

# U.S. Customs and Border Protection

**19 CFR PARTS 12 AND 163  
CBP Dec. 09–36**

**RIN 1505–AC14**

## **Entry of Certain Cement Products from Mexico Requiring a Commerce Department Import License**

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

**ACTION:** Final rule.

**SUMMARY:** This document amends title 19 of the Code of Federal Regulations (19 CFR) by removing regulations originally promulgated to provide special entry requirements for certain cement products from Mexico requiring a United States Department of Commerce import license and to include certain required entry documentation in the “List of Records Required for the Entry of Merchandise” set forth in the Appendix to Part 163 of title 19 of the Code of Federal Regulations. Since the underlying trade agreement that necessitated these regulations expired on March 31, 2009, they are no longer necessary and are obsolete.

**DATES:** The amendment is effective September 25, 2009.

**FOR FURTHER INFORMATION CONTACT:** Christine Furgason, Acting Director, AD/CVD and Revenue Policy & Programs, Customs and Border Protection, 1400 L Street, N.W., Washington, D.C., 20229, Tel (202) 863–6081.

### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On March 6, 2006, the Office of the United States Trade Representative (USTR), the United States Department of Commerce (Commerce), and the Ministry of Economy of the United Mexican States (Secretaria de Economia) signed a bilateral Trade in Cement Agreement (Agreement) concerning the entry of certain cement products from Mexico into the United States. The Agreement required the

creation of an Export Licensing Program by Mexico and an Import Licensing Program by Commerce to enforce certain quantitative restrictions contained in the Agreement. The Agreement included a provision for its termination on March 31, 2009. A copy of the Agreement is available on the Commerce website: <http://www.ia.ita.doc.gov/download/mexico-cement/cement-final-agreement.pdf>.

To implement the Agreement, the International Trade Administration of the Department of Commerce (ITA) published a final rule in the **Federal Register** (72 FR 10006) on March 6, 2007, prescribing the cement licensing and import monitoring program regulations promulgated at 19 CFR 361.101 – 361.105.

On March 6, 2007, Customs and Border Protection (CBP) published a corollary final rule in the **Federal Register** (72 FR 10004) that promulgated special requirements for the entry into the U.S. of certain cement products from Mexico requiring a U.S. Department of Commerce import license, at new 19 CFR 12.155. The “List of Records Required for the Entry of Merchandise” set forth in the Appendix to Part 163 was also amended by that document to reflect the entry document requirements mandated by the Agreement.

As the Agreement expired on March 31, 2009, § 12.155 and the references to Mexican Cement export and import licenses in the Appendix to Part 163 are now unnecessary and obsolete, and, accordingly they are removed from the regulations.

### **Inapplicability of Prior Public Notice and Comment Procedures and Delayed Effective Date**

Because this amendment merely removes obsolete regulations from title 19 of the CFR, CBP has determined, pursuant to the provisions of 5 U.S.C. 553(b)(B), that prior public notice and comment procedures on this regulation are unnecessary and contrary to public interest. For the same reason, pursuant to the provisions of 5 U.S.C. 553(d)(3), there is good cause for dispensing with a delayed effective date.

### **The Regulatory Flexibility Act**

This document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, and thus is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### **Executive Order 12866**

These amendments do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

## Signing Authority

This document is being issued in accordance with 19 CFR 0.1(a)(1).

## List of Subjects

### 19 CFR PART 12

Customs duties and inspection, Entry of merchandise, Imports, Licensing, Mexico, Reporting and recordkeeping requirements, Trade agreements.

### 19 CFR PART 163

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

## Amendment to the Regulations

For the reasons stated above, parts 12 and 163 of title 19 of the Code of Federal Regulations (19 CFR parts 12 and 163) are 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 center heading entitled “Mexican Cement Products” preceding § 12.155 is removed.

