

# U.S. Customs and Border Protection



## **NOTICE OF AVAILABILITY OF THE FINAL RECORD OF DECISION FOR THE PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT FOR NORTHERN BORDER ACTIVITIES AND TECHNICAL CORRECTIONS TO THE FINAL PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT FOR NORTHERN BORDER ACTIVITIES**

**AGENCY:** U.S. Customs and Border, Protection, DHS.

**ACTION:** Notice of availability.

**SUMMARY:** U.S. Customs and Border Protection (CBP) announces the availability of the Final Record of Decision (ROD) for the Programmatic Environmental Impact Statement for Northern Border Activities (PEIS). The release of this Final ROD concludes a process of assessment of the potential for CBP activities to affect the environment along the northern border and recommends what measures CBP anticipates it will routinely consider to reduce the potential for environmental harm from its actions. CBP is also making certain technical corrections to the PEIS to ensure that it accurately describes CBP activities and the preparation of the PEIS itself. This notice describes those technical corrections.

**ADDRESSES:** You may obtain copies of the Final ROD and the PEIS revisions by accessing the following Internet addresses: [http://www.cbp.gov/xp/cgov/about/ec/nepa\\_pr/nepa\\_by\\_state/nobo\\_peis/](http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/) and <http://www.dhs.gov/nepa>. Alternatively you may email [cbpenvironmentalprogram@cbp.dhs.gov](mailto:cbpenvironmentalprogram@cbp.dhs.gov) before August 8, 2013 or telephone (202–325–4191) to request a copy of the Final ROD.

**FOR FURTHER INFORMATION CONTACT:** Jennifer DeHart Hass, CBP, Office of Administration, telephone 202–325–4191. You may also visit the project's Web page through: [http://www.cbp.gov/xp/cgov/about/ec/nepa\\_pr/nepa\\_by\\_state/nobo\\_peis/](http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/).

**SUPPLEMENTARY INFORMATION:** The Northern Border PEIS was prepared to inform CBP decision-makers about potential environmental impacts resulting from CBP Northern Border activities. The action alternatives considered in the PEIS represent reasonably

foreseeable changes to CBP's Northern Border security program that could potentially occur over the next five to seven years.

On July 27, 2012, CBP published a Notice of Availability (NOA) in the **Federal Register** (77 FR 44259) announcing the availability of the Final PEIS and availability of the Draft ROD for the Northern Border PEIS for a 30-day public review prior to making a decision on what alternative CBP would select from among those analyzed. Previous **Federal Register** notices published for the PEIS are as follows:

- Notice of Intent (NOI) to prepare four PEISs, July 6, 2010, 75 FR 38822.
- NOI to Prepare One PEIS, November 9, 2010, 75 FR 68810.
- NOA of a Draft PEIS, September 16, 2011, 76 FR 57751.

The Executive Director for Facilities Management signed the Final ROD on April 11, 2013. It is available on the CBP Web site at [http://www.cbp.gov/xp/cgov/about/ec/nepa\\_pr/nepa\\_by\\_state/nobo\\_peis/](http://www.cbp.gov/xp/cgov/about/ec/nepa_pr/nepa_by_state/nobo_peis/). The Final ROD confirms CBP's determination that the Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative is most representative of the approach CBP will employ in order to enhance response to emergent border security threats while advancing trade and travel facilitation over the next five to seven years. The Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative would focus on increased patrol activity and deploying more and better technologies to support CBP's detection, inspection, and surveillance capabilities and operational communications. This alternative is consistent with current statements of national policy with regard to Northern Border security and trade and travel facilitation goals.

The release of this Final ROD concludes a process of assessment of the potential for CBP activities to impact the environment along the northern border and recommends what measures CBP anticipates it will routinely consider to reduce the potential for environmental harm from its actions. Other alternatives studied in the PEIS included the Facilities Development and Improvement Alternative, the Tactical Security Infrastructure Deployment Alternative, and the Flexible Direction Alternative. The Flexible Direction Alternative would allow CBP to employ any of the tools and activities in the other alternatives. CBP determined that although the Flexible Direction Alternative fully meets the purpose and need presented in the PEIS, its approach is more resource intensive than the risk-based approach envisioned for enhancing border security. If within five years of signing this ROD, CBP is required to adopt additional measures beyond

the scope of the alternative selected at this time, CBP will evaluate whether it should issue a ROD adopting the Flexible Direction Alternative.

