

proceeding would have been different had the statement or omission not occurred; and

(5) Copies of all documents relied on by the petitioner, or references to such documents if they are contained in the public files of the commission.

(c) *Procedures after reopening.* In the event the Commission reopens a determination pursuant to this section it will:

(1) Give notice to the jurisdictional agency and all persons who participated before both that agency and the Commission in the proceedings resulting in the determination in question;

(2) Permit the jurisdictional agency and other persons receiving notice pursuant to paragraph (C)(1) of this section to submit whatever documentary evidence such agency or persons deem relevant; and

(3) Take such other action or hold or cause to be held such proceedings as it deems necessary or appropriate for a full disclosure of the facts.

(d) *Final order of Commission.* Within 150 days after issuance of the notice under paragraph (c)(1) of this section, the Commission shall issue a final order. If the Commission finds that the grounds referred to in paragraph (a) of this section exist, it will vacate the determination.

§ 270.506 Confidentiality.

(a) Except as provided in paragraph (b) of this section, the Commission will accord confidential protection to, and not disclose to the public, any information submitted by a jurisdictional agency under § 270.204, if:

(1) The jurisdictional agency, on its own motion or on request of the applicant, afforded such information confidential treatment before the jurisdictional agency; and

(2) The agency order or the applicant's request stated grounds for confidential treatment which fall within one of the exemptions described in paragraphs (1) through (9) of 5 U.S.C. 552(b).

(b) Upon receipt of a request for disclosure of information treated as confidential under paragraph (a), the Commission will determine in accordance with 5 U.S.C. 552 whether the information is exempt. 5 U.S.C. 552(b). If it determines the information is not exempt, the information will be made public. If it determines the information is exempt, the Commission will not make it public unless it determines that its conduct of the proceeding to review the jurisdictional agency determination requires making

such information available to the public or to particular parties, subject to conditions (including a protective order) as the Commission may prescribe. Before making any information public under this paragraph, the Commission will provide at least 5 days notice to the person who submitted the information.

PART 375—THE COMMISSION

3. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 2601–2645; 42 U.S.C. 7101–7352.

4. § 375.307 paragraph (p) is added to read as follows:

§ 375.307 Delegation to the Director of the Office of Markets, Tariffs, and Rates

* * * * *

(p) Take the following actions under the Natural Gas Policy Act of 1978:

(1) Notify jurisdictional agencies within 45 days after the date on which the Commission receives notice of a determination pursuant to § 270.502(b) of this chapter that the notice is incomplete under § 270.204 of this chapter.

(2) Issue preliminary findings under § 270.502(a)(1) of this chapter.

PART 381—FEES

Subpart D—Fees Applicable to the Natural Gas Policy Act of 1978

5. The authority citation for part 381 will continue to read as follows:

Authority: 15 U.S.C. 717–717W; 16 U.S.C. 791–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

6. Section 381.401 is added to read as follows:

§ 381.401 Review of jurisdictional agency determinations

The fee established for review of a jurisdictional agency determination is \$115. The fee must be submitted in accordance with subpart A of this part and § 270.301(c) of this chapter.

Note: The following form will not appear in the Code of Federal Regulations.

Attachment—Federal Energy Regulatory Commission Form No. 121 Application for Well Category Determination

- 1.0 API well number for this well (14 digits maximum. If no API number assigned, leave blank.): _____ - _____ - _____
- 2.0 Section 107 determination being sought (check one) is for gas produced from: _____ (1) coal seams;

- ____ (2) Devonian shale; or
- ____ (3) a designated tight formation.

3.0 Spud date of this well:

____/____/____ (month/day/year)

4.0 Recompletion commenced: ____/____/____ (month/day/year)

5.0 Measured depth of recompletion: from _____ (top and base, in feet)

6.0 Applicant's name, address and zip code:

Name* _____

Street* _____

City* _____

State _____

Zip Code _____

7.0 Name and identification number of this well, name of reservoir into which well has been recompleted, and location of this well:

Well* _____

Reservoir* _____

Field* _____

County* _____

State* _____

8.0 If applying for determination on a recompletion into a designated tight formation, provide designated tight formation's name and corresponding FERC Designation:

Formation* _____

FERC _____

Designation* _____

9.0 Person responsible for this application:

Name* _____

Title* _____

Signature _____

Phone No. _____

*Signifies that line entry may contain up to 35 letters and/or numbers.

