Applicability

(c) This AD applies to Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211 and –231 airplanes; certificated in any category; except those modified in production by Airbus Modification 30062.

Unsafe Condition

(d) This AD was prompted by a report of failure of the parking brake while the airplane was on the holding point of the runway before takeoff, leading to a runway departure. We are issuing this AD to ensure normal braking is available to prevent possible runway departure in the event of failure of the parking brake.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Modification

(f) Within 52 months after the effective date of this AD: Modify the parking brake system by accomplishing all the actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–32–1201, Revision 02, dated February 1, 2005.

Modifications Accomplished Per Previous Issue of Service Information

(g) Modifications accomplished before the effective date of this AD in accordance with Airbus Service Bulletin A320–32–1201, Revision 01, dated May 29, 2002; are considered acceptable for compliance with the corresponding modification required by paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with 14 CFR 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) French airworthiness directive F–2004–137, dated November 10, 2004, also addresses the subject of this AD.

Material Incorporated by Reference

(j) You must use Airbus Service Bulletin A320–32–1201, Revision 02, dated February 1, 2005, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of this document in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov*; or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Issued in Renton, Washington, on September 26, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–19874 Filed 10–4–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 12, 102, 141, 144, 146, and 163

[CBP Dec. 05–32; USCBP–2005–0009]

RIN 1505–AB60

Country of Origin of Textile and Apparel Products

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

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to the Customs and Border Protection (''CBP'') regulations to update, restructure, and consolidate the regulations relating to the country of origin of textile and apparel products. The interim amendments reflect changes brought about, in part, by the expiration on January 1, 2005, of the Agreement on Textiles and Clothing (''ATC'') and the resulting elimination of quotas on the entry of textile and apparel products from World Trade Organization (''WTO'') members. The primary regulatory change set forth in this document is the elimination of the requirement that a textile declaration be submitted for all importations of textile and apparel products. In addition, to improve the quality of reporting of the identity of the manufacturer of imported textiles and apparel products, the interim amendments include a requirement that importers identify the manufacturer of such products through a manufacturer identification code (''MID'').

DATES: Interim rule effective October 5, 2005; comments must be received by December 5, 2005.

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

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail, hand delivery or courier: paper, disk or CD–ROM submissions may be mailed or delivered to the Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name, document title, and docket number (if available) or Regulatory Information Number (''RIN'') for this rulemaking.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov*. Submitted comments also may be inspected at the Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, 799 9th Street, NW. (5th Floor), Washington, DC during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Operational aspects: Roberts Abels, Textile Operations, Office of Field Operations (202) 344–1959.

Legal aspects: Cynthia Reese, Tariff Classification and Marking Branch, Office of Regulations and Rulings (202) 572–8812.

SUPPLEMENTARY INFORMATION:

Background

CBP notes initially that in this document, references to the Customs Service or Customs concern the former Customs Service or actions undertaken by the former Customs Service prior to its transfer to the Department of Homeland Security (''DHS'') under the Homeland Security Act and the Reorganization Plan Modification for DHS of January 30, 2003.

On May 9, 1984, the President issued Executive Order 12475 to address a number of problems that had arisen in the context of the U.S. textile import program. These problems included (1) the absence of specific regulatory standards for determining the origin of imported textiles and textile products for purposes of textile agreements and (2) an ever increasing number and variety of instances in which attempts were made to circumvent and frustrate

the objectives of the United States textile import program and the bilateral and multilateral textile agreements negotiated thereunder. Section 1(a) of that Executive Order instructed the Secretary of the Treasury, in accordance with policy guidance from the interagency Committee for the Implementation of Textile Agreements (CITA), to issue regulations governing the entry of textiles and textile products subject to section 204 of the Agricultural Act of 1956, as amended (codified at 7 U.S.C. 1854).

In T.D. 85–38, published in the **Federal Register** (50 FR 8710) on March 5, 1985, the Customs Service adopted as a final rule interim amendments to part 12 of the CBP Regulations (19 CFR Part 12), which involved the addition of a new § 12.130 that established criteria to be used in determining the country of origin of imported textiles and textile products for purposes of multilateral or bilateral textile agreements entered into by the United States pursuant to section 204, Agricultural Act of 1956, as amended. In that final rule document, Customs stated that the principles of origin contained in § 12.130 are applicable to merchandise for all purposes. In T.D. 90–17, published in the **Federal Register** (55 FR 7303) on March 1, 1990, which involved a change of practice to conform several previously published Customs positions to certain provisions within 19 CFR 12.130, Customs again stated that the criteria set forth in 19 CFR 12.130 should be used in making country of origin determinations for all CBP purposes.