### **Comment Response and Clarifications Incorporated Into the Final ROD**

In response to a comment received on the Draft ROD and further consideration of its decision, CBP included certain clarifications in the Final ROD.

#### *Easement Clarification*

During the 30-day period following the public release of the Final PEIS and Draft ROD, CBP received seven inquiries and only one comment on the Final PEIS. This comment was from the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS). Along with providing information on all NRCS easements along the Northern Border, NRCS requested that CBP attempt to avoid constructing facilities and infrastructure within NRCS conservation easements. CBP addressed this comment in the Final ROD by including easements in the list of Federal lands for which CBP should use the Borderlands Management Task Force structure to enhance coordination among land-managers regarding usage for CBP construction, modification, and maintenance projects.

#### *Best Management Practices (BMPs) Clarifications*

BMP A.1, described in the Final ROD, is focused on improving CBP coordination with the Department of Interior (DOI) and USDA during project planning. The Final ROD clarifies this BMP's applicability to DOI managed lands and lands held in trust for American Indians and Federally-recognized Indian tribes. The Final ROD further emphasizes that CBP will also coordinate and consult with governments of tribes or nations when activities impact such lands held in trust. In response to NRCS comments, CBP also included applicable easements to the list of USDA managed land.

BMP A.5 is concerned with minimizing impacts to migratory birds and threatened and endangered flying species from CBP towers. The Final ROD clarifies that the BMP applies to construction of new antennae structures. Furthermore, when CBP is collocating equipment on antennae structures owned by non-Federal entities, it can only implement BMPs for the structure in accordance with the owner's willingness, structural capability, and zoning restrictions.

### *Additional Clarifications*

In section V, “Implementation,” CBP made minor wording changes to further clarify that the selected alternative describes the lines of activity that CBP believes it would take in response to future changes in the threat environment and security priorities.

Also, in section II, “Factors Considered in the Decision,” the ROD now reiterates the theme that partnerships and intelligence are a vital part of resolving emerging cross-border threats prior to them reaching the border.

### **Technical Corrections to the PEIS**

During its deliberations, CBP found that certain technical corrections to the Final PEIS were needed. These technical corrections to the PEIS ensure that the PEIS accurately describes CBP activities and the preparation of the PEIS itself. The technical corrections are confined to: (1) The description of certain technologies used for inspecting vehicles and cargo, and (2) the list of government personnel involved in the preparation of the Final PEIS and Final ROD.

The technical corrections CBP is making to the Final PEIS do not change any impact determinations in the PEIS. Accordingly, CBP will not reissue the PEIS for public input. CBP has incorporated the technical corrections, as they are described below, into the online version of the PEIS.

#### *Gamma imaging and X-ray Inspection Technologies*

On page 2–11 and in the table on page 2–12 of the Final PEIS, the discussion of inspection technologies included in the Detection, Inspection, Surveillance, and Communications Technology Expansion Alternative was amended to better describe CBP’s use of gamma imaging inspection systems and X-ray technologies.

The bullet at the bottom of page 2–11 explains why CBP evaluates the usefulness of commercial off the shelf technologies. In order to reflect the proper application of X-ray scanners by CBP, the bullet at the bottom of page 2–11 was amended so it now reads as follows: “Performing inspections using more personal radiation detectors (PRD), RIIDs and NII tools such as gamma imaging inspection systems, and low and high energy x-ray inspection systems (see box on page 2–12). (CBP completed Programmatic Environmental Assessments (EA) on the deployment of various types of NII technology in 2010 and recently published a programmatic EA for the use of low

energy x-ray inspection systems to scan personally owned vehicles (POVs) with the driver/ passenger in the vehicle.)”<sup>1</sup>

Page 2–12 of the PEIS discusses gamma imaging inspection systems and uses Vehicle and Cargo Inspection System<sup>®</sup> (VACIS) as the operative example. “Gamma imaging inspection system” is the general description of the impacting technology. VACIS<sup>®</sup> is merely the proprietary name for a particular brand of gamma imaging inspection system. Therefore, the PEIS should have used the more general term “gamma imaging inspection system” throughout the discussion. Accordingly, the relevant passage on page 2–12 was amended so it now reads: “Gamma Imaging Inspection Systems—The gamma imaging inspection system is used to scan cargo. It can be delivered as a portal or on tracks for POEs, or mounted on a truck to be used at multiple, temporary, and/or remote locations as well as POEs. The truck-mounted system can be especially useful for those situations where the container itself is fixed.”<sup>2</sup>

