N's listed in PW SB No. 5907, dated March 27, 1990, as applicable; or

(iii) Install a modified TEC that incorporates a replacement "P" flange and case wall, with P/N's listed in PW SB No. 6157, dated February 9, 1994.

(3) For PW JT9D-59A and -70A series turbofan engines, accomplish one of the following actions:

(i) Install a thicker-walled TEC, with P/N's listed in PW SB No. 6243, dated February 1, 1996; or

(ii) Install a modified TEC that incorporates a containment shield, with P/N's listed in PW SB No. 5907, dated March 27, 1990, as applicable;

(iii) Install a modified TEC that incorporates a replacement "P" flange and case wall, with P/N's listed in PW SB No. 6157, dated February 9, 1994.

(4) For PW JT9D-7R4D (BG-700 series) turbofan engines, accomplish either of the following actions:

(i) Install a thicker-walled TEC, with P/N's listed in PW SB No. JT9D-7R4-72-479, Revision 1, dated November 12, 1993; or

(ii) Install a modified TEC that incorporates a containment shield, with P/N's listed in PW SB No. JT9D-7R4-72-407, Revision 1, dated August 16, 1990, as applicable.

(5) For PW JT9D-7R4D (BG-800 series), -7R4D (BG-900 series), -7R4D1 (AI-500 series), -7R4E (BG-800 series), -7R4E (BG-900 series), -7R4E1 (AI-500 series), -7R4E1 (AI-600 series), -7R4E4 (BG-900 series), -7R4G2 (BG-300 series), and -7R4H1 (AI-600 series) turbofan engines, accomplish any one of the following actions:

(i) Install a thicker-walled TEC, with P/N's listed in PW SB No. JT9D-7R4-72-513, Revision 2, dated January 10, 1996; or

(ii) Install a modified TEC that incorporates a containment shield, with P/N's listed in PW SB No. JT9D-7R4-72-466, Revision 2, dated May 10, 1996; or

(iii) Install a modified TEC that incorporates a replacement "P" flange and case wall, with P/N's listed in PW SB No. JT9D-7R4-72-513, Revision 2, dated January 10, 1996.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 22, 1996.

Robert E. Guyotte,

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### 19 CFR Part 132

#### Extension of Comment Period for Administration of Tobacco Tariff-Rate Quota

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of extension of comment period.

**SUMMARY:** On February 20, 1996, the Office of the United States Trade Representative (USTR) published a

notice soliciting comments and views on the administration of the tariff-rate quota on leaf tobacco, established on September 13, 1995, which was operating on a first-come, first-served basis (61 FR 6333). Because of request by interested parties for an extension of the comment period, USTR is extending the comment period until June 19, 1996.

**DATES:** Comment period extended until June 19, 1996.

**ADDRESSES:** Office of the U.S. Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20508, attention: Tobacco Tariff-Rate Quota.

**FOR FURTHER INFORMATION CONTACT:** Tom Perkins, Senior Economist, Office of Agricultural Affairs, USTR, (202) 395-6127; or Rachel Shub, Assistant General Counsel, USTR (202) 395-7305.

**SUPPLEMENTARY INFORMATION:** Persons submitting written comments should provide a statement, in ten copies, by noon June 19, 1996 to Sybia Harrison, Office of the United States Trade Representative, Room 222, 600 17th Street, NW., Washington, DC 20508, attention: Tobacco Tariff-Rate Quota. Non-confidential information received will be available for public inspection by appointment, in the USTR Reading Room, Room 101, Monday through Friday, 10:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. For an appointment call Brenda Webb at (202) 395-6186. Business confidential information will be subject to the requirements of 15 CFR 2003.6 Any business confidential material must be clearly marked as such on the cover letter or page and each succeeding page, and must be accompanied by a non-confidential summary thereof.

Jennifer Hillman,

*General Counsel.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 151

#### RIN 1515-AB75

#### Detention of Merchandise

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes amendments to the Customs Regulations to provide for procedures regarding the detention of merchandise that is undergoing extended Customs examination. It is intended that the

Customs Regulations regarding this subject accurately reflect recent amendments to the underlying statutory authority, enacted as part of the Customs modernization portion of the North American Free Trade Agreement Implementation Act.