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act (''URAA''), Public Law 103–465, 108 Stat. 4809. Subtitle D of Title III of the URAA concerns textiles and includes section 334 (codified at 19 U.S.C. 3592). Paragraph (a) of section 334 directed the Secretary of the Treasury to prescribe rules implementing the principles contained in paragraph (b) of section 334 for determining the origin of textile and apparel products. After the enactment of 19 U.S.C. 3592, 7 U.S.C. 1854 was no longer the only statute relevant to the administration of quantitative restrictions on textile products. The principles set forth in section 334 of the URAA for determining the country of origin of textile and apparel products apply for the purposes of the customs laws and the administration of quantitative restrictions, except as otherwise provided for by statute. However, section 334(b)(5) of the URAA excepts from the rules of origin governing textile and apparel products set forth in section 334 goods which, under rulings and administrative practices in effect immediately before the enactment of section 334 (December 8, 1994), would have originated in, or been the growth, product, or manufacture of, Israel.

In T.D. 95–69, published in the **Federal Register** (60 FR 46188) on September 5, 1995, Customs issued final amendments to the CBP regulations (set forth principally at 19 CFR 102.21) to implement the provisions of § 334 of the URAA regarding the country of origin of textile and apparel products. The rules set forth in § 102.21, which became effective for goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, are used to determine the country of origin of textile and apparel products subject to manufacture or processing in all countries, except Israel. With the creation of § 102.21 to implement § 334 of the URAA, the principles of origin set forth in § 12.130 are used for the purpose of determining whether Israel is the country of origin for imported textile and apparel products. If Israel is found not to be the country of origin of a textile or apparel product by application of § 12.130, then the rules set set forth in § 102.21 are used to determine the product's country of origin. However, the application of § 102.21 under these circumstances cannot result in a determination that Israel is the country of origin of the product. See ''Determination of Origin of Textile Goods Processed in Israel,'' General Statement of Policy, published in the **Federal Register** (61 FR 40076) on July 31, 1996.

As § 12.130 exists currently, paragraph (a) defines the scope of textile and textile products subject to section 204, Agricultural Act of 1956, as amended, as including merchandise which is subject to the Multifiber Arrangement Regarding International Trade in Textiles (''MFA'') and identifies such merchandise based on value or weight of specified fibers. Paragraph (b) of § 12.130 sets out the standards for determining the country of origin of a textile or textile product subject to section 204, Agricultural Act of 1956, as amended. It further provides that the procedures set forth in Part 102 are to be used to determine the origin of products of Canada and Mexico as well as the origin of textile and apparel products covered by § 102.21.

Paragraph (c) of § 12.130 sets forth principles for determining the country of origin of certain textiles or textile products that are exported for processing and returned. Paragraph (c)(1) refers to U.S. Note 2, Subchapter II, Chapter 98, HTSUS, and therefore covers products of the United States that are returned after having been advanced in value, improved in condition, or assembled outside the United States. Paragraph (c)(1) provides that those products, upon their return to the United States, may not be considered products of the United States. Paragraph (c)(2) applies the same rule to products of insular possessions of the United States and thus provides that those products, if imported into the United States after having been advanced in value, improved in condition, or assembled outside the insular possessions, are not to be treated as products of those insular possessions.

It is noted that, pursuant to T.D. 00–44, an interpretative rule published in the **Federal Register** (65 FR 42634) on July 11, 2000, CBP no longer applies § 12.130(c) for purposes of country of origin marking of textiles and textile products.

Paragraphs (d) and (e) of § 12.130 set forth factors to consider in determining whether the standard for determining the country of origin of a textile or textile product set out in paragraph (b) has been met. Paragraph (f) of § 12.130 requires the submission of a textile declaration for importations of textiles and textile products subject to section 204, Agricultural Act of 1956, as amended. The textile declaration sets forth information regarding the country of origin of the imported products. Paragraphs (g) and (h) of § 12.130 authorize the port director to require the submission of additional information regarding the origin of textiles and textile products. Paragraph (i) of § 12.130 defines ''date of exportation'' for quota, visa or export license requirements, and statistical purposes, for textiles or textile products subject to section 204 of the Agricultural Act of 1956, as amended.

On January 1, 2005, the Agreement on Textiles and Clothing (''ATC'') expired. The ATC was the successor agreement to the Multifiber Arrangement Regarding International Trade in Textiles (''MFA'') which governed international trade in textiles and apparel through the use of quantitative restrictions. The ATC provided for the integration of textiles and clothing into the General Agreement on Tariffs and Trade (''GATT'') regime over a 10-year transition period. With the conclusion of the 10-year period, the integration was complete and the ATC thus expired. As of January 1, 2005, textiles and apparel products of World Trade Organization members are no longer subject to quantitative restrictions for entry of such products into the United

States. The one exception to this would be for textiles and textile products subject to safeguard actions taken under China's Accession Agreement to the World Trade Organization.

The United States retains bilateral textile agreements with certain countries that are not members of the World Trade Organization. Textile products from these countries remain subject to applicable restraints which are enforced by CBP pursuant to directives from the Chairman of CITA.

