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Report to Congressional Requesters

August 2003

U.S. CUSTOMS SERVICE

Prospective Rulings More Timely, but Database Reliability Questions Remain

GAO-03-828

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GAO Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-828, a report to congressional requesters

Why GAO Did This Study

GAO previously reported that the U.S. Customs Service Office of Regulations and Rulings (OR&R) headquarters was not timely in issuing most of its prospective rulings, which establish the duties importers pay on imported goods. The Trade Act of 2002 required GAO to determine whether OR&R has improved the timeliness of its prospective rulings. In addition, GAO determined what actions OR&R took to improve the timeliness of rulings and whether OR&R resolved challenges it faced with the reliability of automated rulings data.

What GAO Recommends

GAO recommends that OR&R continue to assess the reliability of automated rulings data to determine whether recent improvements sufficiently resolve data reliability challenges. Customs OR&R generally agreed with our conclusions and recommendation and indicated it was taking steps to implement it.

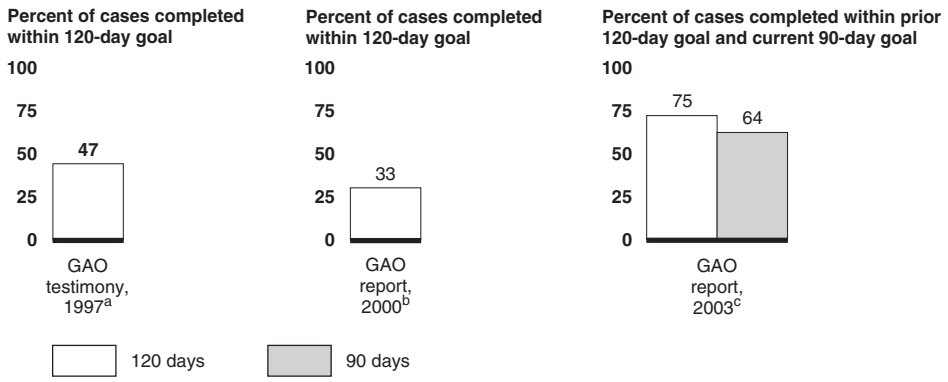
What GAO Found

OR&R headquarters improved its response time for issuing prospective rulings since GAO issued a September 2000 report concluding that most rulings were untimely. GAO's review of a sample of prospective ruling request cases opened and closed from February through October 2002 showed that OR&R headquarters completed about 75 percent of these cases within its prior goal of 120 days, with about 64 percent of the cases completed within the 90-day goal mandated by the Customs Commissioner in January 2002. For cases in the latter part of our sample that were opened and closed from July through October 2002, after significant progress had been made in reducing a backlog of ruling requests, OR&R completed an estimated 94 percent of the cases within 90 days. OR&R also reported that it was successful in its efforts to eliminate the February 1, 2002 backlog of 757 ruling requests that had been open more than 90 days.

Since the Commissioner's January 2002 mandate to issue rulings within 90 days, OR&R has given ruling requests the highest priority, with increased attention to balancing workloads and increased management oversight. OR&R has also taken other actions to help issue rulings within 90 days and prevent delays.

OR&R continued to face data reliability challenges with its automated rulings database. OR&R has taken corrective actions to improve the accuracy and reliability of the database. However, these corrective actions do not provide assurance that OR&R has resolved the data reliability challenges because some of the actions lack specific procedures for their effective implementation.

Findings of Three GAO Reviews of the Timeliness of Prospective Ruling Request Cases



Source: GAO reviews of OR&R headquarters data.

[a]OR&R headquarters classification cases closed in 1996.

[b]OR&R headquarters classification, valuation, marking, and drawback cases opened and closed between January 1, 1997 and October 26, 1999.

[c]OR&R headquarters classification, valuation, and marking cases opened and closed from February 1, 2002 through October 31, 2002.

www.gao.gov/cgi-bin/getrpt?GAO-03-828.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Seto J. Bagdoyan at (202) 512-8658 or bagdoyans@gao.gov.

Contents

Letter 1

Results in Brief 3
Background 5
OR&R Headquarters Improved Response Time for Issuing Prospective Rulings 7
Actions Taken by OR&R Headquarters to Improve the Timeliness of Rulings and Eliminate the Backlog 13
OR&R Has Taken Actions to Improve LCIS Data Reliability, but Challenges Remain 18
Conclusions 23
Recommendation for Executive Action 23
Agency Comments and Our Evaluation 24

Appendix I **Scope and Methodology** 26

Response Time for OR&R Headquarters Rulings 26
OR&R Headquarters Actions on Rulings 28
OR&R Data Reliability Challenges 28
Trade Community Perspective on OR&R Headquarters Rulings 29

Appendix II **Comments from the Bureau of Customs and Border Protection** 31

Appendix III **GAO Contacts and Staff Acknowledgments** 36

GAO Contacts 36
Staff Acknowledgments 36

Tables

Table 1: Timeliness of Prospective Ruling Request Cases Opened and Closed from February 1, 2002, through October 31, 2002 9
Table 2: OR&R Headquarters Ruling Request Backlog, February 1, 2002, through April 30, 2003 11
Table 3: Comparison of LCIS and Case File Data for 281 Prospective Ruling Request Cases Closed from February 1, 2002, through October 31, 2002 20

