

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by removing the words "Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),".

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by removing the words "Republic of South Africa except the province of KwaZulu-Natal and except the foot-and-mouth disease controlled area (which extends from the Republic of South Africa's border with Mozambique approximately 30 to 90 kilometers into the Republic of South Africa to include Kruger National Park and surveillance and control zones around the park, and elsewhere extends, from east to west, approximately 10 to 20 kilometers into the Republic of South Africa along its borders with Mozambique, Swaziland, Zimbabwe, Botswana, and the southeast part of the border with Namibia),".

Done in Washington, DC, this 18th day of January 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF THE TREASURY**Customs Service****19 CFR Parts 10, 163 and 178**

[T.D. 01-17]

RIN 1515-AC78

Duty-Free Treatment for Certain Beverages Made With Caribbean Rum

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement a change made by the Trade and Development

Act of 2000 to the Caribbean Basin Economic Recovery Act, also known as the Caribbean Basin Initiative (CBI), that enables certain liqueurs and spirituous beverages to obtain duty-free entry under specified conditions when the beverages are processed in the territory of Canada from rum that is the growth, product or manufacture either of a CBI beneficiary country or of the U.S. Virgin Islands. The interim regulations set forth the certification and supporting documentation requirements that are necessary to establish compliance with the statutory law, thereby ensuring that the rum beverages are properly entitled to duty-free entry under the CBI.

DATES: Interim rule effective on February 9, 2001. This interim rule is effective for all products entered or withdrawn from warehouse for consumption on or after February 9, 2001. Comments must be received on or before April 10, 2001.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT:

Leon Hayward, Office of Field Operations, (202-927-9704).

SUPPLEMENTARY INFORMATION:**Background**

The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701-2707) (CBERA) establishes an economic recovery program for nations of the Caribbean and Central America. Under the CBERA, also referred to as the Caribbean Basin Initiative (CBI), the President is authorized to proclaim duty-free treatment for all eligible articles of a beneficiary country (19 U.S.C. 2701).

A beneficiary country under the CBI refers to any country listed in 19 U.S.C. 2702(b) with respect to which there is in effect a proclamation by the President designating the country as a beneficiary country for purposes of the CBI (19 U.S.C. 2702(a)(1)(A)). A rule of origin specifies under what conditions an article will be considered to be a product of a beneficiary country—in brief, the article must be wholly the growth, product or manufacture of a beneficiary country, or must be a new or different article of commerce that has been grown, produced, or manufactured in the beneficiary country (19 U.S.C. 2703(a)).

Sections 10.191 through 10.198b of the Customs Regulations (19 CFR 10.191-10.198b) currently implement the duty-free aspects of the CBI.

In pertinent part, in order to be entitled to duty-free treatment under the CBI, an article otherwise eligible for such treatment must be imported directly from a beneficiary country into the customs territory of the United States (19 U.S.C. 2703(a)(1)(A); 19 CFR 10.193).

Accordingly, in the case of rum produced in a beneficiary country and then imported into Canada for processing into a rum beverage, the beverage would not be eligible for duty-free treatment under the CBI because it is not imported directly from a beneficiary country into the United States. At the same time, the beverage would also be ineligible for duty-free treatment under the North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 *et seq.*) (NAFTA) because the processing it undergoes in Canada would not be sufficient to qualify it as a NAFTA originating good (19 U.S.C. 3332; General Note 12, Harmonized Tariff Schedule of the United States (HTSUS); 19 CFR 181.131; and the appendix to 19 CFR part 181).

Beverages Made in Canada With Caribbean Rum; Amendment of CBERA by Trade and Development Act of 2000

To address the foregoing circumstances, the Caribbean Basin Economic Recovery Act has now been further amended by section 212 of the Trade and Development Act of 2000 (Pub. L. 106-200, 114 Stat. 251, enacted on May 18, 2000) (Act). Section 212 of this Act adds a new paragraph (a)(6) to section 213(a) of the CBERA (19 U.S.C. 2703(a)(6)), in order to provide for duty-free entry under certain conditions for liqueurs and spirituous beverages that are produced in the territory of Canada from rum that is the growth, product, or manufacture either of a beneficiary country under the CBI or of the U.S. Virgin Islands.

Specifically, under 19 U.S.C. 2703(a)(6), a liqueur or spirituous beverage that is imported directly into the Customs territory of the United States from the territory of Canada and that is classifiable under subheading 2208.90 or 2208.40, Harmonized Tariff Schedule of the United States (HTSUS), will be entitled to duty-free entry under the CBERA if such liqueur or beverage is produced in the territory of Canada from rum, provided that the rum: (1) Is the growth, product, or manufacture of a beneficiary country or of the U.S. Virgin Islands; (2) is imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands; and (3) accounts for at least 90 percent by volume of the

alcoholic content of the liqueur or spirituous beverage.