**DATES:** Comments must be received on or before August 5, 1996.

**ADDRESSES:** Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, Suite 4000, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Baskin, Penalties Branch, 202-482-6950.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of the enactment of the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103-182, Title VI of which is the Customs modernization portion thereof, popularly known as the Customs Modernization Act (Mod Act). Section 613 of the Mod Act amended the provisions of section 499 of the Tariff Act of 1930, as amended (19 U.S.C. 1499), to provide for the detention of merchandise in any case where Customs is unable, upon initial examination, to make a determination as to whether that imported merchandise complies with requirements of the laws of the United States. Much of the new legislation brought the law into conformity with existing Customs practice with regard to the examination and detention of merchandise.

Prior to this amendment, Customs, while having extensive examination authority, had no specific statutory or regulatory procedures for detaining merchandise whose admissibility had not yet been determined. The Mod Act codified Customs current detention practices. Importers are provided an accelerated method to receive administrative or judicial review of any decision to exclude.

Customs has five days after merchandise is presented for examination to determine whether such merchandise should be detained or can be released. Through this document Customs is proposing that merchandise shall be considered to be presented for

Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container or instrument of international traffic in which the merchandise to be examined is contained will not be considered to be presentation of the merchandise for Customs examination for purposes of starting the five-day period in which the decision to detain or release must be made. Further, consistent with the provisions of § 151.7 of the Customs Regulations (19 CFR 151.7), relating to the examination of merchandise at a place other than the public stores, the importer shall bear any expense involved in preparing the merchandise for Customs examination.

Customs is required to issue a written notice of detention to the importer or other party having an interest in the subject merchandise. The notice shall advise the importer or other interested party of the initiation of the detention, the specific reason for same, the anticipated length of the detention, the nature of the tests or inquiries to be conducted and the nature of any information which, if supplied to Customs, may accelerate the disposition of the detention. The importer or other interested party shall be afforded the opportunity to remedy the cause for detention and bring the detained merchandise into compliance within 30 days after issuance of the notice. After 30 days or such longer period as authorized by law, if Customs has not made a final determination to release or seize, the goods are deemed to be excluded. Under Customs proposal, the 30-day limitation may be extended when the importer or interested party requests in writing an extension of the detention period, in order to comply with Customs requirements. In the absence of a written request for an extension, the importer or interested party may file a protest as to the exclusion. If, within 30 days after filing of the protest, Customs fails to act, the importer or interested party may seek judicial review in the Court of International Trade. The detention/exclusion period will generally not extend beyond 60 days (unless a longer period is authorized by law) without the importer or interested party being afforded judicial review. At any time during the detention period, the merchandise may be seized and forfeited, if the facts so warrant. The proposed regulations also permit Customs to allow exportation of the goods in lieu of seizure with all costs of exportation being borne by the importer.

The law compels Customs to make timely decisions, provide timely

notices, disclose available testing results and descriptions of procedures and methodologies that are not proprietary to Customs or the holder of any copyright or patent, and process any exclusion protests within a prescribed statutory time period. If a notice to exclude is not issued within such time period, the burden of proof is on Customs to show, by a preponderance of the evidence, good cause as to why an admissibility decision had not been made prior to the time the importer commenced suit. If Customs makes the decision to exclude, an importer wishing to challenge the decision shall bear the burden of proof. These procedures are applicable to those cases where Customs has the responsibility and authority to determine the admissibility of the merchandise. They do not apply to those situations where the decision of admissibility lies with another Federal agency.

This document proposes to amend the regulations to accurately reflect the statutory changes promulgated by the Mod Act.

##### **Comments**

Before adopting the proposed amendments, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

##### **Regulatory Flexibility Act and Executive Order 12866**

For the reasons given in the preamble to this document, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Thus, they are not subject to the requirements of 5 U.S.C. 603 or 604. Nor would the proposed rule result in a "significant regulatory action" under E.O. 12866.