By letter dated February 11, 2005, CITA, through its chairman, requested that CBP review the regulations set forth in § 12.130 and recommend appropriate changes in light of the conclusion of the ten-year transition period for the integration of the textiles and apparel sector into GATT 1994 to ensure ongoing enforcement of trade in textiles and apparel. By letter dated February 23, 2005, CBP responded to CITA's request. CITA agreed by letter dated May 4, 2005, that § 12.130 should be amended at this time and responded to the recommendations offered by CBP in response to CITA's solicitation of February 11, 2005. By letter dated July 28, 2005, the Department of the Treasury, pursuant to the authority retained by the Department of the Treasury over the customs revenue functions defined in the Homeland Security Act, and pursuant to section 204 of the Agricultural Act of 1956, as amended, as that authority is delegated by Executive Order 11651 of March 3, 1972, and Executive Order 12475 of May 9, 1984, and in accordance with the policy guidance, recommendation and direction provided by the Chairman of CITA in his letter of May 4, 2005, authorized and directed the Department of Homeland Security to promulgate, as immediately effective regulations, amendments to the CBP regulations regarding the country of origin of textiles and textile products, including changes to the method of reporting information relevant to the origin determination for textile and apparel products.

Discussion of Amendments

With the implementation of the Harmonized Tariff Schedule of the United States (''HTSUS''), the expiration of the MFA and its successor, the ATC, and the enactment of section 334 of the URAA, certain of the provisions of § 12.130 have become out-of-date. Accordingly, CBP in this document is amending its regulations relating to the country of origin of textile and apparel products. In addition to revising and updating the provisions of § 12.130, this document also is re-designating revised § 12.130 as new § 102.22. This will consolidate the rules of origin for textiles and apparel products from all countries in Part 102 of the CBP regulations. As a consequence of relocating the provisions of § 12.130 to Part 102, § 12.130 is removed from the CBP regulations.

It is important to note that in this regulatory package CBP is eliminating the requirement that a textile declaration accompany importations of textiles and apparel products. This will reduce the paperwork burden on importers and is consistent with the movement toward paperless entries. However, pursuant to guidance from CITA and the Department of the Treasury, CBP is amending the CBP regulations to require that importers of textile and apparel products construct the manufacturer's identification code (''MID'') which is declared at the time of entry from the name and address of the entity performing the origin-conferring operations. This requirement will better enable CBP to enforce trade in textile and apparel products.

CBP has closely consulted with CITA in the promulgation of the interim amendments set forth in this document. A discussion of the interim amendments is set forth below.

Section 102.0, which sets forth the scope of Part 102, is amended by including a summary of the provisions that are being relocated from Part 12 to Part 102 pursuant to the amendments promulgated by this document.

Paragraph (a) of § 12.130, which defines the scope of textile or textile products subject to section 204, Agricultural Act of 1956, as amended, includes outdated references to the MFA and to ''chief value.'' This document amends § 12.130(a) by re-designating this paragraph as paragraph (a) of new § 102.22 and by revising the provision to accord with the scope of coverage set forth in § 102.21. Specifically, a cross-reference to the definition of ''textile or apparel products'' in § 102.21(b)(5) is added to § 102.22(a). This will ensure uniformity of coverage between the regulations for determining the origin of textile and apparel products of Israel and the regulations for determining the origin of textile and apparel products of all other countries. Consistent with the above, all references to ''textile or textile product'' in § 12.130 are replaced in new § 102.22 by the words ''textile or apparel product,'' which CBP considers to be synonymous with the former phrase.

Section 12.130(b) is amended by incorporating its provisions into paragraph (a) of new § 102.22 and by clarifying that § 102.22 applies, pursuant to section 334 of the URAA, only to textile and apparel products that are products of Israel.

Paragraph (c) of § 12.130, which concerns the origin of products of the United States and products of insular possessions of the United States that are exported for processing and returned, is removed. In view of the limitation of the origin rules of § 12.130 (now § 102.22) to products of Israel, § 12.130(c) no longer has an appropriate context since it has no relevance to products of Israel. In addition, with the expiration of the ATC, CBP believes this provision is unnecessary.

Paragraphs (d) and (e) of § 12.130 set forth factors to consider in determining whether the standard for determining the country of origin of a textile or textile product set forth in § 12.130(b) (now § 102.22(a)) has been met. Paragraphs (d) and (e) are amended by re-designating these provisions as paragraphs (b) and (c) of new § 102.22, respectively, and by clarifying that these paragraphs are applicable only in determining whether a good is a product of Israel, pursuant to section 334 of the URAA.

Paragraph (f) of § 12.130 is removed. As discussed above, this eliminates the requirement that a textile declaration accompany importations of textiles and textile products subject to section 204, Agricultural Act of 1956, as amended. As stated above, CBP is now requiring importers of textile and apparel goods to include on the CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, a manufacturer's identification code (''MID'') which is derived from the name and address of the entity performing the origin-conferring operations. This requirement will assist CBP in verifying the country of origin of imported textile and apparel products, thereby upholding our international obligations by properly enforcing the international textile restraint agreements to which the United States is a party. CBP is responsible for correctly determining the country of origin of textile and apparel imports to prevent such goods from entering the United States with a false country of origin. The MID requirement will also assist in ensuring that only those textile imports that are eligible to receive preferential trade benefits receive those benefits. As this requirement applies to textile or apparel products from all countries, it is set forth in paragraph (a) of new § 102.23 of the CBP regulations. CBP also is amending Part 102 by adding an

appendix to set forth rules for the proper construction of MIDs.