The discussion of X-Ray inspection technologies on page 2–12 of the PEIS incorrectly asserted that high energy X-Ray inspections systems (HEXRIS) were used by CBP to perform body scans. Neither high energy nor low-energy X-ray systems are used for body scan imaging. LEXRIS are used to scan personally owned vehicles at ports of entry while the drivers or passengers remain in their vehicles. Therefore, the discussion of HEXRIS was revised to state: “X-Ray Imaging Systems—High Energy X-Ray Inspection Systems (HEXRIS) is a non-intrusive inspection technology for use to aid in inspecting high-density cargo containers. Low Energy X-Ray Systems are utilized to scan personally owned vehicles (POVs).”<sup>3</sup>

Also, on page 8–197, in the paragraph beginning, “Use NII Technology,” the phrase “high-energy X-ray imaging systems” should be “high-energy inspection systems.”

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<sup>1</sup> This passage previously stated: “Processing visitors and cargo more rapidly while maintaining strict security by using more and improved personal radiation detectors (PRD), RIDs, and NII tools, such as high-energy container scanners and full-body scanners (see box). (CBP completed a programmatic Environmental Assessment (EA) on the deployment of various types of NII technology in 2009 and recently published EAs for the use of high-energy scanners for both cargo and people.)”

<sup>2</sup> This passage previously stated: “Vehicle and Cargo Inspection System—This is a gamma-ray backscatter imaging system used for inspecting cargoes. It can be delivered as a portal for POEs or mounted on a truck to be used at multiple, temporary, and/or remote locations. The truck-mounted system can be especially useful for those situations where the container itself is fixed, such as a railroad car.”

<sup>3</sup> This passage previously stated: “High-Energy X-Ray Imaging Scanners—High-energy imaging scanners scan a passenger by rastering or moving a single high-energy X-ray beam rapidly over the body. The signal strength of detected backscattered X-rays from a known position then allows a highly realistic image to be reconstructed (EPIC, 2010).”

*List of Preparers*

A number of government personnel who contributed to the preparation of the Final PEIS were inadvertently omitted from the Chapter 11 List of Preparers in the Final Programmatic Environmental Impact Statement. This notice amends the Final PEIS Preparers table to add the following personnel according to their name and description of their associated professional experience:

- Paula Bienenfeld (Parsons), Ph.D., Anthropology—32 years: archeology; NHPA Section 106 consultation, NEPA document preparation, analysis, and review;
- Jennifer Hass (CBP), M.S. Environmental Law; J.D.—6 years: environmental planning, environmental program management, environmental issue advocacy, NEPA document preparation, analysis, and review;
- John Petrilla (CBP), B.S. Environmental Economics and Policy, M.P.P. Policy Studies—5 years: environmental planning and compliance; NEPA document preparation, analysis, and review; and
- Joseph Zidron (CBP), Masters of Public Administration—5 years: environmental planning and compliance; NEPA document preparation, analysis, and review.

Dated: May 6, 2013.

KARL H. CALVO,  
*Executive Director, Facilities Management  
and Engineering,  
Office of Administration.*

[Published in the Federal Register, May 10, 2013 (78 FR 27416)]

**MODIFICATION OF THE NATIONAL CUSTOMS  
AUTOMATION PROGRAM TEST (NCAP) REGARDING  
RECONCILIATION FOR FILING CERTAIN POST-  
IMPORTATION CLAIMS**

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

**ACTION:** General notice.

**SUMMARY:** This document announces a modification to the Automated Commercial System (ACS) National Customs Automation Program (NCAP) Reconciliation prototype test to include the filing of

post-importation preferential tariff treatment claims arising under the United States-Oman Free Trade Agreement Implementation Act, the United States-Peru Trade Promotion Agreement Implementation Act, the United States-Korea Free Trade Agreement Implementation Act, the United States-Colombia Trade Promotion Agreement Implementation Act, and the United States-Panama Trade Promotion Agreement Implementation Act. Other than the modification in this notice, the test remains the same as set forth in previously published **Federal Register** notices.

