

*Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by December 29, 1997.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$900 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.<sup>1</sup> Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than October 20, 1997. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 190X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) James R. Paschall, General Attorney, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510-2191.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at (202) 565-1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary), prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: September 24, 1997.

<sup>1</sup> Although NSR believes that the line is not suitable for public use, we will nevertheless entertain public use/trail use requests.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 97-25925 Filed 9-29-97; 8:45 am]

BILLING CODE 4915-00-P

## DEPARTMENT OF THE TREASURY

### Customs Service

#### Modification of National Customs Automation Program Test Regarding Reconciliation

**AGENCY:** Customs Service, Treasury.

**ACTION:** General notice.

**SUMMARY:** A notice published in the **Federal Register** on February 6, 1997, announced Customs plan to conduct a prototype test of reconciliation. This document is a replacement for that notice. This document notifies the trade community of changes to the prototype test and sets forth the policy which makes this prototype the exclusive means to reconcile entries, pursuant to 19 U.S.C. 1484(b). The prototype will henceforth be referred to as the Automated Commercial System (ACS) Reconciliation Prototype.

This document invites public comments concerning any aspect of the planned test, informs interested members of the public of the requirements for voluntary participation, and establishes the process for developing evaluation criteria. To participate in this prototype, certain information, as outlined in this notice, must be filed with Customs prior to filing Reconciliations. It is important to note that resources expended by the trade and Customs on these prototypes may not carry forward to the final program.

**EFFECTIVE DATE:** The testing period of this prototype will commence no earlier than October 1, 1998, will run for approximately two years, and may be extended. The prototype will be limited to consumption entries filed on or after October 1, 1998, through September 30, 2000. Comments concerning the test are requested by November 14, 1997. A subsequent notice will be published in the **Federal Register** to announce the opening date of the application period, and specify any changes made to this prototype as a result of the comments received from the public.

**ADDRESSES:** Written comments regarding this notice should be addressed to Ms. Shari McCann, Reconciliation Team, U.S. Customs Service, 1301 Constitution Ave, NW,

Room 1315, Washington, DC, 20229-0001.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shari McCann, at (202) 927-1106, or Mr. Don Luther at (202) 927-0915.

#### SUPPLEMENTARY INFORMATION:

##### Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Pub.L. 103-182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Section 637 of the Act amended Section 484 of the Tariff Act of 1930 to establish a new subsection (b), entitled "Reconciliation", a planned component of the NCAP. Section 101.9(b) of the Customs Regulations (19 CFR 101.9(b)) provides for the testing of NCAP components. See, TD 95-21. This test is established pursuant to those regulations. This document modifies the prototype test of reconciliation that was announced in the **Federal Register** (62 FR 5673) on February 6, 1997, and replaces that document.

##### In General

Concurrent with this Automated Commercial System (ACS) Reconciliation Prototype, Customs is designing a reconciliation component under the National Customs Automation Program Prototype (NCAP/P) in the Automated Commercial Environment (see, 62 FR 14731, dated March 27, 1997).

Thus, except for participation in the NCAP/P and upon implementation of this prototype, any party who elects to reconcile entries pursuant to 19 U.S.C. 1484(b) may only do so through this prototype. This prototype will serve as the exclusive means to reconcile entries for (1) value, (2) classification, (3) merchandise entered under Harmonized Tariff Schedule of the United States (HTSUS) heading 9802 or (4) merchandise entered under the North American Free Trade Agreement (NAFTA). All practices with respect to block liquidation/block appraisement (liquidating one entry summary or some entry summaries for a periodic adjustment affecting many entry summaries) will cease and such post-entry adjustments will take place via the ACS Reconciliation Prototype. All importers may apply for this prototype. Details on the application process are explained below.

## The Concept of Reconciliation

When certain information (other than that related to the admissibility of merchandise) is not determinable at the time of entry summary, an importer may later provide Customs with that information on a Reconciliation. A Reconciliation is treated as an entry for purposes of liquidation, reliquidation, and protest.