It is noted that importers of all goods are required to provide a manufacturer or shipper identification code at the time of entry. The MID requirement for textile or apparel goods described above differs from the identification code required for all products only in that the MID must identify the manufacturer of the imported product.

Paragraphs (g) and (h) of § 12.130 concern the circumstances under which CBP may require additional information regarding the origin of imported textile or apparel products and, if admissibility is an issue, deny the release of such products from CBP custody until their country of origin is determined. Paragraphs (g) and (h) are amended by combining the two provisions and re-designating them as paragraph (b) of new § 102.23, and by removing any references to textile declarations. New § 102.23(b) applies to textile or apparel products from all countries.

Paragraph (i) of § 12.130 is amended by re-designating this provision as paragraph (c) of new § 102.23 and by clarifying that this paragraph is applicable only to goods identified in 19 CFR 102.21(b)(5), regardless of the origin of such goods.

A new paragraph (d) is added to new § 102.22 to provide that the rules of origin set forth in § 102.21 are to be used to determine the country of origin of a textile or apparel product if Israel is determined not to be the country of origin of the product under § 102.22. This application of the rules of origin for textile or apparel products is consistent with CBP's practice since the implementation of section 334 of the URAA . See ''Determination of Origin of Textile Goods Processed in Israel,'' General Statement of Policy, published in the **Federal Register** (61 FR 40076) on July 31, 1996.

Conforming changes are also being made in this document to §§ 141.113(b), 144.38(f)(1), and 146.63(d)(1) of the CBP regulations to replace references to ''§ 12.130'' with ''§ 102.21 or § 102.22 of this chapter, as applicable.''

Sections 12.131 and 12.132 set forth certain procedural matters regarding the entry of textiles and textile products in general, and the entry of textile and apparel products under the North American Free Trade Agreement (NAFTA), respectively. These sections are moved to Part 102 to follow the rules of origin for textile and apparel products set forth in § 102.21 and new §§ 102.22 and 102.23 as part of the consolidation of the textile regulations. Section 12.131 is amended by re-designating this provision as § 102.24, by replacing the references to ''textiles and textile products'' with the words ''textile or apparel products,'' and by replacing the reference in paragraph (b) to ''12.130'' with the words ''§ 102.21 or § 102.22 of this chapter, as applicable.'' Section 12.131(b) (now § 102.24(b)) is further amended by adding the words ''or other company'' in the first sentence after ''factory, producer or manufacturer'' to address a situation in which a company that is declared as the actual manufacturer at the time of entry is not a factory, producer or manufacturer but is a trading company or other type of company.

Section 12.132 is amended by re-designating this provision as new § 102.25 and by replacing the references to ''textile and apparel goods'' with the words ''textile or apparel products.'' As the requirement for the submission of a textile declaration has been eliminated, the language preceding paragraph (a)(1) of § 12.132 is removed, as are paragraphs (a)(1) and (a)(2), which concern declarations by manufacturers or producers. Paragraph (a)(3) of § 12.132, pertaining to incomplete declarations and the ability of the port director to determine the country of origin of merchandise, is retained although it is amended by deleting the reference to the textile declaration. Paragraph (b) of § 12.132 is also retained as part of new § 102.25.

Finally, this document amends Part 163 of the CBP regulations by removing from the list of entry records in the Appendix (the interim ''(a)(1)(A) list'') the reference to former ''§ 12.130'' and the records listed thereunder and by replacing the reference to ''§ 12.132'' in the Appendix with ''§ 102.25.''

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments from the general public, including state, local, and tribal governments, that are timely submitted to CBP, including comments on the clarity of the interim regulations and how they may be made easier to understand. All such comments received from the public pursuant to this interim rule document will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b), CBP regulations (19 CFR 103.11(b)), during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, 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) 572–8768. Comments may also be accessed at the Federal eRuling Portal. For additional information on accessing comments via the Federal eRulingmaking Portal, see the **ADDRESSES** section of this document.

Inapplicability of Notice and Delayed Effective Date Requirements

Under the Administrative Procedure Act (''APA'') (5 U.S.C. 553), agencies generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on proposed regulatory amendments, consider public comments in deciding on the content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard notice and comment procedures do not apply to an agency rulemaking to the extent that it involves a foreign affairs function of the United States. The Department of the Treasury has directed that these regulations be promulgated as immediately effective interim regulations because they involve a foreign affairs function of the United States.

In order to implement import policies with respect to textiles and textile products, Congress provided authority to the President to negotiate textile restraint agreements in section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the authority to carry out such agreements by issuing regulations governing the entry of merchandise covered by the agreements into the United States. The amendments set forth in this document, which are promulgated in large part pursuant to 7 U.S.C. 1854, revise, update, and restructure the regulations relating to the country of origin of textile and apparel products. The primary function of these amendments is to facilitate the correct reporting (and deter the fraudulent reporting) of the origin of textile and apparel imports, thereby preventing the circumvention or frustration of the bilateral textile restraint agreements which remain in force or which may be negotiated in the future as well as prevent the contravention of actions taken by CITA pursuant to the textile safeguard provisions of China's WTO Accession Agreement. The interim regulations set forth in this document directly impact upon the administration and enforcement of the remaining quantitative limitations in bilateral trade agreements and the unilaterally imposed restrictions on textile imports by ensuring, to the greatest extent

possible, that the correct country of origin is attributed to all textile imports.