##### **Paperwork Reduction Act**

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number.

The collection of information in this document is in § 151.16 (d) and (f). This information is necessary and will be used to determine the admissibility of imported merchandise and to otherwise comply with the requirements of the Mod Act and protect the revenue. The likely respondents and/or recordkeepers are business or other for-profit institutions.

*Estimated annual reporting and/or recordkeeping burden:* 500 hours.

*Estimated average annual burden per respondent/recordkeeper:* 2 hours.

*Estimated number of respondents and/or recordkeepers:* 250.

*Estimated annual frequency of responses:* 1.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 19 CFR Part 151

Examination, Sampling and testing of merchandise.

Proposed Amendments to the Regulations

It is proposed to amend part 151, Customs Regulations (19 CFR part 151), as set forth below:

## **PART 151—EXAMINATION, SAMPLING AND TESTING OF MERCHANDISE**

1. The general authority citation for part 151, and the specific authority for subpart A, would continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States), 1624. Subpart A also issued under 19 U.S.C. 1499. \* \* \*

2. It is proposed to amend part 151 by adding a new § 151.16 to read as follows:

### **§ 151.16 Detention of merchandise.**

(a) *Other agencies not affected.* The provisions of this section are not applicable to detentions effected by Customs on behalf of other agencies of the U.S. Government.

(b) *Decision to detain or release.* Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for Customs examination, Customs shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise. For purposes of this section, merchandise shall be considered to be presented for Customs examination when it is in a condition to be viewed and examined by a Customs officer. Mere presentation to the examining officer of a cargo van, container or instrument of international traffic in which the merchandise to be examined is contained will not be considered to be presentation of merchandise for Customs examination for purposes of this section. All costs relating to the preparation of merchandise for examination shall be borne by the importer.

(c) *Notice of detention.* If a decision to detain merchandise is made, Customs shall issue a notice to the importer or other party having an interest in such merchandise no later than 5 days (excluding weekends and holidays) after such decision. The notice shall be prepared by the Customs officer detaining the merchandise and shall advise the importer or other interested party of the:

- (1) Initiation of the detention;
- (2) Specific reason for the detention;
- (3) Anticipated length of the detention;
- (4) Nature of the tests or inquiries to be conducted; and
- (5) Nature of any information which, if supplied to the Customs, may accelerate the disposition of the detention.

(d) *Providing testing results.* Upon written request by the importer or other party having an interest in the detained merchandise, Customs shall provide copies of the results of any testing conducted on the merchandise together with a description of the testing procedures and methodologies used (unless such procedures or

methodologies are proprietary to the holder of a copyright or patent or were developed by Customs for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

(e) *Seizure and forfeiture; denial of entry or exportation.* If otherwise provided by law, detained merchandise may be seized and forfeited. In lieu of seizure and forfeiture, Customs may deny entry and, where not otherwise prohibited by law, permit the merchandise to be exported with all expenses of exportation being borne by the importer.

(f) *Final decisions; extension of time.* A final decision with respect to detained merchandise will be made within 30 days from the date the shipment was detained. The 30-day limitation may be extended when the importer or interested party requests in writing an extension of the detention period, in order to comply with Customs requirements.

(g) *Effect of failure to make a determination.* The failure by Customs to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for Customs examination, or such longer period if specifically authorized by law, or such extension of time as allowed by paragraph (f) of this section, shall be treated as a decision by Customs to exclude the merchandise for purposes of § 514(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1514(a)(4)). Such decision may be the subject of a protest.

(h) *Effect of failure to decide protest.* If a protest which is filed as a result of exclusion of detained merchandise is not allowed or is denied in whole or in part before the 30th day after the day on which the protest was filed, it shall be treated as having been denied on such 30th day.

(i) *Burden of proof and decisions of the court.* Once an action respecting a detention is commenced, unless Customs establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

George J. Weise,

Commissioner of Customs.

Approved: April 18, 1996.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

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