In order to implement the provision allowing for duty-free admission for liqueurs and spirituous beverages produced in the territory of Canada from Caribbean rum, Customs is issuing an interim regulation (§ 10.199) which prescribes the certification and supporting documentary requirements and recordkeeping responsibilities that must be observed in order to afford duty-free admission for those beverages that properly qualify for such treatment, and to otherwise ensure compliance with the requirements of the statutory law.

In this latter regard, the importer must be prepared to submit to the port director, if requested, documentary evidence that the liqueurs or rum beverages were imported into the U.S. directly from the territory of Canada. This evidence may include documents such as a bill of lading, invoice, air waybill, freight waybill, or cargo manifest. Likewise, the port director may require that the importer submit documentary evidence that the rum used in producing the liqueurs or spirituous beverages was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands. This evidence may include documents such as a Canadian customs entry, Canadian customs invoice, Canadian customs manifest, cargo manifest, bill of lading, landing certificate, airway bill, or freight waybill. In either case, any evidence of direct shipment, as described, may be subject to such verification as deemed necessary by the port director.

In addition, the importer must be ready to present directly to the port director, if requested, a declaration prepared by the producer or manufacturer of the rum in the beneficiary country (or in the U.S. Virgin Islands, if applicable) that attests to the specific origin of the rum. Any records, including production records, supporting the declaration must likewise be available for submission to the port director, and the declaration and supporting records may be subject to any verification believed necessary by the port director.

Moreover, the importer must be prepared to submit directly to the port director, if requested, a declaration prepared by the Canadian processor who produced the liqueur(s) or spirituous beverage(s) for which duty-free entry is claimed under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)). The declaration must affirm, among other things, that the processor

received the rum from the exporter or owner in the CBI beneficiary country or the U.S. Virgin Islands, as applicable; and that the processor used the rum in producing the liqueurs or other spirituous beverages. Production records, for each lot of liqueur/beverage produced, must establish the quantity of rum qualifying under 19 U.S.C. 2703(a)(6) that is used in producing the liqueur/beverage (non-qualifying rum may not be substituted for use in producing the liqueurs or beverages); the alcoholic content by volume of the finished liqueur/beverage; and the specific alcoholic content by volume of the processed liqueur/beverage that is attributable to the qualifying rum.

The importer must be prepared to submit to the port director, if requested, the declaration and/or the underlying documentation, including any supporting documents and records, necessary for the preparation of the declaration, for a period of 5 years from the date of entry of the related liqueurs or spirituous beverages, as provided in § 163.4(a), Customs Regulations (19 CFR 163.4(a)). If requested during this time, the importer must submit to the port director the declaration and/or any underlying documentation within 60 calendar days of the date of the request or any additional period as the port director may allow for good cause shown. The declaration and related documentation may be subject to such verification as the port director deems necessary.

Also, the foregoing time periods apply to the retention and submission of documentary evidence concerning the origin of the rum, its direct shipment into the territory of Canada and the direct shipment of the corresponding finished liqueurs and spirituous beverages from Canada into the United States.

Furthermore, the importer must establish and implement a system of internal controls which demonstrate that reasonable care was exercised in the claim for duty-free treatment under the CBI. These controls should include tests to assure the accuracy and availability of records that evidence: the origin of the rum; the direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands to Canada; the alcohol content of the finished liqueur/beverage imported from Canada; and the direct shipment of the finished liqueur/beverage from Canada to the United States.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments

that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that good cause exists for dispensing with prior public notice and comment procedures on these interim regulations. The interim regulations afford a preferential tariff benefit to the importing public; they reflect, and provide a necessary and reasonable means for enforcing, statutory requirements that are already in effect; and they closely parallel existing regulatory provisions that implement similar trade preference programs. Also, for these same reasons, there is no need for a delayed effective date under 5 U.S.C. 553(d). Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Nor does this document meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information involved in this interim rule has already been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Number 1515-0194 (Documentation requirements for articles entered under various special tariff treatment provisions). This collection includes a claim for duty-free entry of eligible articles under the Caribbean Basin Initiative. This rule does not present any substantive changes to the existing approved information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is revised to make reference to new § 10.199.