A notice of intention to file a reconciliation ("Notice of Intent") identifies an undeterminable issue, transfers that issue to a Reconciliation and permits the liquidation of the underlying entry as to all issues other than those which are transferred to the Reconciliation. During this prototype, the importer will "flag" the underlying entries with an electronic indicator, which will serve as the Notice of Intent. By providing a Notice of Intent, an importer is requesting that a certain issue or group of issues be separated from the entry summary. The importer voluntarily requests and accepts that the issue(s) identified in the notice of intent remain open and outstanding. The importer remains responsible for filing a Reconciliation, and liable for any duties, fees, and taxes resulting from the filing and/or liquidation of the Reconciliation. The Notice of Intent creates an obligation on the importer to file the Reconciliation. Importers participating in this prototype will recognize that the liquidation of the underlying entries pertains only to those issues not identified by the importer on the notice of intent.

Upon liquidation of any underlying entry summary, any decision by Customs entering into that liquidation, e.g., classification, may be protested pursuant to 19 U.S.C. 1514. When the outstanding issue, e.g., value as determined by the actual costs, is later furnished in the Reconciliation, the Reconciliation will be liquidated. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation, and may be protested pursuant to 19 U.S.C. 1514, but the protest may only pertain to the issue(s) flagged for reconciliation (i.e., the protest may not re-visit issues previously liquidated on the underlying entry summary).

Under the statutory mandate of 19 U.S.C. 1484, the importer is responsible for using reasonable care in declaring at entry the proper value, classification and rate of duty applicable to imported merchandise. The public is reminded that the obligation to use reasonable care applies to all aspects of this prototype, including the filing and

flagging of the underlying entries and the filing of the Reconciliation.

Inherent in the concept of reconciliation is the fact that, because certain issues are kept open pending filing of the Reconciliation, the information regarding these issues and the resulting liability for the duties, taxes and fees previously asserted by the importer may change when the Reconciliation is filed. Therefore, for the duration of this prototype, Customs will not accept drawback claims or drawback certificates on underlying entries flagged for reconciliation until the Reconciliation is filed with all duties, taxes and fees paid. In the case of a drawback claim and a reconciliation refund against the same underlying entries, the importer is responsible for ensuring that claims for refunds in excess of the duties paid are not filed with Customs and for substantiating how the separate refund requests apply to different merchandise.

## Prototype Objectives

The Reconciliation team's objectives for this prototype are to:

1. Work with the trade community, other agencies, and other parties affected by this program in the design, conduct, and evaluation of the prototype;
2. Obtain experience through the prototype for use in the design of operational procedures, automated systems, and regulations; and
3. Implement reconciliation on a national level in conjunction with the Trade Compliance Redesign.

## Description of the ACS Reconciliation Prototype

### 1. Issues To Be Reconciled

The ACS Reconciliation Prototype will allow the following issues to be flagged for reconciliation: value, HTSUS heading 9802, NAFTA, and classification on a limited basis.

a. *Value*—The ACS Reconciliation Prototype is open to reconciliation of all value issues.

b. *9802*—The issue of 9802 includes only the value aspect involved with this HTSUS provision, e.g., reconciling the estimated to actual costs.

c. *NAFTA*—Reconciliation may be used as a vehicle to file post-importation refund claims under 19 U.S.C. 1520(d). NAFTA Reconciliations are subject to the obligations under 19 CFR part 181, subpart D. Presentation of the NAFTA Certificate of Origin to Customs is waived for the purposes of this prototype, but the filer must retain these documents, which shall be provided to Customs upon request.

Filers are reminded that interest shall accrue from the date on which the claim for NAFTA eligibility is made (the date of the Reconciliation) to the date of liquidation or reliquidation of the Reconciliation.

The obligation opened by the Notice of Intent applies to all Reconciliations, including NAFTA, even if the participant finally concludes it cannot file a valid 520(d) claim, in which instance the NAFTA Reconciliation would be filed with no change.

d. *Classification*—Classification issues will be eligible for reconciliation only when such issues have been formally established as the subject of a pending administrative ruling, protest or court action.

A Reconciliation of value, 9802 and/or classification shall be filed within 15 months of the date of the oldest entry summary flagged for and grouped on that Reconciliation. A Reconciliation may cover any combination of value, 9802 and classification. Should the issues of value, 9802 and/or classification on one entry summary be flagged for reconciliation, one Reconciliation covering all three issues will be filed.

A NAFTA Reconciliation must be filed within 12 months of the date of importation of the oldest entry summary flagged for and grouped on that Reconciliation. NAFTA Reconciliations will not be combined with other issues, because of NAFTA's unique nature and different due dates, and so that Customs may expedite the processing of such refunds.