[FR Doc. 00–2367 Filed 2–7–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12 and 113

RIN 1515–AC43

Amended Bond Procedures for Articles Subject to Exclusion Orders Issued by the U.S. International Trade Commission

AGENCY: U.S. Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to reflect the statutory provisions regarding bond procedures for the entry of articles subject to exclusion orders issued by the U.S. International Trade Commission ("Commission"). This document also proposes to include the text of a new special importation and entry bond in the Customs Regulations. These proposed changes reflect the terms of section 337 of the Tariff Act of 1930, as amended by section 321 of the Uruguay Round Agreements Act. As amended,

section 337 requires that the bond prescribed by the Secretary of the Treasury must be in an amount determined by the Commission to be sufficient to protect the complainant from any injury and that if the Commission later determines that the respondent has violated the provisions of section 337, the bond may be forfeited to the complainant.

DATES: Comments must be received on or before April 10, 2000.

ADDRESSES: Written comments (preferably in triplicate), regarding both the substantive aspects of this proposal as well as the clarity of the proposed rule and how it may be made easier to understand, 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: Glen Vereb, Entry Procedures and Carriers Branch, (202) 927-1327.

SUPPLEMENTARY INFORMATION:

Background

U.S. International Trade Commission Investigations Under Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337)

Under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), the Commission has the authority to conduct investigations into certain alleged unfair practices in import trade. Most complaints filed under this provision involve allegations of patent infringement, trademark infringement, or misappropriation of trade secrets. The Commission may determine that section 337 has been violated or, during the course of an investigation, that there is reason to believe that section 337 has been violated.

Exclusion From Entry Into the U.S. of Articles that are the Subject of an Unfair Trade Practice Determination

If the Commission finds a violation, or reason to believe there is a violation, of section 337, it may direct the Secretary of the Treasury to exclude the subject articles from entry into the U.S.

Entry Under Bond of Excluded Articles

During the period the Commission's exclusion order remains in effect, and prior to the date that the Commission's determination of a violation of section 337 becomes final, articles otherwise excluded may be entered under a single entry bond prescribed by the Secretary of the Treasury.

Statutory Amendments to Sections 337(e)(1) and (j)(3) Require Amendments to the Customs Regulations

Certain statutory changes to section 337 of the Tariff Act of 1930 were enacted pursuant to the Uruguay Round Agreements Act (URAA), Pub. L. 103-465, 108 Stat. 4809 (December 8, 1994). Paragraphs (e)(1) and (j)(3) of section 337, as respectively amended by sections 321(a)(3) and (6) of the URAA, provide that articles subject to a Commission exclusion order may be entered under bond prescribed by the Secretary of the Treasury in an amount determined by the Commission to be sufficient to protect the complainant from any injury and that if the Commission later determines that the respondent has violated the provisions of section 337, the bond may be forfeited to the complainant.

Customs has determined that the amendments to section 337 effected by section 321 of the URAA, as described above, require changes to the Customs Regulations. It is Customs view that these amendments also warrant inclusion of the text of a special bond that indemnifies a complainant pursuant to the terms of section 337, as amended.

Present Regulatory Provisions

Section 12.39 of the Customs Regulations (19 CFR 12.39) sets forth provisions regarding imported articles involving unfair methods of competition or trade practices. Section 12.39(b)(1) identifies the manner by which such articles may be excluded from entry into the United States. Section 12.39(b)(2) provides that such excluded articles may be entitled to entry under a single entry bond in an amount determined by the Commission.

Section 113.62 of the Customs Regulations (19 CFR 113.62) sets forth basic importation and entry bond conditions. Section 113.62(l) identifies the consequence of default on certain agreements by which merchandise is released conditionally from Customs custody. Section 113.62(l)(1) provides, in pertinent part, that if a principal defaults on an agreement involving merchandise subject to an exclusion order of the Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay the amount specified in the order for failure to redeliver such merchandise.

Explanation of Amendments

The specific regulatory amendments proposed in this document are explained in more detail below.

Section 12.39

As mentioned previously, § 12.39(b)(2) provides that during the period the Commission's exclusion order remains in effect, excluded articles may be entered under a single entry bond in an amount determined by the Commission. This document proposes to amend § 12.39(b)(2) to provide that the bond must be in an amount determined by the Commission to be sufficient to protect the complainant from any injury and, if the Commission later determines that the respondent has violated the provisions of section 337, the bond may be forfeited to the complainant. These proposed changes reflect the amendments to sections 337(e)(1) and (j)(3) of the Tariff Act of 1930 enacted pursuant to sections 321(a)(3) and (6) of the URAA. The statutory amendments were enacted to bring Commission practice with respect to bonding requirements into closer conformity with district court practice.]

It is further proposed that § 12.39(b)(2) be amended by deleting reference to Customs Form (CF) 301 and to the bond conditions set forth in § 113.62. The deletion of these terms reflects the fact that a CF 301 and § 113.62 pertain to basic importation and entry bonds. The single entry bond contemplated by § 12.39(b)(2), as amended, is a special importation and entry bond, not under cover of basic importation and entry bonds because the bond does not inure to the Treasury, but rather to the complainant, in the event of forfeiture.