**DATES:** The test is modified to allow Reconciliation of post-importation preferential tariff treatment claims to be filed on or after August 12, 2013 on those free trade agreements or trade promotion agreements listed in this notice. The Reconciliation prototype test commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in this test will be accepted throughout the duration of the test.

**ADDRESSES:** If interested in joining the on-going Reconciliation prototype test, please send either an email expressing interest to participate in this test to *OFO-RECONFOLDER@cbp.dhs.gov*, with a subject line identifier reading, "Participation in Reconciliation Test", or a letter addressed to Mr. Russell Morris, Entry Summary and Drawback Branch, Trade Policy and Programs, Office of International Trade, U.S. Customs and Border Protection, 1400 L Street NW., 4th Floor, Washington, DC 20229-1143. Please note that comments concerning this test program may be submitted any time during the test via email, with a subject line identifier reading, "Comment on NCAP test", to *OFO-RECONFOLDER@cbp.dhs.gov*.

**FOR FURTHER INFORMATION CONTACT:** Russell Morris, Entry Summary and Drawback Branch, Trade Policy and Programs, Office of International Trade at (202) 863-6543.

**SUPPLEMENTARY INFORMATION:**

**Background**

This document announces a modification to the U.S. Customs and Border Protection's (CBP's) Automated Commercial System (ACS) Reconciliation prototype test by adding the processing of post-importation claims for certain free trade agreements and trade promotion agreements that permit an importer, who did not claim tariff benefits at the time of importation, to file a claim for a refund of any excess duties, taxes, and/or fees paid, at any time within one-year

after the date of importation of the good. This modification works toward the goal of CBP's movement toward a paperless environment.

### Purpose of the Test

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Public Law 103– 182, 107 Stat. 2057 (December 8, 1993)), is currently being tested by U.S. Customs and Border Protection (CBP) under the CBP Automated Commercial System (ACS) Prototype Test. CBP announced and explained the test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998. Clarifications and operational changes were announced in subsequent **Federal Register** notices: 63 FR 44303, published on August 18, 1998; 64 FR 39187, published on July 21, 1999; 64 FR 73121, published on December 29, 1999; 66 FR 14619, published on March 13, 2001; 67 FR 61200, published on September 27, 2002 (with a correction document published at 67 FR 68238 on November 8, 2002); 69 FR 53730, published on September 2, 2004; 70 FR 1730, published on January 10, 2005; 70 FR 46882, published on August 11, 2005 and 71 FR 37596, published on June 30, 2006. A **Federal Register** (65 FR 55326) notice published on September 13, 2000, extended the prototype indefinitely.

This document announces a modification to the Reconciliation test to expand Reconciliation to include post-entry importation preferential tariff treatment claims arising under the United States-Oman Free Trade Agreement Implementation Act, the United States-Peru Trade Promotion Agreement Implementation Act, the United States-Korea Free Trade Agreement Implementation Act, the United States-Colombia Trade Promotion Agreement Implementation Act, and the United States-Panama Trade Promotion Agreement Implementation Act which are permitted under 19 U.S.C. 1520(d). Aside from this modification, the test remains as set forth in the previously published **Federal Register** notices.

For application requirements, *see* the **Federal Register** notices published on February 6, 1998, and August 18, 1998. Additional information regarding the test can be found at [http://www.cbp.gov/xp/cgov/trade/trade\\_programs/reconciliation/participate.xml](http://www.cbp.gov/xp/cgov/trade/trade_programs/reconciliation/participate.xml).

### *Reconciliation Generally*

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to CBP and to provide that outstanding information at a later date. The importer identifies the

outstanding information by means of an electronic “flag” which is placed on the entry summary at the time the entry summary is filed and payment (applicable duty, taxes, and fees) is made. Previously published **Federal Register** documents have set forth that the issues for which an entry summary may be “flagged” (for the purpose of later reconciliation) are limited and relate to: (1) Value issues other than claims based on latent manufacturing defects; (2) classification issues, on a limited basis; (3) issues concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS) (9802 issues); and (4) issues concerning merchandise entered under the North American Free Trade Agreement (NAFTA issues/claims), under the United States-Chile Free Trade Agreement (CFTA or Chile issues/claims) and the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR issues/claims) that are eligible for treatment under 19 U.S.C. 1520(d).