3. Section 12.155 is removed.

### Part 163 — Recordkeeping

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

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

5. In the Appendix to Part 163, the listing for § 12.155 under section IV is removed.

JAYSON P. AHERN

*Acting Commissioner*

*Customs and Border Protection*

Dated: September 21, 2009

TIMOTHY E. SKUD

*Deputy Assistant Secretary of the Treasury*

[Published in the Federal Register, September 25, 2009 (74 FR 48852)]

**DEPARTMENT OF THE TREASURY  
19 CFR PART 148**

**CBP Dec. 09–37**

**RIN 1505 — AC16**

**Increase in Certain Personal Duty Exemptions Extended to  
Returning U.S. Residents**

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

**ACTION:** Final rule.

**SUMMARY:** This document amends title 19 of the Code of Federal Regulations (CFR) by making technical corrections to those regulatory provisions within part 148 that set forth personal duty exemption amounts authorized by the Harmonized Tariff Schedule of the United States (HTSUS). These technical corrections are necessary to conform title 19 of the CFR to amendments to the HTSUS effected by section 381 of the Trade Act of 2002 and section 2004(d)(8)(A) and (B) of the Miscellaneous Trade and Technical Corrections Act of 2004, which increased personal duty exemption amounts.

**DATES:** The final rule is effective on September 25, 2009.

**FOR FURTHER INFORMATION CONTACT:** Bernarda Gilbert, Passenger Operations, Office of Field Operations, Customs and Border Protection, (202) 344–2269.

**SUPPLEMENTARY INFORMATION:**

**Background**

*I. Personal Duty Exemptions*

Generally, when an individual imports merchandise into the United States, the person must pay duty to Customs and Border Protection (CBP) on the goods. The amount of duty payable is determined by the merchandise's classification within the Harmonized Tariff Schedule of the United States (HTSUS).

Under prescribed circumstances, the Government permits an exemption from the payment of duty on certain articles imported by or for the account of any person arriving in the United States who is a returning resident of the United States, including American citizens who are residents of American Samoa, Guam, or the U.S. Virgin Islands. Subheadings 9804.00.65, 9804.00.70 and 9804.00.72, HT-

SUS, with certain limitations and conditions, extend such duty exemptions to articles for personal or household use that are acquired abroad merely as an incident of the foreign journey. The duty exemptions (also known as personal exemptions) provided for in these tariff schedule subheadings specify the aggregate fair retail value of merchandise that a returning resident may bring back to the United States without having to pay duty.

It is noted that although the Commonwealth of the Northern Mariana Islands is not listed in these provisions, pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, Public Law 94–241, 90 Stat. 263, 270, goods imported from the Commonwealth of the Northern Marianas are entitled to the same tariff treatment as imports from Guam and are therefore subject to the duty exemptions provided for under these subheadings.

## II. *Statutory Amendments*

The Trade Act of 2002 (Public Law 107–210, 116 Stat. 933, 19 U.S.C. 3801) and the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429, 118 Stat. 2598) amended subheadings 9804.00.65, 9804.00.70, and 9804.00.72 of the HTSUS, in pertinent part, regarding the amounts of the duty exemptions, as well as the scope of those provisions. The amendments are as follows:

- Section 381, within Subtitle D of the Trade Act of 2002, amended subheading 9804.00.65, HTSUS, by increasing from \$400 to \$800 the duty exemption accorded articles for personal or household use accompanying returning U.S. residents.
- Section 2004(d)(8)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429, 118 Stat. 2598) amended subheading 9804.00.70, HTSUS, by increasing the duty exemption accorded to articles for personal or household use, whether or not the articles accompany the returning resident, from \$1,200 to \$1,600 in the case of a direct or indirect arrival from American Samoa, Guam, or the Virgin Islands of the United States, not more than \$800 (increased from \$400) of which must have been acquired elsewhere than in such locations (including the Commonwealth of the Northern Mariana Islands, as explained above). The 2004 amendment to subheading 9804.00.70, HTSUS, removed the restriction that “up to \$600” may have been acquired in one or more beneficiary countries.
- Section 2004(d)(8)(B) of the Miscellaneous Trade and Technical Corrections Act of 2004 amended subheading 9804.00.72, HTSUS, by increasing the duty exemption accorded to articles for

personal or household use, whether or not accompanying the returning resident, from \$600 to \$800 in the case of a direct arrival from a beneficiary country of the Caribbean Basin Initiative or the Andean Trade Preference Program (*see* U.S. Note 4 to Chapter 98, HTSUS (19 U.S.C. 1202)), and removed the limitation that “not more than \$400 of that amount must have been acquired elsewhere than in beneficiary countries.”

