

amended (19 U.S.C. 2252), that certain steel products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles. The action taken by the President in the Proclamation consisted of the implementation of certain "safeguard measures," specifically, the imposition of a tariff-rate quota on imports of specified steel slabs and an increase in duties on other specified steel products. The Proclamation included an Annex setting forth appropriate modifications to the Harmonized Tariff Schedule of the United States (HTSUS) to effectuate the President's action. The modifications to the HTSUS, which involved Subchapter III of Chapter 99 and included the addition of a new U.S. Note 11 and the addition of numerous new subheadings to cover the affected steel products, were made effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 20, 2002.

On March 5, 2002, the President issued a Memorandum to the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative entitled "Action Under Section 203 of the Trade Act of 1974 Concerning Certain Steel Products," which also was published in the **Federal Register** (67 FR 10593) on March 7, 2002. The Memorandum included an instruction to the Secretary of the Treasury and the Secretary of Commerce to establish a system of import licensing to facilitate the monitoring of imports of certain steel products. In addition, the Memorandum instructed the Secretary of Commerce, within 120 days of the effective date of the safeguard measures established by Proclamation 7529, to publish regulations in the **Federal Register** establishing the system of import licensing.

On July 18, 2002, the International Trade Administration of the Department of Commerce published in the **Federal Register** (67 FR 47338) a proposed rule to establish a steel licensing and surge monitoring system as instructed by the President in the March 5, 2002, Memorandum. Under the Commerce proposal, all importers of steel products covered by the President's section 203 action, including those products subject to country exemptions or product exclusions, would be required to obtain a steel import license and to provide the license information (that is, the license number) to Customs except in the case of merchandise which is eligible for

informal entry under § 143.21 of the Customs Regulations (19 CFR 143.21). Commerce proposed to institute a registration system for steel importers, and steel import licenses would be issued to registered importers, customs brokers or their agents through an automatic steel import licensing system. Once registered, an importer or broker would submit the required license application information electronically to Commerce, and the system would then automatically issue a steel import license number for inclusion on the entry summary documentation filed with Customs.

Although the Presidential Memorandum of March 5, 2002, vested primary responsibility for the steel product import licensing and monitoring procedures in the Secretary of Commerce, the Secretary of the Treasury, through the U.S. Customs Service, is primarily responsible for the promulgation and administration of regulations regarding the importation and entry of merchandise in the United States. Accordingly, on August 9, 2002, Customs published in the **Federal Register** (67 FR 51800) a notice of proposed rulemaking to amend the Customs Regulations to provide an appropriate regulatory basis for the collection of the steel import license number on the entry summary documentation in accordance with the proposed regulatory standards promulgated by the Department of Commerce. The proposed amendment involved the addition of a new § 12.145 (19 CFR 12.145) to require the inclusion of a steel import license number on the entry summary in any case in which a steel import license number is required to be obtained under regulations promulgated by the Department of Commerce.

The August 9, 2002, notice included in the preamble a discussion of the potential consequences under the importer's bond for a failure to provide the required steel import license number to Customs on a timely basis and included a statement that, after new § 12.145 has been adopted as a final rule, Customs would publish appropriate guidelines which could outline circumstances in which liquidated damage claims in these cases may be reduced to \$50 for a late filing of the required information or to \$100 in the case of a complete failure to file the information. The August 9, 2002, notice also invited the public to submit written comments on the proposed regulatory amendment for consideration by Customs prior to taking final action of the proposal.

On December 31, 2002, the International Trade Administration of the Department of Commerce published in the **Federal Register** (67 FR 79845) a final rule document to add new regulations implementing the Steel Import Licensing and Surge Monitoring program. Those regulations, set forth at 19 CFR part 360, consist of eight sections (§§ 360.101–360.108) and reflect, with some changes, the proposals outlined in the proposed rule published by the Department of Commerce on July 31, 2002. Those changes reflected in the final regulatory texts adopted by Commerce that have a substantive impact on the text of § 12.145 as proposed by Customs are identified in the discussion of comments on the Customs proposal set forth below.

Discussion of Comments

Three commenters responded to the solicitation of comments in the August 9, 2002, notice of proposed rulemaking. Those comments are summarized and responded to below.

Comment: One commenter asserted that foreign-trade zone (FTZ) activities are part of the U.S. economic territory (even though they are legally defined as outside the customs territory of the United States) and that FTZ-stored steel constitutes part of U.S. steel inventories. This commenter therefore argued that FTZ activities must be included in the steel import licensing system and, further, that this FTZ license requirement should be imposed once, that is, at the time of admission of the steel into the FTZ.

Customs response: Customs notes that the issue raised by this commenter concerns the scope of the steel import licensing program which is a matter for which the Department of Commerce, rather than Customs, is responsible; therefore, Customs has no authority to impose the standard suggested by this commenter. However, Customs also notes in this regard that whereas under the July 18, 2002, Department of Commerce proposals a license would have been required for steel products twice, that is, as they entered and as they left an FTZ, the Commerce regulations adopted in the December 31, 2002, final rule document have addressed the concern raised by this commenter. Section 360.101(c) of those regulations specifically provides that all shipments of covered steel products into FTZs will require an import license prior to the filing of FTZ admission documents, that the license number(s) must be reported on the application for FTZ admission and/or status designation (Customs Form 214) at the