

Athens, GA; INT Athens 340° and Harris, GA, 148° radials; Harris; Volunteer, TN.

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**V-437 (Revised)**

From Dolphin, FL; INT Dolphin 354°T(358°M) and Pahokee, FL, 157° radials; Pahokee; Melbourne, FL; INT Melbourne 322° and Ormond Beach, FL, 211° radials; Ormond Beach; Savannah, GA; Charleston, SC; Florence, SC. The airspace within R-2935 is excluded.

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**V-511 (Revised)**

From Lakeland, FL; INT Lakeland 140° and Dolphin, FL, 331°T(335°M) radials; Dolphin.

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**V-521 (Revised)**

From Dolphin, FL; INT Dolphin 318°T(322°M) and Lee County, FL, 099° radials; Lee County; INT Lee County 014° and Lakeland, FL, 154° radials; Lakeland; Cross City, FL; INT Cross City 287° and Marianna, FL, 141° radials; Marianna; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; INT Montgomery 357° and Vulcan, AL, 139° radials; Vulcan.

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**V-599 (Revised)**

From Lee County, FL; INT Lee County 083°T(085°M) and Dolphin, FL, 331°T(335°M) radials; Dolphin.

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**V-601 (New)**

From Pahokee, FL; INT Pahokee 212°T(212°M) and Marathon, FL; 354°T(357°M) radials; Marathon.

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Issued in Washington, DC, on April 24, 1995.

**Harold W. Becker,**

*Manager, Airspace-Rules and Aeronautical Information Division.*

[FR Doc. 95-10775 Filed 5-2-95; 8:45 am]

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**DEPARTMENT OF THE TREASURY**

**Customs Service**

**19 CFR Part 162**

**RIN 1515-AB62**

**Seizure of Merchandise**

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, Customs is proposing to amend its regulations in response to enactment of the Customs Modernization Act ("The Mod Act"). Among its other provisions, the Mod Act amended Section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)) to

clarify and codify Customs authority to seize and forfeit merchandise introduced or attempted to be introduced into the United States contrary to law. The Mod Act distinguishes between circumstances under which seizure of such merchandise is mandatory and those in which it is permissive. The proposed amendment follows the legislation and specifies the circumstances under which the mandatory and permissive seizures may take place. The proposed amendment also contains provisions for the detention of merchandise and the remission of articles subject to seizure and forfeiture.

**DATES:** Comments must be received on or before July 3, 1995.

**ADDRESSES:** Comments (preferably in triplicate) may be submitted to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at Franklin Court, 1099 14th Street NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Todd Schneider, Penalties Branch (202) 482-6950.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Pub. L. 103-182). The Customs Modernization portion of this Act (Title VI), popularly known as the Customs Modernization Act, or "the Mod Act" became effective when it was signed. Section 624 of Title VI amended section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)) to codify and clarify the circumstances under which merchandise may be seized and forfeited by Customs. Customs is now proposing to amend its regulations so that they will conform to the amended statute.

The Mod Act amendments to section 1595a(c) provide that merchandise which is introduced or attempted to be introduced into the United States contrary to law shall be treated in two different manners depending upon the circumstances of the introduction or attempted introduction. In instances where the merchandise is stolen, smuggled, or clandestinely imported or introduced or is a controlled substance or contraband article, seizure is mandatory.

Paragraph (a) of the proposed amendment addresses conditions where seizure is mandatory.

Paragraph (b) of the proposed amendment covers those situations in

which seizure is permissive. Seizure is permissive in instances where the merchandise is subject to health, safety or conservation restrictions which have not been complied with; when licenses, permits or other authorizations of a U.S. Government agency are required but do not accompany the merchandise; when copyright, trademark, or trade name violations are involved; when trade dress merchandise involved is in violation of a court order citing section 43 of the Act of July 5, 1946 (15 U.S.C. 1125); and when the merchandise is marked intentionally in violation of section 304, Tariff Act of 1930 (19 U.S.C. 1304). The legislation also provides that merchandise may be seized if it is merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been marked in violation of section 304, Tariff Act of 1930 (19 U.S.C. 1304).

Paragraph (c) of the proposed amendment provides instructions on procedures which Customs will follow in resolving questions which result from seizures which have been made under section 1595a(c).

Paragraph (d) of the proposed amendment contains language specifying that merchandise which is misclassified or incorrectly valued, where there is no issue of admissibility, will be subject to seizure only under section 1592.

The Mod Act also provides that merchandise which is subject to quantitative restrictions requiring a visa, permit, license or other similar document from the United States Government or a foreign government or issuing authority pursuant to a bilateral or multilateral agreement shall be subject to detention until the appropriate visa, license, permit or similar document or stamp is presented to Customs. However, if the visa, license, permit, or similar document or stamp is counterfeit as presented, the merchandise may be seized. This provision is contained in paragraph (e) of the proposed amendment.