### III. *Technical Corrections to the Regulations*

Within part 148 of title 19 of the Code of Federal Regulations (19 CFR), several regulations pertain directly to or reference the duty exemptions set forth in the amended HTSUS subheadings. Technical corrections are necessary to the following regulations to conform them to the increased personal duty exemption amounts set forth in the current HTSUS: §§ 148.12; 148.17; 148.31; 148.32; 148.33; 148.34; 148.35; 148.36; 148.37; 148.38; 148.51; and 148.113.

Sections 148.12(b)(1)(i)(B) and 148.33(a)(2) and (d)(3)(ii) are also amended by removing the reference to “§ 10.191(b)(1) of this chapter” as the source for the definition of “beneficiary country” for purposes of these provisions, and replacing it with a reference to “U.S. Note 4 to Chapter 98 of the Harmonized Tariff Schedule of the United States.” This change is necessary because the definition set forth in 19 CFR 10.191(b)(1) is limited to those countries designated as beneficiary countries in accordance with section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)). The definition of “beneficiary country” was expanded in U.S. Note 4 to Chapter 98, HTSUS, to include products of countries designated as beneficiary countries for purposes of section 203 of the Andean Trade Preference Act (19 U.S.C. 3202). This document amends the regulations to reflect the correct, expanded definition set forth in the HTSUS.

### **Inapplicability of Notice and Delayed Effective Date**

Because the technical corrections set forth in this document are necessary to conform part 148 of title 19 of the CFR to the amendments to the HTSUS effected by section 381 of the Trade Act of 2002 and section 2004(d)(8)(A) and (B) of the Miscellaneous Trade and Technical Corrections Act of 2004, pursuant to 5 U.S.C. 553(b)(B), CBP finds that good cause exists for dispensing with notice and public procedure as unnecessary. For this same reason, pursuant to 5 U.S.C. 553(d)(3), CBP finds that good cause exists for dispensing with the requirement for a delayed effective date.

## **The Regulatory Flexibility Act**

Because this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

### **Executive Order 12866**

As these amendments are technical corrections to the regulations to reflect statutory changes, these amendments do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

### **Signing Authority**

This document is being issued in accordance with 19 CFR 0.1(a)(1).

### **List of Subjects in 19 CFR Part 148**

Customs duties and inspection, Declarations, Reporting and record keeping requirements, Taxes.

### **Amendment to the Regulations**

For the reasons stated above, part 148 of title 19 of the Code of Federal Regulations (19 CFR part 148) is amended as set forth below.

#### **Part 148 — Personal Declarations and Exemptions**

1. The authority citation for part 148 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States);

Section 148.21 also issued under 19 U.S.C. 1461, 1462.

Section 148.22 also issued under 19 U.S.C. 1629;

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

Section 148.87 also issued under 22 U.S.C. 288.

2. Section 148.11 is amended by removing the word “Customs” each place it appears and adding in its place the term “CBP”, and by removing the word “shall” and adding in its place the word “must”.

3. In § 148.12:

a. Paragraph (a) is amended by removing the word “Customs” and adding in its place the term “CBP”;

b. Paragraph (b)(1)(i)(A) is amended by removing “\$400” and adding in its place “\$800”;

c. Paragraphs (b)(1)(i)(B) and (C) are revised; and

d. Paragraph (c) is amended by removing the word “Customs” where it appears and adding in each place the term “CBP”.

The revisions to § 148.12 read as follows.