List of Subjects

19 CFR PART 10

Customs duties and inspection, Exports, Foreign relations, Imports, International traffic, Preference programs, Reporting and recordkeeping requirements, Shipments, Trade agreements (Caribbean Basin Initiative, Generalized System of Preferences, U.S.-Canada Free Trade Agreement, etc.).

19 CFR PART 163

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

19 CFR PART 178

Administrative practice and procedure, Collections of information, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, parts 10, 163 and 178, Customs Regulations (19 CFR parts 10, 163 and 178), are amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority for part 10 is revised to read as follows, and the specific sectional authority for part 10 is amended by removing the sectional authority citation, “sections 10.191 through 10.198b also issued under 19 U.S.C. 2701 *et seq.*”, and by adding a new sectional authority citation in its place to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * *

Sections 10.191 through 10.199 also issued under 19 U.S.C. 2701 *et seq.*:

* * * * *

2. In § 10.191:

a. Paragraph (b)(1) is amended by removing the reference “§ 10.198b” and by adding, in its place, the reference “§ 10.199”;

b. Paragraph (b)(3) is amended by removing the reference “§ 10.198a” and by adding, in its place, the reference “§ 10.199”; and

c. Paragraph (b)(4) is amended by removing the reference “§ 10.198b” and

by adding, in its place, the reference “§ 10.199”.

3. Part 10 is amended by adding a new § 10.199 under the heading entitled “CARIBBEAN BASIN INITIATIVE” to read as follows:

§ 10.199 Duty-free entry for certain beverages produced in Canada from Caribbean rum.

(a) *General.* A liqueur or other spirituous beverage that is imported directly from the territory of Canada and that is classifiable under subheading 2208.40 or 2208.90, Harmonized Tariff Schedule of the United States (HTSUS), will be entitled, upon entry or withdrawal from warehouse for consumption, to duty-free treatment under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)), also known as the Caribbean Basin Initiative (CBI), if the liqueur or spirituous beverage has been produced in the territory of Canada from rum, provided that the rum:

(1) Is the growth, product, or manufacture either of a beneficiary country or of the U.S. Virgin Islands;

(2) Was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands; and

(3) Accounts for at least 90 percent of the alcoholic content by volume of the liqueur or spirituous beverage.

(b) *Claim for exemption from duty under CBI.* A claim for an exemption from duty for a liqueur or spirituous beverage under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)) may be made by entering such liqueur or beverage under subheading 9817.22.05, HTSUS, on the entry summary document or its electronic equivalent. In order to claim the exemption, the importer must have the records described in paragraphs (d), (e), (f) and (g) of this section so that, upon Customs request, the importer can establish that:

(1) The rum used to produce the liqueur/beverage is the growth, product or manufacture either of a beneficiary country or of the U.S. Virgin Islands;

(2) The rum was shipped directly from a beneficiary country or from the U.S. Virgin Islands to Canada;

(3) The liqueur/beverage was produced in Canada;

(4) The rum accounts for at least 90% of the alcohol content of the liqueur/beverage; and

(5) The liqueur/beverage was shipped directly from Canada to the United States.

(c) *Imported directly.* For liqueur or other spirituous beverage imported from Canada to qualify for duty-free entry

under the CBI, the liqueur or spirituous beverage must be imported directly into the customs territory of the United States from Canada; and the rum used in its production must have been imported directly into the territory of Canada either from a beneficiary country or from the U.S. Virgin Islands.

(1) “Imported directly” into the customs territory of the United States from Canada means:

(i) Direct shipment from the territory of Canada to the U.S. without passing through the territory of any other country; or

(ii) If the shipment is from the territory of Canada to the U.S. through the territory of any other country, the liqueurs and spirituous beverages do not enter into the commerce of any other country while en route to the U.S.; or

(iii) If the shipment is from the territory of Canada to the U.S. through the territory of another country, and the invoices and other documents do not show the U.S. as the final destination, the liqueurs and spirituous beverages in the shipment are imported directly only if they:

(A) Remained under the control of the customs authority of the intermediate country;

(B) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter’s sales agent; and

(C) Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the products in good condition.

(2) “Imported directly” from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada means:

(i) Direct shipment from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada without passing through the territory of any non-beneficiary country; or

(ii) If the shipment is from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada through the territory of any non-beneficiary country, the rum does not enter into the commerce of any non-beneficiary country while en route to Canada; or

(iii) If the shipment is from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada through the territory of any non-beneficiary country, the rum in the shipment is imported directly into the territory of Canada only if it:

(A) Remained under the control of the customs authority of the intermediate country;

(B) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail; and

(C) Was not subjected to operations in the intermediate country other than loading and unloading, and other activities necessary to preserve the product in good condition.