### 2. Chain of Events

a. *Initial application*—As part of an importer's application to participate in the ACS Reconciliation Prototype, the importer will provide information including descriptions of the specific issues to be reconciled, the merchandise and Harmonized Tariff Schedule (HTSUS) classification, and which ports the importer uses or intends to use.

b. *Entries flagged for reconciliation*—

i. Any entry summary (see below for eligible entry types) that is flagged for reconciliation must be filed via the Automated Broker Interface (ABI). An electronic indicator, or "flag," signifying that these entries are to be reconciled, must be provided at the header level. The flag designates that the indicated issue(s) for the entire entry summary (not just a specific line) is subject to reconciliation.

ii. For purposes of this prototype, the "flag" serves as the importer's Notice of Intent to file a Reconciliation.

iii. The importer must use reasonable care in filing the entry summary,

including but not limited to declaring the proper value, classification and rate of duty on the underlying entry summary. The importer must provide a good faith value estimate, and deposit the appropriate duties, taxes, and fees at time of entry summary.

iv. Entry summaries flagged for reconciliation will require a continuous bond, which must be accompanied by a rider. The rider shall read as follows:

By this rider to the Customs Form 301, No. \_\_\_\_\_, executed on \_\_\_\_\_, by \_\_\_\_\_, as principal, importer No. \_\_\_\_\_, an \_\_\_\_\_, as surety, code No. \_\_\_\_\_, which is effective on \_\_\_\_\_, the principal and surety agree that this bond covers all Reconciliations pursuant to 19 U.S.C. 1484(b) that are elected on any entries secured by this bond, and that all conditions set out in Section 113.62, Customs Regulations, are applicable thereto.

The continuous bond obligated on the underlying entries, along with the rider, will be used to cover the Reconciliation.

v. All entries subject to one Reconciliation must be covered by one surety. Each Reconciliation must be covered by one surety, i.e., two sureties cannot cover the same Reconciliation.

vi. Entry summaries may be flagged for reconciliation until the close of the test period. Reconciliations may be filed after the close of the test period.

c. *Liquidation of underlying entry summaries*—Liquidation of the underlying entry summary will occur as with any entry summary. Importers who choose to participate in this prototype will recognize that the liquidation of the underlying entries pertains only to those issues not identified by the importer as reconcilable. Upon liquidation of the underlying entries, any decisions of the Customs Service entering into that liquidation can be protested pursuant to 19 U.S.C. 1514. The liquidation of the Reconciliation will be posted to the Bulletin Notice of Liquidation, and any decision of the Customs Service pertaining to that liquidation may also be protested (pursuant to 19 U.S.C. 1514).

d. *Importer Electronically Transmits the Reconciliation via ABI*—

i. When the importer has finalized the outstanding information, and has the answer to the issue in question, the filer will electronically (via ABI) transmit the Reconciliation to Customs. The Reconciliation will be a new entry type 09.

ii. Transmission of a Reconciliation for value, 9802 and/or classification must occur within 15 months of the date of the oldest entry summary flagged for and grouped on that Reconciliation. Transmission of a NAFTA

Reconciliation must occur within 12 months of the date of importation of the oldest entry summary flagged for and grouped on that Reconciliation.

iii. Each Reconciliation will be limited to one importer of record, i.e., the underlying entries and the Reconciliation must have the same importer of record.

iv. This prototype will allow up to 9,999 underlying entries per Reconciliation.

v. The importer must clearly document how the information in the Reconciliation was derived, and provide all supporting documentation to Customs when the Reconciliation is filed. The Reconciliation must include complete supporting documentation for the information provided, to substantiate the importer's claim. The supporting documentation must include details at the entry line level. Supporting documents may include, but are not limited to:

- (a) CF 247—Cost Submission
- (b) detailed line-level spreadsheets
- (c) landed cost analysis sheets
- (d) invoices, purchase orders, and contracts.

vi. While entry summaries may be flagged until the close of the test period, Reconciliations may be filed and liquidated after the closing date of the test.

vii. The structure of the Reconciliation will include a header, association file, and line item data:

(a) Header—The Reconciliation header will include the following data elements:

- (i) Reconciliation entry number
- (ii) Reconciliation entry type (09)
- (iii) Reconciliation date (date of filing)
- (iv) Issue(s) being reconciled
- (v) IRS number
- (vi) Surety code
- (vii) Port of entry code (= processing port)

(viii) Summary date of oldest underlying entry (if the reconciliation issue is value, 9802 or classification)

(ix) Date of import of oldest underlying entry (if the reconciliation issue is NAFTA)

(x) The total of the original duties, taxes, and fees (fees broken out by "class code") which were deposited on the underlying entries

(xi) The total of the reconciled duties, taxes, and fees (fees broken out by "class code") which should have been paid for the underlying entries, had the complete information been available to the importer at the time of filing the underlying entries

(xii) The total amount of interest deposited on filing of the Reconciliation, if the filer elects to do so

(xiii) Comment field: This field is to be used to explain any details of the Reconciliation, e.g., Assist declaration on part XYZ for the period 10/1/98 –9/30/99.

