

for an advance ruling to provide for inclusion in the Customs file in the matter a written record setting forth any and all additional information, documents, and exhibits introduced during the conference to the extent that person considers such material relevant to the consideration of the advance ruling request. Such information, documents and exhibits shall be given consideration only if received by Customs within 30 calendar days following the conference.

§ 181.96 Change in status of transaction.

Each person submitting a request for an advance ruling in connection with a NAFTA transaction must immediately advise Customs in writing of any change in the status of that transaction upon becoming aware of the change. In particular, Customs must be advised when any transaction described in the advance ruling request as prospective becomes current and under the jurisdiction of a Customs field office. In addition, any person engaged in a NAFTA transaction coming under the jurisdiction of a Customs field office who has previously requested a NAFTA advance ruling with respect to that transaction must advise the field office of that fact.

§ 181.97 Withdrawal of NAFTA advance ruling requests.

Any request for an advance ruling may be withdrawn by the person submitting it at any time before the issuance of an advance ruling letter or any other final disposition of the request. All correspondence, documents, and exhibits submitted in connection with the request will be retained in the Customs file and will not be returned. In addition, the Headquarters Office may forward, to Customs field offices which have or may have jurisdiction over the transaction to which the advance ruling request relates, its views in regard to the transaction or the issues involved therein, as well as appropriate information derived from materials in the Customs file.

§ 181.98 Situations in which no NAFTA advance ruling may be issued.

(a) *General.* No advance ruling letter will be issued in response to a request therefor which fails to comply with the provisions of this subpart. No advance ruling letter will be issued in regard to a completed transaction.

(b) *Pending matters.* Where a request for an advance ruling involves an issue that is under review in connection with an origin verification under subpart G of this part or that is the subject of an administrative review procedure provided for in subpart J of this part or in part 174 of this chapter, Customs may decline to issue the requested advance ruling. In addition, no NAFTA advance ruling letter will be issued with respect to any issue which is pending before the United States Court of International Trade, the United States Court of Appeals for the Federal Circuit, or any court of appeal therefrom. Litigation before any other court will not preclude the issuance of an advance ruling letter, provided neither Customs nor any of its officers or agents is named as a party to the action.

§ 181.99 Issuance of NAFTA advance rulings or other advice.

(a) *NAFTA advance ruling letters—(1) General.* Except as otherwise provided in paragraph (a)(2) of this section, Customs will, within 120 calendar days of receipt of a request, including any required information supplemental thereto, issue an advance ruling letter in the English language setting forth the position of Customs and the reasons therefor with respect to a specifically described Customs transaction whenever a request for such an advance ruling is submitted in accordance with the provisions of this subpart and it is in the sound administration of the NAFTA provisions to do so. Otherwise, a request for an advance ruling will be answered by an information letter or, in those situations in which general information is likely to be of little or no value, by a letter stating that no advance ruling can be issued. In the course of evaluating the advance ruling

request Customs may solicit supplemental information from the person requesting the advance ruling. The submission of supplemental information will extend the time for response. The time for response will also be extended if it is necessary to obtain information from other government agencies or in the form of a laboratory analysis.

(2) *Submission of NAFTA advance ruling letters to field offices.* Any importer engaging in a NAFTA transaction with respect to which an advance ruling letter has been issued under this subpart either must ensure that a copy of the advance ruling letter is attached to the documents filed with the appropriate Customs office in connection with that transaction or must otherwise indicate with the information filed for that transaction that an advance ruling has been received. Any person receiving an advance ruling stating Customs determination must set forth such determination in the documents or information filed in connection with any subsequent entry of that merchandise; failure to do so may result in a rejection of the entry and the imposition of such penalties as may be appropriate. An advance ruling received after the filing of such documents or information must immediately be brought to the attention of the appropriate Customs field office.

(3) *Disclosure of NAFTA advance ruling letters.* No part of the advance ruling letter, including names, addresses, or information relating to the business transactions of private parties, shall be deemed to constitute privileged or confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), and part 103 of this chapter, or shall be deemed to be subject to the confidentiality principle set forth in § 181.121 of this part, unless, as provided in § 181.93(b)(7) of this part, the information claimed to be exempt from disclosure is clearly identified and a valid basis for nondisclosure is set forth. Before the issuance of the advance ruling letter, the person submitting the advance ruling request will be notified of any decision adverse to his request for nondisclosure and will, upon written request to Customs within 10 working

days of the date of notification, be permitted to withdraw the advance ruling request. If in the opinion of Customs an impasse exists on the issue of confidentiality and the person who submitted the advance ruling request does not withdraw the request, Customs will decline to issue the advance ruling. All advance ruling letters issued by Customs will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted).

(4) *Penalties for misrepresented or omitted material facts or for noncompliance.* If Customs determines that an issued advance ruling was based on incorrect information, the person to whom the advance ruling was issued may be subject to appropriate penalties unless that person demonstrates that he used reasonable care and acted in good faith in presenting the facts and circumstances on which the advance ruling was based. In addition, Customs may apply such measures as the circumstances may warrant in a case where a person to whom an advance ruling was issued has failed to act in accordance with the terms and conditions of the advance ruling.

(b) *Other NAFTA advice and guidance.* The Headquarters Office may on its own initiative from time to time issue other external advice and guidance with respect to issues or transactions arising under the NAFTA which come to its attention. Such NAFTA advice and guidance, which represent the official position of Customs and which are likely to be of widespread interest and application, are published in the Customs Bulletin, as described in § 181.101 of this part. Nothing in this subpart shall preclude Customs from issuing advice and guidance to its field offices concerning the application of the NAFTA.

§ 181.100 Effect of NAFTA advance ruling letters; modification and revocation.

(a) *Effect of NAFTA advance ruling letters—(1) General.* An advance ruling letter issued by Customs under the provisions of this subpart represents the official position of Customs with respect to the particular transaction or