(d) *Evidence of direct shipment.*

(1) *Liqueurs or spirituous beverages imported from Canada.* The importer must be prepared to provide to the port director, if requested, documentary evidence that the liqueurs or spirituous beverages were imported directly from the territory of Canada, as described in paragraph (c)(1) of this section. This evidence may include documents such as a bill of lading, invoice, air waybill, freight waybill, or cargo manifest. Any evidence of the direct shipment of these liqueurs or spirituous beverages from Canada into the U.S. may be subject to such verification as deemed necessary by the port director.

(2) *Rum imported into Canada from beneficiary country or U.S. Virgin Islands.* The importer must be prepared to provide to the port director, if requested, evidence that the rum used in producing the liqueurs or spirituous beverages was imported directly into the territory of Canada from a beneficiary country or from the U.S. Virgin Islands, as described in paragraph (c)(2) of this section. This evidence may include documents such as a Canadian customs entry, Canadian customs invoice, Canadian customs manifest, cargo manifest, bill of lading, landing certificate, airway bill, or freight waybill. Any evidence of the direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands into the territory of Canada for use there in producing the liqueurs or other spirituous beverages may be subject to such verification as deemed necessary by the port director.

(e) *Origin of rum used in production of liqueur or spirituous beverage.*

(1) *Origin criteria.* In order for a liqueur or spirituous beverage covered by this section to be entitled to duty-free entry under the CBI, the rum used in producing the liqueur or spirituous beverage in the territory of Canada must be wholly the growth, product, or manufacture either of a beneficiary country under the CBI or of the U.S. Virgin Islands, or must constitute a new or different article of commerce that was produced or manufactured in a beneficiary country or in the U.S. Virgin Islands. Such rum will not be

considered to have been grown, produced, or manufactured in a beneficiary country or in the U.S. Virgin Islands by virtue of having merely undergone blending, combining or packaging operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the product.

(2) *Evidence of origin of rum.—(i) Declaration.* The importer must be prepared to submit directly to the port director, if requested, a declaration prepared and signed by the person who produced or manufactured the rum, affirming that the rum is the growth, product or manufacture of a beneficiary country or of the U.S. Virgin Islands. While no particular form is prescribed for the declaration, it must include all pertinent information concerning the processing operations by which the rum was produced or manufactured, the address of the producer or manufacturer, the title of the party signing the declaration, and the date it is signed.

(ii) *Records supporting declaration.* The supporting records, including those production records, that are necessary for the preparation of the declaration must also be available for submission to the port director if requested. The declaration and any supporting evidence as to the origin of the rum may be subject to such verification as deemed necessary by the port director.

(f) *Canadian processor declaration; supporting documentation.—(1) Canadian processor declaration.* The importer must be prepared to submit directly to the port director, if requested, a declaration prepared by the person who produced the liqueur(s) and/or the spirituous beverage(s) in Canada, setting forth all pertinent information concerning the production of the liqueurs/beverages. The declaration will be in substantially the following form:

I, _____ declare that the liqueurs and/or spirituous beverages here specified are the products that were produced by me (us), as described below, with the use of rum that was received by me (us); that the rum used in producing the liqueurs/beverages was received by me (us) on _____ (date), from _____ (name and address of owner or exporter in the beneficiary country or in the U.S. Virgin Islands, as applicable); and that such rum accounts for at least 90 percent of the alcoholic content by volume, as shown below, of each liqueur or spirituous beverage so produced.

Marks and numbers	Description of products and of processing	Alcoholic content of products; alcoholic content (%) attributable to rum ¹
.....
.....
.....
.....

¹ The production records must establish, for each lot of liqueur/beverage produced, the quantity of rum the growth, product or manufacture of a CBI beneficiary country or of the U.S. Virgin Islands under 19 U.S.C. 2703(a)(6) that is used in producing the finished liqueur/beverage; the alcoholic content by volume of the finished liqueur/beverage; and the alcoholic content by volume of the finished liqueur/beverage, expressed as a percentage, that is attributable to the qualifying rum. If rum from two or more qualifying sources (e.g., rum the growth, product or manufacture of a CBI beneficiary country or of the U.S. Virgin Islands and other rum the growth, product or manufacture of another CBI country) are used in processing the liqueur/beverage, the alcoholic content requirement may be met by aggregating the alcoholic content of the finished liqueur/beverage that is attributable to rum from each of the qualifying sources used in processing the finished liqueur/beverage, as reflected in the production records.