(b) Association file—The association file will include the list of underlying entry numbers and the Reconciliation revenue adjustment, broken out by entry. The association file will consist of the following data elements:

(i) The underlying entry numbers and ports of entry which were previously flagged and grouped on this Reconciliation

(ii) The original amount of duties, taxes and fees (fees broken out by "class code") per underlying entry which were deposited at entry summary

(iii) The reconciled amount of duty, taxes and fees (fees broken out by "class code") which should have been paid for each of the underlying entries, had the complete information been available to the importer at the time of filing the underlying entry summary

(iv) If the Reconciliation results in additional duties due Customs, the filer may deposit interest at time of filing the Reconciliation. Interest must be calculated by and broken out to each underlying entry.

(c) Line item data—Aggregate line item data will be manually submitted via hard copy CF 7501. Each reconciliation line item will be consolidated for all of the underlying entries listed in the association file. Each combination of HTSUS, country of origin, SPI and month of release will require a separate line. The Reconciliation line data elements will include:

- (i) HTS
- (ii) SPI (if changed)
- (iii) Country of origin
- (iv) Quantity (if changed)
- (v) Value
- (vi) Month of release

The reconciled line information will be provided below the original information, as follows:

(Original) HTS SPI C/O Quantity Value Release month

(Reconciled) HTS SPI C/O Quantity Value Release month

e. *Payment*—If the Reconciliation results in a revenue change, Customs will issue one bill or refund per Reconciliation. If the Reconciliation results in additional duties due Customs, payment must be made via check, statement or Automated Clearing House at the time of filing the Reconciliation. The filer may deposit interest at time of Reconciliation filing. If the Reconciliation results in additional duties due the importer,

Customs will issue a refund within 30 days of liquidation of the Reconciliation. Final interest will be assessed or refunded as appropriate.

*f. Liquidation of Reconciliation—*

i. The Reconciliation will be reviewed and liquidated, and one bill or refund issued if a revenue change is appropriate. Bill/refund amounts will be calculated against the duty as shown in the association file upon liquidation of the Reconciliation. Importers will recognize that there may be instances where no bill or refund is necessary. Interest will be calculated in accordance with 19 U.S.C. 1505.

ii. On a matter of dispute, the importer may follow normal protest procedures (pursuant to 19 U.S.C. 1514) with regard to the Reconciliation.

## II. Eligibility Criteria

1. Reconciliation is to be used to group entries together for a common, outstanding issue. Entries flagged for reconciliation which have the same outstanding information should all be grouped on one Reconciliation, *e.g.*, entries flagged for reconciliation over a one year period awaiting finalization of assist information should be grouped on one Reconciliation where the assist information is provided.

2. Adequate bond coverage must exist for the Reconciliation.

3. Participants must be capable of filing the underlying entry and Reconciliation information electronically, via the Automated Broker Interface (ABI).

4. The following entries types are eligible for reconciliation under this prototype:

a. Entry type 01: Free and dutiable consumption entries

b. Entry type 02\*: Quota/visa consumption entries

c. Entry type 03\*: Antidumping/Countervailing duty (AD/CVD) consumption entries

d. Entry type 06: Foreign Trade Zone consumption entries

e. Entry type 07\*: Quota/visa and AD/CVD combination consumption entries

\*Quota and AD/CVD entries may be reconciled for value, classification, 9802 and/or NAFTA. The issues of AD/CVD final rate and scope determination, quota category or any admissibility issue are not eligible reconciliation issues under this prototype.

5. The underlying entries flagged for a Reconciliation may be filed at any port, including any combination of ports.

6. The Reconciliation and supporting documentation may be filed at any port location. Certain ports will be established as reconciliation processing

ports. The ABI transmission of the Reconciliation must reflect one of the Customs-identified processing ports in the port code field. Customs will identify and announce the reconciliation processing ports in the **Federal Register**.