The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date relative to the flagged issues is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. Any adjustments in duties, taxes, and/or fees owed will be made at that time. (See the February 6, 1998 **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

CBP reminds test participants that the filing of a Reconciliation entry, like the filing of a regular consumption entry, is governed by 19 U.S.C. 1484 and can be done only by the importer of record as defined in that statute.

### *Test Modification*

#### The Agreements and the Implementation Acts

##### United States-Oman Free Trade Agreement Implementation Act

The United States-Oman Free Trade Agreement (OFTA) was entered into by the governments of Oman and the United States. On September 26, 2006, the United States Congress approved the OFTA in the United States-Oman Free Trade Agreement Implementation Act (the OFTA Act), Public Law 109–283; 120 Stat. 1191; 19 U.S.C. 3805 note. The OFTA Act allowed for OFTA to take effect on or after January 1, 2007, with the actual implementation date to be determined by the President. Sections 201 and 202 of the OFTA Act authorize the President to proclaim the tariff modifications and provide

the rules of origin for preferential tariff treatment with respect to goods of Oman provided for under the OFTA.

Presidential Proclamation 8332, dated December 29, 2008 and published in the **Federal Register** on December 31, 2008, implemented the OFTA for goods entered or withdrawn from warehouse for consumption on or after January 1, 2009. The Proclamation incorporated, by reference, Publication 4050 of the United States International Trade Commission (USITC). Annex I of Publication 4050 of the USITC, amends the Harmonized Tariff Schedule (HTS) by adding a new General Note (GN) 31 containing specific information regarding the OFTA and a new Subchapter XVI to Chapter 99 to provide for temporary tariff rate quotas (TRQs) implemented by the OFTA. Annex II of Publication 4050 amends the HTS to provide for immediate and staged tariff reductions. The CBP regulations on the United States-Oman Free Trade Agreement were published in the **Federal Register** (76 FR 65365) on October 21, 2011. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.869–10.871, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

#### United States-Peru Trade Promotion Agreement Implementation Act

The United States-Peru Trade Promotion Agreement Implementation Act (PTPA) was entered into by the governments of Peru and the United States. On December 14, 2007, the United States Congress approved the PTPA in the United States-Peru Trade Promotion Agreement Implementation Act (the PTPA Act), Public Law 110–138; 121 Stat. 1455; 19 U.S.C. 3805 note. The PTPA Act allowed for the PTPA to take effect on or after January 1, 2008, with the actual implementation date to be determined by the President. Sections 201, 202, and 203 of the PTPA Act authorize the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for under the PTPA.

Presidential Proclamation 8341, dated January 16, 2009 and published in the **Federal Register** on January 22, 2009 (74 FR 4105), implemented the PTPA for goods entered, or withdrawn, from warehouse for consumption on or after February 1, 2009. The Proclamation incorporated, by reference, Publication 4058 of the USITC. Annex I of Publication 4058 amends the HTS by adding GN 32 containing specific information regarding the PTPA and a new Subchapter XVII to Chapter 99 to provide for temporary TRQs implemented by the PTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4058 amends

the HTS to provide for immediate and staged tariff reductions. CBP published regulations on the United States-Peru Trade Promotion Agreement in the **Federal Register** (77 FR 64031) on October 18, 2012. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.910–10.912, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

#### United States-Korea Free Trade Agreement

The United States-Korea Free Trade Agreement (UKFTA) was entered into by the governments of Korea and the United States. On October 21, 2011, the United States Congress approved the UKFTA in the United States-Korea Free Trade Agreement Implementation Act (the UKFTA Act), Public Law No. 112–41, 125 Stat. 428 (codified at 19 U.S.C. 3805 note (2012)), and it was signed into law on October 21, 2011. The UKFTA Act allowed for the UKFTA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Section 201 of the UKFTA Act authorizes the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for in the UKFTA.