In addition, by improving the proper reporting of the country of origin of textile imports, these interim regulations will facilitate enforcement and administration of the various bilateral and multilateral free trade agreements with which the United States is a party by helping to ensure that only those textile products that are entitled to trade benefits receive those benefits.

For the above reasons, it has also been determined that prior notice and public procedure, and a delayed effective date, are impracticable, unnecessary and contrary to the public interest pursuant to 5 U.S.C. 553(b)(B) and 553(d)(3), respectively.

Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 et seq.), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collections of information in these interim regulations (the identification of the manufacturer on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary)) have been previously reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control numbers 1651–0024 and 1651–0022, respectively. This interim rule clarifies that the manufacturer to be identified on entries of textile and apparel products must consist of the entity performing the origin-conferring operations.

Drafting Information

The principal authors of this document were Cynthia Reese and Craig Walker, Office of Regulations and Rulings, Customs and Border Protection. However, personnel from other offices participated in its development.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his delegate) to approve regulations related to certain CBP revenue functions.

List of Subjects

19 CFR Part 12

Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements, Textiles and textile products, Trade agreements.

19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 144

Bonds, Customs duties and inspection, Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 146

Bonds, Customs duties and inspection, Entry, Foreign trade zones, Imports, Reporting and recordkeeping requirements.

19 CFR Part 163

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

Amendments to the Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for Part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS), 1624;

* * * * *

■ 2. The specific authority citation for §§ 12.130 and 12.131 is removed.

§§ 12.130, 12.131, 12.132 [Removed]

■ 3. The undesignated center heading ''TEXTILES AND TEXTILE PRODUCTS'' and §§ 12.130, 12.131, and 12.132 are removed.

PART 102—RULES OF ORIGIN

■ 1. The general authority citation for Part 102 is revised to read as follows:

Authority: 7 U.S.C. 1854, 19 U.S.C. 66, 1202 (General Note 3(i) Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

■ 2. Section 102.0 is revised to read as follows:

§ 102.0 Scope.

With the exception of §§ 102.21 through 102.25, this part sets forth rules for determining the country of origin of imported goods for the purposes specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (''NAFTA''). These specific purposes are: country of origin marking; determining the rate of duty and staging category applicable to originating textile and apparel products as set out in Section 2 (Tariff Elimination) of Annex 300–B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). The rules for determining the country of origin of textile and apparel products set forth in § 102.21 apply for the foregoing purposes and for the other purposes stated in that section. Section 102.22 sets forth rules for determining whether textile and apparel products are considered products of Israel for purposes of the customs laws and the administration of quantitative limitations. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of textile and apparel products.

■ 3. New §§ 102.22 through 102.25 are added to read as follows:

§ 102.22 Rules of origin for textile and apparel products of Israel.

(a) *Applicability.* The provisions of this section will control for purposes of determining whether a textile or apparel product, as defined in § 102.21(b)(5), is considered a product of Israel for purposes of the customs laws and the administration of quantitative limitations. A textile or apparel product will be a product of Israel if it is wholly the growth, product, or manufacture of Israel. However, a textile or apparel product that consists of materials produced or derived from, or processed in, another country, or insular possession of the United States, in

addition to Israel, will be a product of Israel if it last underwent a substantial transformation in Israel. A textile or apparel product will be considered to have undergone a substantial transformation if it has been transformed by means of substantial manufacturing or processing operations into a new and different article of commerce.

(b) *Criteria for determining country of origin for products of Israel.* The criteria in paragraphs (b)(1) and (b)(2) of this section will be considered in determining whether an imported textile or apparel product is a product of Israel. These criteria are not exhaustive. One or any combination of criteria may be determinative, and additional factors may be considered.

(1) A new and different article of commerce will usually result from a manufacturing or processing operation if there is a change in:

(i) Commercial designation or identity;

(ii) Fundamental character; or

(iii) Commercial use.

(2) In determining whether merchandise has been subjected to substantial manufacturing or processing operations, the following will be considered:

(i) The physical change in the material or article as a result of the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(ii) The time involved in the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(iii) The complexity of the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.;

(iv) The level or degree of skill and/or technology required in the manufacturing or processing operations in Israel or in Israel and a foreign territory or country or insular possession of the U.S.; and

(v) The value added to the article or material in Israel or in Israel and a foreign territory or country or insular possession of the U.S., compared to its value when imported into the U.S.

(c) *Manufacturing or processing operations.* (1) An article or material usually will be a product of Israel when it has undergone in Israel prior to importation into the United States any of the following:

(i) Dyeing of fabric and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing;

(ii) Spinning fibers into yarn;

(iii) Weaving, knitting or otherwise forming fabric;

(iv) Cutting of fabric into parts and the assembly of those parts into the completed article; or

(v) Substantial assembly by sewing and/or tailoring of all cut pieces of apparel articles which have been cut from fabric in another foreign territory or country, or insular possession of the U.S., into a completed garment (e.g., the complete assembly and tailoring of all cut pieces of suit-type jackets, suits, and shirts).