Date _____
Address _____
Signature _____
Title _____

(2) *Availability of supporting documents.* The information, including any supporting documents and records, necessary for the preparation of the declaration, as described in paragraph (f)(1) of this section, must be available for submission to the port director, if requested. The declaration and any supporting evidence may be subject to such verification as deemed necessary by the port director. The specific documentary evidence necessary to support the declaration consists of those documents and records which satisfactorily establish:

(i) The receipt of the rum by the Canadian processor, including the date of receipt and the name and address of the party from whom the rum was received (the owner or exporter in the beneficiary country or the U.S. Virgin Islands); and

(ii) For each lot of liqueur/beverage produced and included in the declaration, the specific identification of the production lot(s) involved; the quantity of qualifying rum that is used in producing the finished liqueur/beverage, including a description of the processing and of the finished products; the alcoholic content by volume of the finished liqueur/beverage; and the alcoholic content by volume of the finished liqueur/beverage, expressed as

a percentage, that is attributable to the qualifying rum.

(g) *Importer system for review of necessary recordkeeping.* The importer will establish and implement a system of internal controls which demonstrate that reasonable care was exercised in its claim for duty-free treatment under the CBI. These controls should include tests to assure the accuracy and availability of records that establish:

(1) The origin of the rum;
(2) The direct shipment of the rum from a beneficiary country or from the U.S. Virgin Islands to Canada;
(3) The alcohol content of the finished liqueur/beverage imported from Canada; and

(4) The direct shipment of the finished liqueur/beverage from Canada to the United States.

(h) *Submission of documents to Customs.* The importer must be prepared to submit directly to the port director, if requested, those documents and/or supporting records as described in paragraphs (d), (e) and (f) of this

section, for a period of 5 years from the date of entry of the related liqueurs and spirituous beverages under section 213(a)(6) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)(6)), as provided in § 163.4(a) of this chapter. If requested, the importer must submit such documents and/or supporting records to the port director within 60 calendar days of the date of the request or such additional period as the port director may allow for good cause shown.

PART 163—RECORDKEEPING

1. 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.

2. The Appendix to part 163 is amended by adding the following new listing under section IV in appropriate numerical order to read as follows:

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

* * * * *

IV. * * *

§ 10.199 Documents, etc. required for duty-free entry of liqueurs and/or spirituous beverages produced in Canada from CBI rum, declaration of Canadian processor (plus supporting information).

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB control No.
* * * * *		
§ 10.199	Claim for duty-free entry of rum beverages from Canada under the Caribbean Basin Initiative.	1515-0194
* * * * *		

Raymond W. Kelly,
Commissioner of Customs.

Approved: February 5, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary of the Treasury.
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BILLING CODE 4820-02-U

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 191

[T.D. 01-18]

RIN 1515-AC67

Merchandise Processing Fee Eligible To Be Claimed as Unused Merchandise Drawback

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations on an interim basis to indicate that merchandise processing

fees are eligible to be claimed as unused merchandise drawback. The change is made to reflect a recent court decision in which merchandise processing fees were found to be assessed under Federal law and imposed by reason of importation and therefore eligible to be claimed as unused merchandise drawback pursuant to 19 U.S.C. 1313(j). The amendment will require a drawback claimant to apportion the merchandise processing fee to that merchandise that provides the basis for drawback.

DATES: This interim rule is effective February 9, 2001. Comments must be received on or before April 10, 2001.

ADDRESSES: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: William G. Rosoff, Chief, Duty and Refund Determinations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20029, Tel. (202) 927-2265.

SUPPLEMENTARY INFORMATION:

Background

Merchandise Processing Fees—19 U.S.C. 58c(a)(9)(A)

Merchandise processing fees are fees the Secretary of the Treasury charges and collects for the processing of merchandise that is formally entered or released into the United States. See 19 U.S.C. 58c(a)(9)(A). A merchandise processing fee is assessed in an amount equal to 0.21 percent of the value of the imported merchandise, as determined under 19 U.S.C. 1401a. Merchandise processing fees are subject to two monetary limits:

(1) A cap of \$485 is imposed by 19 U.S.C. 58c(a)(9)(B)(i) for any release or entry, including weekly Free Trade Zone entries (see section 410 of the Trade and Development Act of 2000, Pub. L. 106-200, 114 Stat. 251, enacted on May 18, 2000), for which the value of merchandise subject to the fee exceeds \$230,952.38 (\$485 ÷ .0021 = \$230,952.38); and

(2) For certain monthly entries, as prescribed by Pub. L. 101-382, section 111(f), as amended, and implemented