Presidential Proclamation 8783, dated March 6, 2012 and published in the **Federal Register** on March 9, 2012, implements the UKFTA for goods entered or withdrawn from warehouse for consumption, on or after March 15, 2012. The Proclamation incorporated, by reference, Publication 4308 of the USITC. Annex I of Publication 4308 amends the HTS by adding GN 33 containing specific information regarding the UKFTA and a new Subchapter XX to Chapter 99 to provide for TRQs implemented by the UKFTA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4308 amends the HTS to provide for immediate and staged tariff reductions. CBP published regulations on the United States-Korea Free Trade Agreement in the **Federal Register** (77 FR 15948) on March 19, 2012. By participating in the Reconciliation test, the following regulatory procedures, namely, 19 CFR 10.1010–10.1012, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

#### United States-Colombia Trade Promotion Agreement

The United States-Colombia Trade Promotion Agreement (CTPA) was entered into by the governments of Colombia and the United States. On October 21, 2012, the United States Congress approved the CTPA in the United States-Colombia Trade Promotion Agreement

Implementation Act (the CTPA Act), Public Law 112–42, 125 Stat. 462. The CTPA Act allowed for the CTPA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Section 201 of the CTPA Act authorizes the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for in the CTPA.

The President issued a Proclamation implementing the CTPA on May 14, 2012, for goods entered, or withdrawn from warehouse for consumption, on or after May 15, 2012. The Proclamation incorporated, by reference, Publication 4320 of the USITC. Annex I of Publication 4320 amends the HTS by adding GN 34 containing specific information regarding the CTPA and a new Subchapter XXI to Chapter 99 to provide for temporary TRQs implemented by the CTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4320 amends the HTS to provide for immediate and staged tariff reductions. CBP published interim final regulations on the United States-Columbia Trade Promotion Agreement in the **Federal Register** (77 FR59064) on September 26, 2012. By participating in the Reconciliation Test, the following regulatory provisions, namely, 19 CFR 10.3010–10.3012, concerning the paper procedures for filing a post-importation claim for preferential tariff treatment, are waived. This is to prevent duplicative filings for the same underlying entry summaries.

#### United States-Panama Trade Promotion Agreement

The United States-Panama Trade Promotion Agreement (PANTPA) was entered into by the governments of Panama and the United States. On October 21, 2011, the United States Congress approved the PANTPA in the United States-Panama Trade Promotion Agreement Implementation Act (the PANTPA Act), Public Law No. 112–43, 125 Stat. 497. The PANTPA Act allowed for the PANTPA to take effect on or after January 1, 2012, with the actual implementation date to be determined by the President. Sections 201 and 203 of the PANTPA Act authorize the President to proclaim the tariff modifications and provide the rules of origin for preferential tariff treatment with respect to goods provided for under the PANTPA.

The President issued Proclamation 8894 implementing the PANTPA on October 29, 2012, for goods entered, or withdrawn from warehouse for consumption, on or after October 31, 2012. The Proclamation incorporated, by reference, Publication 4349 of the USITC. Annex I of Publication 4349 amends the HTS by adding GN 35 containing specific information regarding the PANTPA and a new Subchapter XXI to Chapter 99 to provide for temporary TRQs imple-

mented by the PANTPA. In addition, new provisions have been added to Subchapter XXII to Chapter 98. Annex II of Publication 4349 amends the HTS to provide for immediate and staged tariff reductions. Regulations are currently being drafted to implement the PANTPA, and like the other agreements, the applicable regulatory provisions covering paper procedures for filing a 1520(d) claim will be waived under the test.

#### Ordinary OFTA, PTPA, UKFTA, CTPA, and PANTPA Post-Importation Claim Under 19 U.S.C. 1520(d)

A claim for preferential tariff treatment for an originating OFTA, PTPA, UKFTA, CTPA, and PANTPA good, in accordance with their respective Act and applicable procedures as set forth above (*see also* Subparts P, Q, R, S, and T of 19 CFR Part 10), is made at the time of entry summary. (*See* respective GN, HTS, for rules of origin.) However, in some instances, an importer may not be able to make the claim at that time, usually because the importer does not possess all the information or documentation required. In those instances, an importer may make a post-importation OFTA, PTPA, UKFTA, CTPA, and PANTPA claim under 19 U.S.C. 1520(d) (section 1520(d)), pursuant to amendments to that section made by the respective free trade agreements Act. Under these amendments to section 1520(d), entries of goods qualifying under OFTA, PTPA, UKFTA, CTPA, and PANTPA rules of origin are eligible for re-liquidation when preferential tariff treatment under OFTA, PTPA, UKFTA, CTPA, and PANTPA is not claimed at the time of importation, notwithstanding that a protest under 19 U.S.C. 1514 (section 1514) is not timely filed. (A section 1514 protest is a means of objecting to, among other things, the liquidation of an entry by filing the protest within 180 days of the liquidation (or other protestable decision or action by CBP).) A claimant must file a claim under section 1520(d) within one year of the applicable importation and meet other requirements, such as applicable documentary requirements, including (when requested by CBP) the filing of a certification or information demonstrating that the entered goods are originating OFTA, PTPA, UKFTA, CTPA, and PANTPA goods.