(2) An article or material usually will not be considered to be a product of Israel by virtue of merely having undergone any of the following:

(i) Simple combining operations, labeling, pressing, cleaning or dry cleaning, or packaging operations, or any combination thereof;

(ii) Cutting to length or width and hemming or overlocking fabrics which are readily identifiable as being intended for a particular commercial use;

(iii) Trimming and/or joining together by sewing, looping, linking, or other means of attaching otherwise completed knit-to-shape component parts produced in a single country, even when accompanied by other processes (e.g., washing, drying, and mending) normally incident to the assembly process;

(iv) One or more finishing operations on yarns, fabrics, or other textile articles, such as showerproofing, superwashing, bleaching, decating, fulling, shrinking, mercerizing, or similar operations; or

(v) Dyeing and/or printing of fabrics or yarns.

(d) *Results of origin determination.* If Israel is determined to be the country of origin of a textile or apparel product by application of the provisions in paragraphs (a), (b), and (c) of this section, the inquiry into the origin of the product ends. However, if Israel is determined not to be the country of origin of a textile or apparel product by application of the provisions in paragraphs (a), (b), and (c) of this section, the country of origin of the product will be determined under the rules of origin set forth in § 102.21, although the application of those rules cannot result in Israel being the country of origin of the product.

§ 102.23 Origin and Manufacturer Identification

(a) *Textile or Apparel Product Manufacturer Identification.* All entries of textile or apparel products listed in § 102.21(b)(5) must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from the name and address of the entity performing the origin-conferring operations pursuant to § 102.21 or § 102.22, as applicable. This code must be accurately constructed using the methodology set forth in the Appendix to this part, including the use of the two-letter International Organization for Standardization (ISO) code for the country of origin of such products. When a single entry is filed for products of more than one manufacturer, the products of each manufacturer must be separately identified. Importers must be able to demonstrate to CBP their use of reasonable care in determining the manufacturer. If an entry filed for such merchandise fails to include the MID properly constructed from the name and address of the manufacturer, the port director may reject the entry or take other appropriate action.

(b) *Incomplete or insufficient information.* If the port director is unable to determine the country of origin of a textile or apparel product, the importer must submit additional information as requested by the port director. Release of the product from CBP custody will be denied until a determination of the country of origin is made based upon the information provided or the best information available.

(c) *Date of exportation.* For quota, visa or export license requirements, and statistical purposes, the date of exportation for textile or apparel products listed in § 102.21(b)(5) will be the date the vessel or carrier leaves the last port in the country of origin, as determined by application of § 102.21 or § 102.22, as applicable. Contingency of diversion in another foreign territory or country will not change the date of exportation for quota, visa or export license requirements or for statistical purposes.

§ 102.24 Entry of textile or apparel products.

(a) *General.* Separate shipments of textile or apparel products, including samples, which originate from a country subject to visa or export license requirements for exports of textile or

apparel products, arriving in the customs territory of the United States for one consignee on the same conveyance on the same day, the combined value of which is over $250, will not be entered under the informal entry procedures set forth in subpart C, Part 143 or procedures set forth in § 141.52 of this chapter. Port directors will refuse separate informal entries and require a formal entry and visa or export license, as appropriate, for all such merchandise. A consignee for purposes of this section is the ultimate consignee and does not include a freight forwarder or Customs broker not importing for its own account.

(b) *Denial of entry pursuant to directive.* Textile or apparel products subject to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), whether or not the requirements set forth in § 102.21 or § 102.22, as applicable, have been met, will be denied entry where the factory, producer, manufacturer, or other company named in the entry documents for such textile or apparel products is named in a directive published in the **Federal Register** by the Committee for the Implementation of Textile Agreements as a company found to be illegally transshipping, closed or unable to produce records to verify production. In these circumstances, no additional information will be accepted or considered by CBP for purposes of determining the admissibility of such textile or apparel products.

§ 102.25 Textile or apparel products under the North American Free Trade Agreement.

In connection with a claim for NAFTA preferential tariff treatment involving non-originating textile or apparel products subject to the tariff preference level provisions of appendix 6.B to Annex 300–B of the NAFTA and Additional U.S. Notes 3 through 6 to Section XI, Harmonized Tariff Schedule of the United States, the importer must submit to CBP a Certificate of Eligibility covering the products. The Certificate of Eligibility must be properly completed and signed by an authorized official of the Canadian or Mexican government and must be presented to CBP at the time the claim for preferential tariff treatment is filed under § 181.21 of this chapter. If the port director is unable to determine the country of origin of the products, they will not be entitled to preferential tariff treatment or any other benefit under the NAFTA for which they would otherwise be eligible.