**§ 148.12 Oral declarations.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) \$800 in the case of a direct arrival from a beneficiary country as defined in U.S. Note 4 to Chapter 98, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202); or

(C) \$1,600 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than \$800 of which must have been acquired elsewhere than in such locations.

\* \* \* \* \*

4. In § 148.17:

a. Paragraph (a) is amended by removing the word “shall” wherever it appears and adding in each place the word “must”, and by removing the word “Customs” wherever it appears and adding in each place the term “CBP”;

b. Paragraph (b) is amended by removing the word “Customs” wherever it appears and adding in each place the term “CBP”, and by removing the language “\$400, \$600, or \$1,200” and adding in its place, “\$800 or \$1,600”; and

c. Paragraph (c) is amended by removing the word “Customs” and adding in its place the term “CBP”, by removing the language “\$400, \$600, or \$1,200” and adding in its place, “\$800 or \$1,600”, and by removing the word “shall” and adding in its place the word “will”.

5. Section 148.31(b) is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”.

6. In §148.32:

a. Paragraph (a) is amended by removing the word “shall” and adding in its place the word “will”;

b. Paragraph (b) is amended by removing the word “shall” wherever it appears and adding in each place the word “will”, and by removing the word “Customs” wherever it appears and adding in each place the term “CBP”;

c. Paragraph (c) is amended, in the second sentence, by removing the word “shall” and adding in its place the word “will” and, in the fourth sentence, by removing the word “shall” and adding in its place the word “must”; and

d. The introductory text to paragraph (d) is amended by removing the word “shall” and adding in its place the word “will” and, in paragraph (d)(2), by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”.

7. In §148.33:

a. The introductory text to paragraph (a) is amended by removing the word “shall” and adding in its place the word “must”;

b. Paragraph (a)(1) is amended by removing the language “\$400” and adding in its place the language, “\$800”;

c. Paragraphs (a)(2) and (a)(3) are revised;

d. Paragraph (b) is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”, and by removing the word “shall” wherever it appears and adding in each place the word “will”;

e. Paragraph (d)(2) is amended by removing the word “shall” and adding in its place the word “will”;

f. Paragraph (d)(3)(i) is amended by removing the words “1 liter of which shall have been” and adding in their place the words “1 liter of which was”, and by removing the words “4 liters of which shall have been” and adding in their place the words “4 liters of which were”;

g. Paragraph (d)(3)(ii) is amended by removing the words “§ 10.191(b)(1) of this chapter” and adding in their place the language, “U.S. Note 4 to Chapter 98, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)”;

h. Paragraph (f) is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”;

The revisions to § 148.33 read as follows:

### § 148.33 Articles acquired abroad.

(a) \* \* \*

(2) \$800 in the case of a direct arrival from a beneficiary country, as defined in U.S. Note 4 to Chapter 98, Harmonized Tariff Schedule of the United States, whether or not the articles accompany the returning resident. Articles acquired elsewhere than in such beneficiary country that do not accompany the returning resident are not entitled to the duty exemption; or

(3) \$1,600 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, whether or not the articles accompany the returning resident, not more than \$800 of which may have been acquired elsewhere than in such locations.

Articles acquired elsewhere than in such insular possessions that do not accompany the returning resident are not entitled to the duty exemption.

8. In § 148.34:

a. Paragraph (a) is amended by removing the language “\$400, \$600, or \$1,200” wherever it appears and adding in each place the language, “\$800 or \$1,600”, and by removing the word “shall” where it appears and adding in each place the word “will”; and

b. The introductory text to paragraph (b) is amended by removing the words “shall include” and adding in their place the word “includes”.