#### Post-Importation OFTA, PTPA, UKFTA, CTPA, and PANTPA Claim Under Reconciliation

This notice announces that a post-importation claim for preferential tariff treatment under section 1520(d) for an entry filed pursuant to the OFTA, PTPA, UKFTA, CTPA, and PANTPA also may be made under the Reconciliation test, in the same way as a post-importation NAFTA, Chile or CAFTA-DR claim also may be made (*see, respec-*

tively, notices published in the **Federal Register** on September 27, 2002, September 2, 2004, and June 30, 2006, cited previously). This alternative requires that an importer follow the Reconciliation test procedure which, in contrast to the ordinary section 1520(d) procedure described above, requires action at the time of entry. That action is to flag the entry summary for the OFTA, PTPA, UKFTA, CTPA, and PANTPA issue(s), which will be followed later by the filing of a Reconciliation entry within one year of the applicable importation. It is noted that OFTA, PTPA, UKFTA, CTPA and PANTPA Reconciliation entries cannot include other Reconciliation-eligible issues; *i.e.*, an OFTA, PTPA, UKFTA, CTPA, and PANTPA Reconciliation entry is limited to covering only OFTA, PTPA, UKFTA, CTPA, and PANTPA issues (claims). NAFTA, Chile or CAFTA–DR Reconciliation entries/claims are similarly limited.

This OFTA, PTPA, UKFTA, CTPA, and PANTPA Reconciliation alternative is available for eligible importations involving any eligible OFTA, PTPA, UKFTA, CTPA, and PANTPA country 90 days after the date this notice is published in the **Federal Register**.

#### Reconciliation OFTA, PTPA, UKFTA, CTPA, and PANTPA Claim Precludes Claims by Other Means

CBP emphasizes that once an importer flags an entry summary for OFTA, PTPA, UKFTA, CTPA, and PANTPA issues for Reconciliation, indicating that it is pursuing the post-importation, section 1520(d) claim through the Reconciliation process, the only means of perfecting the OFTA, PTPA, UKFTA, CTPA, and PANTPA claim is by completing the Reconciliation process by filing a timely Reconciliation entry. (*See* the September 27, 2002, **Federal Register** notice for an explanation of this same limitation relative to NAFTA and Chile issues.) By flagging the entry summary, the importer makes a commitment to perfect the claim only through the Reconciliation process—to, in effect, waive filing the claim any other way. Thus, once entries have been flagged for Reconciliation of OFTA, PTPA, UKFTA, CTPA, and PANTPA issues, CBP will not accept a claim filed for those entries under the ordinary section 1520(d) procedure. This will prevent dual filings for the same underlying entry summaries.

#### Benefits of Reconciliation

Finally, CBP recommends the use of the Reconciliation test procedure which provides the importer with several benefits. First, using the test procedure is a simpler means of filing claims: *i.e.*, the importer is able to make potentially thousands of OFTA, PTPA, UKFTA, CTPA, and PANTPA claims on one Reconciliation entry.

Second, the importer can receive one check from CBP rather than many (even up to thousands) upon CBP's liquidation of a Reconcili-

ation entry and issuance of a refund. Third, because processing OFTA, PTPA, UKFTA, CTPA, and PANTPA claims under Reconciliation is simpler for CBP, the refund delivery system is more efficient.

Dated: May 7, 2013.

ALLEN GINA,  
*Assistant Commissioner,  
Office of International Trade.*

[Published in the Federal Register, May 13, 2013 (78 FR 27984)]

**AGENCY INFORMATION COLLECTION ACTIVITIES;**  
**Andean Trade Preferences Act**

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

**ACTION:** 30-Day notice and request for comments; Extension of an existing information collection: 1651-0091.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Andean Trade Preferences Act. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (78 FR 15031) on March 8, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before June 13, 2013.