It is proposed to add two new paragraphs to § 12.39(b)(2) which set forth the procedures for importing merchandise subject to the bonding requirements of sections 337(e)(1) and (j)(3). The first paragraph, (b)(2)(i), requires that a bond, in the amount determined by the Commission and containing the conditions identified in the text of the newly created special importation and entry bond, set forth in appendix B to part 113 of this chapter, be filed with the port director prior to entry. Paragraph (b)(2)(ii) directs that in the event of a forfeiture of this bond, § 210.50(d) of the United States International Trade Commission Regulations, (19 CFR 210.50(d)), will apply.

Section 113.62

Section 113.62 is proposed to be amended by striking that portion of the existing introductory paragraph which reads, "except that a bond taken in the case of merchandise subject to an exclusion order of the International

Trade Commission under 19 U.S.C. 1337 shall be a single entry bond.”

Section 113.62(l)(1) is proposed to be amended by striking that portion of the existing text which reads, “except that in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay liquidated damages in the amount specified in the order for failure to redeliver such merchandise.”

These two proposed amendments reflect that § 113.62 is to pertain only to basic importation and entry bonds and that the bond taken in the case of merchandise subject to an exclusion order of the Commission under 19 U.S.C. 1337 will be a special entry bond. Accordingly, all references to the bond taken out in regard to 19 U.S.C. 1337 are proposed to be removed from § 113.62.

Section 113.74

It is proposed to create a new provision at § 113.74 which sets forth that a bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended, is contained in appendix B to part 113. Section 113.74 would provide that the bond must be filed in accordance with the provisions set forth in § 12.39(b)(2), must be a single entry bond that contains the conditions listed in appendix B to part 113 and, for the forfeiture or return of the bond, the provisions of 19 CFR 210.50(d) will apply. The bond set forth in appendix B to part 113 is, of course, in addition to any other Customs requirements for the importation of merchandise subject to a section 337 exclusion order.

Appendix B to Part 113

It is proposed to add an appendix B to part 113 which sets forth the bond conditions for a bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended. The introductory paragraph to appendix B to part 113 would state that the provisions contained in §§ 12.39(b)(2) and 113.74 of the Customs Regulations and § 210.50(d) of the U.S. International Trade Commission Regulations will apply.

In consideration of the fact that the regulatory proposals discussed above include documentation requirements for the entry of merchandise covered by a Commission exclusion order, the “(a)(1)(A)” list set forth in the appendix to part 163 of the Customs Regulations (19 CFR part 163) will be modified accordingly if these proposed regulatory changes are adopted as a final rule.

Comments

Before adopting this proposal as a final rule, 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 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the 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, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, 3rd Floor, Washington, DC.

Inapplicability of the Regulatory Flexibility Act and Executive Order 12866

Because these proposed amendments to the Customs Regulations regarding bond procedures for articles subject to exclusion orders issued by the Commission merely reflect the terms of the statute, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the proposed amendments will not have a significant impact on a substantial number of small entities. Further, these proposed amendments do not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). Comments on the collection of information should be sent to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch at the address set forth above. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency’s estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the information collection burden on respondents,

including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operations, maintenance, and purchase of services to provide information.

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.

The collection of information in these proposed regulations is in appendix B to part 113. The information requested is necessary to enable Customs to permit entry under a bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended. The likely respondents are individuals or commercial organizations who seek to import merchandise which is the subject of a section 337 exclusion order into the U.S.

Estimated total annual reporting and/or recordkeeping burden: 25 hours.

Estimated average annual burden per respondent/recordkeeper: 30 minutes.

Estimated number of respondents and/or recordkeepers: 50.

Estimated annual frequency of response: 2.

Part 178 of the Customs Regulations (19 CFR part 178), which lists the information collections contained in the regulations and control numbers assigned by OMB, will be amended accordingly if this proposal is adopted.

Drafting Information

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

List of Subjects

19 CFR Part 12

Bonds, Customs duties and inspection, Entry of merchandise, Imports, Reporting and recordkeeping requirements, Restricted merchandise, Unfair competition.

19 CFR Part 113

Bonds, Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Surety bonds.

Proposed Amendments to the Regulations

For the reasons stated in the preamble, parts 12 and 113 of the Customs Regulations (19 CFR parts 12 and 113) are proposed to be amended as follows:

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.39 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Section 12.39 is also issued under 19 U.S.C. 1337, 1623.