■ 4. Part 102 is amended by adding an appendix to read as follows:

Appendix To Part 102—Textile and Apparel Manufacturer Identification

Rules for Constructing the Manufacturer Identification Code (MID)

1. Pursuant to § 102.23(a) of this part, all entries of textile or apparel products listed in § 102.21(b)(5) must identify on CBP Form 3461 (Entry/Immediate Delivery) and CBP Form 7501 (Entry Summary), and in all electronic data transmissions that require identification of the manufacturer, the manufacturer of such products through a manufacturer identification code (MID) constructed from the name and address of the entity performing the origin-conferring operations. The MID may be up to 15 characters in length, with no spaces inserted between the characters.

2. The first 2 characters of the MID consist of the ISO code for the actual country of origin of the goods. The one exception to this rule is Canada. ''CA'' is not a valid country code for the MID; instead, one of the appropriate province codes listed below must be used:

ALBERTA—XA
BRITISH COLUMBIA—XC
MANITOBA—XM
NEW BRUNSWICK—XB
NEWFOUNDLAND (LABRADOR)—XW
NORTHWEST TERRITORIES—XT
NOVA SCOTIA—XN
NUNAVUT—XV
ONTARIO—XO
PRINCE EDWARD ISLAND—XP
QUEBEC—XQ
SASKATCHEWAN—XS
YUKON TERRITORY—XY

3. The next group of characters in the MID consists of the first three characters in each of the first two ''words'' of the manufacturer's name. If there is only one ''word'' in the name, then only the first three characters from the name are to be used. For example, ''Amalgamated Plastics Corp.'' would yield ''AMAPLA,'' and ''Bergstrom'' would yield ''BER.'' If there are two or more initials together, they are to be treated as a single word. For example, ''A.B.C. Company'' or ''A B C Company'' would yield ''ABCCOM,'' ''O.A.S.I.S. Corp.'' would yield ''OASCOR,'' ''Dr. S.A. Smith'' would yield ''DRSA,'' and ''Shavings B L Inc.'' would yield ''SHABL.'' The English words ''a,'' ''an,'' ''and,'' ''of,'' and ''the'' in the manufacturer's name are to be ignored. For example, ''The Embassy of Spain'' would yield ''EMBSPA.'' Portions of a name separated by a hyphen are to be treated as a single word. For example, ''Rawles-Aden Corp.'' or ''Rawles—Aden Corp.'' would both yield ''RAWCOR.'' Some names include numbers. For example, ''20th Century Fox'' would yield ''20TCEN'' and ''Concept 2000'' would yield ''CON200.''

a. Some words in the title of the foreign manufacturer's name are not to be used for the purpose of constructing the MID. For example, most textile factories in Macau start with the same words, ''Fabrica de Artigos de Vestuario,'' which means ''Factory of Clothing.'' For a factory named ''Fabrica de Artigos de Vestuario JUMP HIGH Ltd,'' the portion of the factory name that identifies it as a unique entity is ''JUMP HIGH.'' This is the portion of the name that should be used to construct the MID. Otherwise, all of the MIDs from Macau would be the same, using ''FABDE,'' which is incorrect.

b. Similarly, many factories in Indonesia begin with the prefix PT, such as ''PT Morich Indo Fashion.'' In Russia, other prefixes are used, such as ''JSC,'' ''OAO,'' ''OOO,'' and ''ZAO.'' These prefixes are to be ignored for the purpose of constructing the MID.

4. The next group of characters in the MID consists of the first four numbers in the largest number on the street address line. For example, ''11455 Main Street, Suite 9999'' would yield ''1145.'' A suite number or a post office box is to be used if it contains the largest number. For example, ''232 Main Street, Suite 1234'' would yield ''1234.'' If the numbers in the street address are spelled out, such as ''One Thousand Century Plaza,'' no numbers representing the manufacturer's address will appear in this section of the MID. However, if the address is ''One Thousand Century Plaza, Suite 345,'' this would yield ''345.'' When commas or hyphens separate numbers, all punctuation is to be ignored and the number that remains is to be used. For example, ''12,34,56 Alaska Road'' and ''12–34–56 Alaska Road'' would yield ''1234.'' When numbers are separated by a space, both numbers are recognized and the larger of the two numbers is to be selected. For example, ''Apt. 509 2727 Cleveland St.'' would yield ''2727.''

5. The last characters in the MID consist of the first three letters in the city name. For example, ''Tokyo'' would yield ''TOK,'' ''St. Michel'' would yield ''STM,'' ''18-Mile High'' would yield ''MIL,'' and ''The Hague'' would yield ''HAG.'' Numbers in the city name or line are to be ignored. For city-states, the first three letters are to be taken from the country name. For example, Hong Kong would yield ''HON,'' Singapore would yield ''SIN,'' and Macau would yield ''MAC.''

6. As a general rule, in constructing a MID, all punctuation, such as commas, periods, apostrophes, and ampersands, are to be ignored. All single character initials, such as the ''S'' in ''Thomas S. Delvaux Company,'' are also to be ignored, as are leading spaces in front of any name or address.