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

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S.

Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229-1177, at 202-325-0265.

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

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

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

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

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

**Title:** Andean Trade Preferences Act.

**OMB Number:** 1651-0091.

**Form Number:** CBP Forms 449 and 17.

**Abstract:** This collection of information is required to implement the duty preference provisions of the Andean Trade Preference Act (ATPA) and the Andean Trade Promotion and Drug Eradication Act (ATPDEA). These programs involve duty-free or reduced-duty treatment of imported goods under certain rules that are provided for in these two Acts, as codified in 19 U.S.C. 3201 through 3206.

The ATPA declaration format is provided for by 19 CFR Part 10.201-10.207. The type of information collected includes the processing operations performed on articles, the material produced in a beneficiary country or in the U.S., and a description of those processing operations. CBP Form 17, Andean Trade Preference Act (ATPA) Declaration, may be used when claiming preferential treatment under ATPA. This form is accessible at: [http://forms.cbp.gov/pdf/cbp\\_form\\_17.pdf](http://forms.cbp.gov/pdf/cbp_form_17.pdf).

ATPDEA is provided for by 19 CFR 10.251-10.257. Claims under ATPDEA are submitted using CBP Form 449, Andean Trade Promotion and Drug Eradication Act (ATPDEA) Certificate of Origin. This

form can be used only when claiming ATPDEA preferential treatment on the goods listed on the back of the form. CBP Form 449 is accessible at: [http://forms.cbp.gov/pdf/CBP\\_Form\\_449.pdf](http://forms.cbp.gov/pdf/CBP_Form_449.pdf).

**Current Actions:** CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected on CBP Forms 449 or 17.

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

**Affected Public:** Businesses.

*ATPA Certificate of Origin:*

**Estimated Number of Respondents:** 2,133.

**Estimated Number of Annual Responses per Respondent:** 2.

**Estimated Number of Total Annual Responses:** 4,266.

**Estimated Time per Response:** 10 minutes.

**Estimated Total Annual Burden Hours:** 711.

*ATPDEA Certificate of Origin:*

**Estimated Number of Respondents:** 233.

**Estimated Number of Annual Responses per Respondent:** 7.

**Estimated Number of Total Annual Responses:** 1,631.

**Estimated Time per Response:** 30 minutes.

**Estimated Total Annual Burden Hours:** 815.

Dated: May 8, 2013.

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

(Published in the Federal Register, May 14, 2013 (78 FR 28239))

**AGENCY INFORMATION COLLECTION ACTIVITIES:**

**Ship's Store Declaration**

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

**ACTION:** 30-Day notice and request for comments; Extension of an existing information collection: 1651-0018.

**SUMMARY:** U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Ship's Stores Declaration (CBP Form 1303). This is a

proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 15031) on March 8, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

**DATES:** Written comments should be received on or before June 12, 2013.

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

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

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

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

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

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

**Title:** Ship's Stores Declaration.

**OMB Number:** 1651-0018.

**Form Number:** CBP Form 1303.

**Abstract:** CBP Form 1303, Ship's Stores Declaration, is used by the carriers to declare articles to be retained on board the vessel,

such as sea stores, ship's stores (e.g. alcohol and tobacco products), controlled narcotic drugs, or bunker oil in a format that can be readily audited and checked by CBP. This form was developed as a single international standard ship's stores declaration form to replace the different forms used by various countries for the entrance and clearance of vessels. CBP Form 1303 collects information about the ship, the ports of arrival and departure, and the articles on the ship. It is pursuant to the provisions of section 432, Tariff Act of 1930 and provided for by 19 CFR 4.7, 4.7a, 4.81, 4.85, & 4.87. This form is accessible at [http://forms.cbp.gov/pdf/CBP\\_Form\\_1303.pdf](http://forms.cbp.gov/pdf/CBP_Form_1303.pdf).

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

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

**Affected Public:** Businesses.

**Estimated Number of Respondents:** 8,000.

**Estimated Number of Responses per Respondent:** 13.

**Estimated Number of Total Annual Responses:** 104,000.

**Estimated Total Annual Burden Hours:** 26,000.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., Washington, DC 20229-1177, at 202-325-0265.

Dated: May 8, 2013.

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

[Published in the Federal Register, May 13, 2013 (78 FR 27984)]