9. In § 148.35:

a. The heading text to paragraph (a) is revised to read, “Requirements for allowance of \$800 or \$1,600 exemption.”;

b. Paragraph (a) is amended, in the first sentence, by removing the language “\$400, \$600, or \$1,200” and adding in its place the language “\$800 or \$1,600” and by removing the word “shall” and adding in its place the word “will” and, in the second sentence, by removing the reference to “\$400” and adding in its place “\$800”.

c. The heading text to paragraph (b) is revised to read, “Not required for allowance of \$1,600 exemption on return from the Virgin Islands”;

d. Paragraph (b) is amended by removing the reference to “\$1,200” and adding in its place “\$1,600”; and

e. Paragraph (c) is amended by removing the word “shall” and adding in its place the word “will”.

10. In § 148.36:

a. Paragraph (a) is amended by removing the language “\$400, \$600, or \$1,200” wherever it appears and adding in each place the language “\$800 or \$1,600”, and by removing the word “shall” wherever it appears and adding in each place the word “will”; and

b. Paragraph (b) is amended by removing the word “shall” and adding in its place the word “will”, and by removing the language “\$400, \$600, or \$1,200” and adding in its place the language “\$800 or \$1,600”.

11. In § 148.37:

a. Paragraph (a) is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”, by removing the word “shall” and adding in its place the word “will” and, in the last sentence, by removing the words “Customs matters” and adding in their place the words “customs matters” and by removing the words “Customs supervision” and adding in their place the words “CBP supervision”;

b. Paragraph (b) is amended, in the first sentence, by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”, by removing the word “shall” and adding its

place the word “must”, and by removing the word “Customs” each place it appears and adding the term “CBP”; and, in the second sentence, by removing the word “shall” and adding in its place the word “will”, and by removing the word “Customs” and adding in its place the term “CBP”; and

c. Paragraph (c) is amended by removing the language “\$400, \$600, or \$1,200” wherever it appears and adding in each place the language, “\$800 or \$1,600”, by removing the word “Customs” wherever it appears and adding in each place the term “CBP”, and by removing the word “shall” wherever it appears and adding in each place the word “will”.

12. Section 148.38 is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”.

13. In § 148.51:

a. Paragraph (a)(2) is amended by removing the language “\$400, \$600, or \$1,200” and adding in its place the language, “\$800 or \$1,600”; and

b. The introductory text to paragraph (b), and paragraph (b)(2), are amended by removing the word “shall” wherever it appears and adding in each place the word “will”.

14. In § 148.113(a): the number “\$1,200” is removed and the number “\$1,600” is added in its place; the word “shall” is removed wherever it appears and the word “must” is added in each place, and; the word “Customs” is removed wherever it appears and the term “CBP” is added in each place.

JAYSON P. AHERN

*Acting Commissioner*

*U.S. Customs and Border Protection*

Dated: September 21, 2009

TIMOTHY E. SKUD

*Deputy Assistant Secretary of the Treasury*

[Published in the Federal Register, September 25, 2009 (74 FR 48853)]



## **AGENCY INFORMATION COLLECTION ACTIVITIES: Administrative Rulings**

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security

**ACTION:** 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0085.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal

agencies to comment on an information collection requirement concerning Administrative Rulings. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before November 27, 2009, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW, 7th Floor, Washington, DC. 20229–1177, at 202–325–0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Administrative Rulings

**OMB Number:** 1651–0085

**Form Number:** None

**Abstract:** The collection of information in 19 CFR Part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested

persons for the issuance of administrative rulings. These rulings pertain to the interpretation and application of the CBP and related laws with respect to prospective and current transactions.

**Current Actions:** There are no changes to the information collection. This submission is being made to extend the expiration date.

**Type of Review:** Extension (without change)

**Affected Public:** Businesses

**Rulings:**

**Estimated Number of Respondents:** 12,000

**Estimated Time Per Respondent:** 10 hours

**Estimated Total Annual Burden Hours:** 120,000

**Appeals:**

**Estimated Number of Respondents:** 200

**Estimated Time Per Respondent:** 40 hours

**Estimated Total Annual Burden Hours:** 8,000

Dated: September 22, 2009

TRACEY DENNING  
*Agency Clearance Officer*  
*Customs and Border Protection*

[Published in the Federal Register, September 28, 2009 (74 FR 49392)]