* * * * *

2. It is proposed to revise § 12.39(b)(2) to read as follows:

§ 12.39 Imported articles involving unfair methods of competition or practices.

* * * * *

(b) * * *

(2) During the period the Commission's exclusion order remains in effect, excluded articles may be entered under a single entry bond in an amount determined by the International Trade Commission to be sufficient to protect the complainant from any injury. On or after the date that the Commission's determination of a violation of section 337 becomes final, as set forth in paragraph (a) of this section, articles covered by the determination will be refused entry. If a violation of section 337 is found, the bond may be forfeited to the complainant under terms and conditions prescribed by the Commission. To enter merchandise that is the subject of a Commission exclusion order, importers must:

(i) File with the port director prior to entry a bond in the amount determined by the Commission that contains the conditions identified in the special importation and entry bond set forth in appendix B to part 113 of this chapter; and

(ii) Comply with the terms set forth in 19 CFR 210.50(d) in the event of a forfeiture of this bond.

* * * * *

PART 113—CUSTOMS BONDS

1. The general authority citation for part 113 continues to read as follows, and a new authority citation is added for § 113.74:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.74 also issued under 19 U.S.C. 1337.

2. In § 113.62:

a. The introductory paragraph is proposed to be amended by removing that portion of the text which reads, "except that a bond taken in the case of

merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 shall be a single entry bond".

b. Paragraph (1)(1) is proposed to be amended by removing the words "except that in the case of merchandise subject to an exclusion order of the International Trade Commission under 19 U.S.C. 1337 which has been released before such order becomes final, the obligors agree to pay liquidated damages in the amount specified in the order for failure to redeliver such merchandise".

3. It is proposed that a new § 113.74 be added to read as follows:

§ 113.74 Bond conditions to indemnify a complainant under section 337 of Tariff Act of 1930, as amended.

A bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended, must contain the conditions listed in appendix B to this part. The bond must be a single entry bond and must be filed in accordance with the provisions set forth in 19 CFR 12.39(b)(2). For the forfeiture or return of this bond, the provisions of 19 CFR 210.50(d) will apply.

4. It is proposed to add appendix B to part 113 to read as follows:

Appendix B to Part 113—Bond to Indemnify Complainant Under Section 337, Tariff Act of 1930, as Amended

This appendix contains the bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended. The provisions contained in §§ 12.39(b)(2) and 113.74 of the Customs Regulations (19 CFR Chapter I) and § 210.50(d) of the U.S. International Trade Commission Regulations (19 CFR Chapter II) apply.

Bond to Indemnify Complainant Under Section 337, Tariff Act of 1930, as Amended

_____ as principal and _____ as surety, are held and bound to the complainant of unfair practices or methods of competition in import trade in violation of section 337, Tariff Act of 1930, as amended, in the sum of _____ dollars (\$_____), for payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, by these conditions.

Pursuant to the provisions of section 337, Tariff Act of 1930, as amended, the principal and surety recognize that the U.S. International Trade Commission has, according to the conditions described in its order, excluded from, or authorized, entry into the United States of the following merchandise.

The principal and surety recognize that the Commission has excluded that merchandise from entry until its investigation is completed, or until its decision that there is a violation of section 337 becomes final.

The principal and surety recognize that certain merchandise excluded from entry by

the Commission was, or may be, offered for entry into the United States while the Commission's prohibition is in effect.

The principal and surety recognize that the principal desires to obtain a release of that merchandise pending a final determination of the merchandise's admissibility into the United States, as provided under section 337, and, for that purpose, the principal and surety execute this stipulation:

If it is determined, as provided in section 337 of the Tariff Act of 1930, as amended, to exclude that merchandise from the United States, then, on notification from the port director of Customs, the principal is obligated to export or destroy under Customs supervision the merchandise released under this stipulation within 30 days from the date of the port director's notification.

The principal and surety agree that if the principal defaults on that obligation, the principal and surety shall pay to the complainant an amount equal to the face value of the bond as may be demanded by him/her under the applicable law and regulations.

Witness our hands and seals this _____ day of _____ (month), _____ (year).

(seal) _____
Principal

(seal) _____
Surety

Raymond W. Kelly,

Commissioner of Customs.

Approved: October 21, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 00-2725 Filed 2-7-00; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-208280-86]

RIN 1545-AJ57

Exclusions From Gross Income of Foreign Corporations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed rules implementing the portions of section 883(a) and (c) of the Internal Revenue Code (Code) that relate to income derived by foreign corporations from the international operation of a ship or ships or aircraft. The proposed rules reflect changes made by the Tax Reform Act of 1986 and subsequent legislative amendments. The proposed rules provide, in general, that a foreign corporation organized in a qualified foreign country and engaged