**Comments**

Before adopting the proposed amendment, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury 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 a.m. and 4:30 p.m. at the

Regulations Branch, 1099 14th Street NW., Suite 4000, Washington, DC.

### Regulatory Flexibility Act

Because the proposed regulations closely follow legislative requirements, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that the proposed regulations, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

### Executive Order 12866

This amendment does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

### Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

### List of Subjects in 19 CFR Part 162

Customs duties and inspection, Law enforcement, Seizures and forfeitures.

### Proposed Amendment

It is proposed to amend Part 162, Customs Regulations (19 CFR part 162) as set forth below:

### PART 162—RECORDKEEPING, INSPECTION, SEARCH, AND SEIZURE

1. The authority citation for part 162 would be revised in part to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1624.

\* \* \* \* \*

Section 162.23 also issued under 19 U.S.C. 1595a(c).

\* \* \* \* \*

2. In part 162, a new § 162.23 is added to read as follows:

#### § 162.23 Seizure under section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)).

(a) *Mandatory seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, shall be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise that is stolen, smuggled, or clandestinely imported or introduced;

(2) A controlled substance, as defined in the Controlled Substance Act (21 U.S.C. 801 *et seq.*), not imported in accordance with law; or

(3) A contraband article, as defined in section 1 of the Act of August 9, 1939 (49 U.S.C. App. 781).

(b) *Permissive seizures.* The following, if introduced or attempted to be introduced into the United States contrary to law, may be seized pursuant to section 596(c), Tariff Act of 1930, as amended (19 U.S.C. 1595a(c)):

(1) Merchandise, the importation or entry of which is subject to any restriction or prohibition imposed by law relating to health, safety, or conservation, and which is not in compliance with the applicable rule, regulation or statute;

(2) Merchandise the importation or entry of which requires a license, permit or other authorization of a United States Government agency, and which is not accompanied by such license, permit or authorization;

(3) Merchandise or packaging in which copyright, trademark or trade name protection violations are involved (including, but not limited to, a violation of sections 42, 43 or 45 of the Act of July 5, 1946 (15 U.S.C. 1124, 1125 or 1127), sections 506 or 509 of title 17, United States Code, or sections 2318 or 2320 of title 18, United States Code);

(4) Trade dress merchandise involved in the violation of a court order citing section 43 of the Act of July 5, 1946 (15 U.S.C. 1125);

(5) Merchandise marked intentionally in violation of 19 U.S.C. 1304;

(6) Merchandise for which the importer has received written notices that previous importations of identical merchandise from the same supplier were found to have been in violation of 19 U.S.C. 1304; or

(7) Merchandise subject to quantitative restrictions, found to bear a counterfeit visa, permit, license, or similar document, or stamp from the United States or from a foreign government or issuing authority pursuant to a multilateral or bilateral agreement (but see paragraph (e), of this section).

(c) *Resolution of seizure under section 1595a(c).* When merchandise is either required or authorized to be seized under this section, the forfeiture incurred may be remitted in accord with 19 U.S.C. 1618, to include as a possible option the exportation of the merchandise under such conditions as Customs shall impose, unless its release would adversely affect health, safety, or conservation, or be in contravention of a bilateral or multilateral agreement or treaty.

(d) *Seizure under 19 U.S.C. 1592.* If merchandise is imported, introduced or attempted to be introduced contrary to a provision of law governing its

classification or value, and there is no issue of admissibility, such merchandise shall not be seized pursuant to 19 U.S.C. 1595a(c). Any seizure of such merchandise shall be in accordance with section 1592 (see § 162.75).

(e) *Detention only.* Merchandise subject to quantitative restrictions requiring a visa, permit, license, or other similar document, or stamp from the United States Government or from a foreign government or issuing authority pursuant to a bilateral or multilateral agreement, shall be subject to detention in accordance with 19 U.S.C. 1499, unless the appropriate visa, permit, license, or similar document, or stamp is presented to Customs (but see paragraph (b)(7) of this section for instances when seizure may occur).

**Michael H. Lane,**

*Acting Commissioner of Customs.*

Approved: April 5, 1995.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 95-10855 Filed 5-2-95; 8:45 am]

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### Internal Revenue Service

#### 26 CFR Part 1

[FI-42-94]

RIN 1545-AS85

#### Mark to Market for Dealers in Securities; Hearing Cancellation

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Cancellation of notice of public hearing on proposed regulations.

**SUMMARY:** This document provides notice of cancellation of a public hearing on proposed regulations relating to the mark-to-market method of accounting for securities that is required to be used by a dealer in securities.

**DATES:** The public hearing originally scheduled for Wednesday, May 3, 1995, beginning at 10:00 a.m. is cancelled.

**FOR FURTHER INFORMATION CONTACT :** Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190, (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 475 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** for Wednesday, January 4, 1995 (60 FR 397), announced that the public hearing on proposed regulations under section 475 of the Internal Revenue Code would be held on Wednesday,