Utilizing the logic of the Remote Location Filing programming, participant profiles will be established in ACS. Participants must identify those locations from where the ABI transmissions will be filed.

7. Participants must agree to participate in the evaluation of this test.

## Application to Participate in the ACS Reconciliation Prototype

This prototype is open to all importers. As stated above, this prototype will serve as the exclusive authority to reconcile entries, outside of any other Customs-designated prototypes. This notice requests importers to apply for participation in this prototype by submitting the following information:

1. Importer name and IRS number
2. Broker name(s) and filer code(s)
3. Surety name(s) and surety code(s)
4. Bond coverage (reconciliation rider mentioned above)

A copy of the rider and identification of the port in which the continuous bond and rider are filed must be included in the application.

5. Commodities covered under the Reconciliation

6. Processing port which will be used

7. Port(s) at which underlying entries and Reconciliation will be filed

8. Port location from where ABI transmission is sent (may be same as #7)

9. Number of entries anticipated to be covered by the Reconciliation

10. Description of specific issue(s) which will be reconciled

11. Point of contact and telephone number

12. Any comments on prototype participation

The application may be submitted by the importer's broker and/or attorney, if duly authorized. This information should be submitted to Ms. Shari McCann, Reconciliation Team, U.S. Customs Service, 1301 Constitution Ave, NW, Room 1315, Washington, DC, 20229. A subsequent notice will be published in the **Federal Register** to announce the opening date of the application period. By applying to participate in this test, the importer is agreeing to participate pursuant to the terms of the test as defined in this notice.

Applications may be submitted throughout the duration of the prototype. Applicants will be notified in

writing of their acceptance or denial into the prototype. An applicant who has been denied participation in the prototype may re-apply after 30 days of the notice of denial.

Interested candidates should note that participation in this test will not constitute confidential information, and that lists of participants will be made available on the Customs Electronic Bulletin Board.

## Misconduct Under Prototype

If a filer attempts to submit data relating to prohibited merchandise, abuses reconciliation by using it when the reconciliation issue is not truly undeterminable at time of entry summary; submits entry types not authorized for reconciliation; is consistently late in filing the Reconciliation or depositing the duties, fees and taxes; fails to supply Customs with sufficient supporting documentation for the Reconciliation; is habitually delinquent in the payment of bills from Customs; or otherwise fails to follow the procedures outlined herein, or applicable laws and regulations, then the filer may be subject to liquidated damages, penalties and/or other administrative sanctions and/or prevented from participation in future prototypes.

## Regulatory Provisions Suspended

Certain requirements of § 113.62 of the Customs Regulations (19 CFR 113.62), pertaining to basic importation and entry bond conditions, will be suspended during this prototype. Certain provisions in parts 141 and 142 of the Customs Regulations (19 CFR 141 and 19 CFR 142), pertaining to entry, and of part 159 of the Customs Regulations (19 CFR part 159), pertaining to liquidation of duties, will also be suspended during this prototype.

Absent any specified alternate procedure, the current regulations apply.

## III. Test Evaluation Criteria

Once the initial comment period has closed, Customs will review all public comments received concerning any aspect of the test program or procedures, answer any questions in light of those comments, and establish baseline measures and evaluation methods and criteria. Interim evaluations of the prototype will be published on the Customs Electronic Bulletin Board, and the results of the final prototype evaluation will be published in the **Federal Register** as required by 19 CFR 101.9(b). The following evaluation

methods and criteria have been suggested:

1. Baseline measurements to be established through dataqueries and questionnaires

2. Reports to be run through use of dataquery throughout the prototype

3. Questionnaires from both trade participants and Customs to be used before, during and after the prototype period.

Customs may assess any or all of the following evaluation criteria from both Customs and the trade participants:

1. Workload impact (workload shifts/volume, cycle times, etc.)

2. Cost savings (staff, interest, issuance of fewer checks or bills, tracking refunds/bills, reduction in contingent liabilities, etc.)

3. Policy and procedure accommodation

4. Trade compliance impact

5. Problem resolution

6. System efficiency

7. Operational efficiency

8. Other issues identified by the participant group.

Customs will request that test participants be active in the evaluation, identifying costs and savings experienced in this prototype.

Dated: September 25, 1997.

**Albert W. Tennant,**

*Acting Assistant Commissioner, Office of Field Operations*

[FR Doc. 97-25930 Filed 9-29-97; 8:45 am]

BILLING CODE 4820-02-P