7. Examples of manufacturer names and addresses and their corresponding MIDs are listed below:

LA VIE DE FRANCE, 243 Rue de la Payees, 62591 Bremond, France; FRLAVIE243BRE
20TH CENTURY TECHNOLOGIES, 5 Ricardo Munoz, Suite 5880, Caracas, Venezuela; VE20TCEN5880CAR
Fabrica de Artigos de Vestuario TOP JOB, Grand River Building, FI 2–4, Macau; MOTOPJOB24MAC
THE GREENHOUSE, 45 Royal Crescent, Birmingham, Alabama 35204; USGRE45BIR
CARDUCCIO AND JONES, 88 Canberra Avenue, Sidney, Australia; AUCARJON88SID
N. MINAMI & CO., LTD., 2–6, 8–Chome Isogami-Dori, Fukiai-Ku, Kobe, Japan; JPMINCO26KOB
BOCCHACCIO S.P.A., Visa Mendotti, 61, 8320 Verona, Italy; ITBOCSPA61VER
MURLA-PRAXITELES INC., Athens, Greece; GRMURINCATH
SIGMA COY E.X.T., 4000 Smyrna, Italy, 1640 Delgado; ITSIGCOY1640SMY

COMPANHIA TEXTIL KARSTEN, Calle Grande, 25–27, 67890 Lisbon, Portugal, PTKAR2527LIS
HURON LANDMARK, 1840 Huron Road, Windsor, ON, Canada N9C 2L5; XOHURLAN1840WIN

PART 141—ENTRY OF MERCHANDISE

■ 5. The general authority citation for Part 141 and specific authority citation for § 114.113 continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1624.

* * * * *

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

§ 141.113 [Amended]

■ 6. In § 141.113, paragraph (b) is amended by removing the words ''12.130 of this chapter'' and by adding, in their place, the words ''§ 102.21 or § 102.22 of this chapter, as applicable,''.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

■ 7. The general authority citation for Part 144 continues to read as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1624.

* * * * *

§ 144.38 [Amended]

■ 8. In § 144.38, paragraph (f)(1) is amended by removing the words ''§ 12.130 of this chapter'' and by adding, in their place, the words ''§ 102.21 or § 102.22 of this chapter, as applicable''.

PART 146—FOREIGN TRADE ZONES

■ 9. The authority citation for Part 146 is revised to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 146.63 [Amended]

■ 10. In § 146.63, paragraph (d)(1) is amended by removing the words § 12.130 of this chapter'' and by adding, in their place, the words ''§ 102.21 or § 102.22 of this chapter, as applicable''.

PART 163—RECORDKEEPING

■ 11. The authority citation for Part 163 continues to read as follows:

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

■ 12. The Appendix to Part 163 is amended by removing under section IV the listing of ''§ 12.130 Textiles and textile products Single country declaration Multiple country declaration VISA'' and the listing of ''§ 12.132 NAFTA textile requirements'', and by adding a new listing under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List.

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IV. * * *

§ 102.25 NAFTA textile requirements

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Robert C. Bonner,

Commissioner of Customs and Border Protection.

Approved: September 30, 2005.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 05–19985 Filed 9–30–05; 2:38 pm]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 179

Munitions Response Site Prioritization Protocol

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of Defense (hereinafter the Department) is promulgating the Munitions Response Site (MRS) Prioritization Protocol (MRSPP) (hereinafter referred to as the rule) as a rule. This rule implements the requirement established in section 311(b) of the National Defense Authorization Act for Fiscal Year 2002 for the Department to assign a relative priority for munitions responses to each location (hereinafter MRS) in the Department's inventory of defense sites known or suspected of containing unexploded ordnance (UXO), discarded military munitions (DMM), or munitions constituents (MC).

DATES: This rule is effective October 5, 2005.

FOR FURTHER INFORMATION CONTACT: If there are specific questions or to request an opportunity to review the docket for this rulemaking, please contact Ms. Patricia Ferrebee, Office of the Deputy Under Secretary of Defense (Installations & Environment) [ODUSD (I&E)], 703–571–9060. This final rule along with relevant background information is available on the World Wide Web at the Defense Environmental Network & Information eXchange Web site, *https://www.denix.osd.mil/MMRP*.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Authority

This rule is being finalized under the authority of section 311(b) of the National Defense Authorization Act for Fiscal Year 2002, codified at section 2710(b) of title 10 of the U.S. Code [10 U.S.C. 2710(b)].

II. Background

The Department of Defense (hereinafter the Department) developed the rule in consultation with states and tribes, as required by statute. The Department published the proposed rule in the **Federal Register** as a proposed rule on August 22, 2003, at 68 FR 50900. A technical correction to the proposed rule was published on September 10, 2003, at 68 FR 53430.

The public comment period for the proposed rule ended November 19, 2003. Sixteen commenters submitted comments on the proposed rule. The preamble to this final rule consists mainly of an explanation of the Department's responses to these comments. Therefore, both this preamble and the preamble to the proposed rule should be reviewed should a question arise as to the meaning or intent of the final rule. Unless directly contradicted or superseded by this preamble to the rule or by the rule, the preamble to the proposed rule reflects the Department's intent for the rule.

The preamble to the final rule provides a discussion of each proposed rule section on which comments were received. Revisions to the proposed rule that are simply editorial or that do not