Table 4: File Review Strata for OR&R Headquarters Cases Categorized as Prospective Rulings and Closed from February 1, 2002, through October 31, 2002 27
Table 5: 95-Percent Confidence Intervals for Estimates to Populations of Total Cases 28

Figure

Figure 1: Findings of Three GAO Reviews of the Timeliness of Prospective Ruling Request Cases 10

Abbreviations

COAC	Commercial Operations of the U.S. Customs Service
LCIS	Legal Case Inventory System
OR&R	Office of Regulations and Rulings
SOP	Standard Operating Procedure

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G A O
Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

August 6, 2003

The Honorable Charles E. Grassley
Chairman
The Honorable Max Baucus
Ranking Member
Committee on Finance
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
Ranking Member
Committee on Ways and Means
House of Representatives

As mandated by the Trade Act of 2002,[1] we are providing you with a report on the U.S. Customs Service's[2] Office of Regulations and Rulings (OR&R) progress in issuing timely prospective rulings. OR&R issues prospective rulings on such matters as the proper classification and valuation of imported goods in response to requests from importers and others. OR&R rulings advise importers of Customs regulations and assist importers in making marketing and pricing decisions. Delayed rulings can adversely affect importers' ability to make plans to import, price, and sell their products. In March 1997, we testified before the Subcommittee on Trade, House Committee on Ways and Means that OR&R had not consistently met its timeliness requirement for classification rulings.[3] More recently, in September 2000, we issued a report also concluding that OR&R's headquarters office in Washington, D.C., had not issued the majority of its

[1]P.L. 107-210, sec. 335 (2002).

[2]While our work was being conducted, the U.S. Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security and is now known as the Bureau of Customs and Border Protection. For this report, we refer to the agency as Customs.

[3]U.S. General Accounting Office, *U.S. Customs Service: Office of Regulations and Rulings Has Yet to Establish Performance Measures*, GAO/T-NSIAD-97-115 (Washington, D.C.: Mar. 11, 1997).

prospective rulings in a timely manner.[4] The Subcommittee on OR&R of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), a private sector group composed of those affected by Customs' operations, had also expressed concern about the timeliness of OR&R headquarters rulings in its January 2000 report on the structure, staffing, and performance of OR&R. Based on concerns surrounding delayed rulings, in January 2002, the U.S. Customs Commissioner, on his own initiative, instructed OR&R by memorandum to issue its rulings within 90 days and eliminate the backlog of ruling requests that existed.

As required by the Trade Act of 2002, we studied the extent to which OR&R headquarters has made improvements to decrease the amount of time taken to issue prospective rulings on the classification, valuation, and marking of imported goods.[5] Specifically, we addressed the following questions:

- Did OR&R headquarters response time for issuing prospective rulings on the classification, valuation, and marking of imported goods improve since our September 2000 report?
- What actions did OR&R headquarters take to improve the timeliness of its prospective rulings and to eliminate its backlog of ruling request cases?
- Did OR&R resolve the data reliability challenges it faced with its Legal Case Inventory System, the automated database used to monitor and track the timeliness of prospective rulings?

To address these questions, we reviewed files for a sample of 325 cases, from a random sample of 344 cases, categorized as prospective rulings that were closed by OR&R headquarters from February 1, 2002, through October 31, 2002, covering the classification, valuation, and marking of

[4]U.S. General Accounting Office, *U.S. Customs Service: OR&R Needs to Resolve Timeliness and Data Problems Involving Headquarters Rulings*, GAO/GGD-00-181 (Washington, D.C.: Sept. 7, 2000).

[5]Classification rulings involve the classification of goods within the U.S. Harmonized Tariff Schedule (which provides duty rates for goods); valuation rulings involve the valuations of goods; and rulings on marking are those concerning country-of-origin issues, such as the clarity of the marking of goods so that buyers can determine where products are made.

imported goods.[6] We interviewed OR&R management officials and reviewed and collected other pertinent information, such as procedures established to ensure the consistent recording of data on ruling cases in the Legal Case Inventory System (LCIS). We also interviewed the chair of COAC's Subcommittee on OR&R, representatives of the American Bar Association Customs Law Committee[7] and five selected trade associations (e.g., American Association of Exporters and Importers) identified as being knowledgeable about OR&R headquarters prospective rulings, and selected importer representatives.[8] Appendix I discusses our scope and methodology in greater detail and provides information about our sampling of cases. We conducted our work between October 2002 and June 2003 in accordance with generally accepted government auditing standards.

Results in Brief

OR&R headquarters improved its response time for issuing prospective rulings. Our review of a sample of prospective ruling request cases opened and closed from February through October 2002 showed that OR&R headquarters completed about 75 percent of these cases within its prior timeliness goal of 120 days, and about 64 percent were completed within OR&R's current goal of 90 days. For cases in the latter part of our sample (i.e., cases opened and closed from July through October 2002, after OR&R made significant progress in reducing the size of its ruling request case backlog), OR&R completed an estimated 94 percent of the cases within 90 days. We previously reported, in September 2000, that OR&R headquarters did not meet the goal of 120 days for most of the cases we reviewed. Representatives of COAC's Subcommittee on OR&R, the American Bar Association Customs Law Committee, and five trade associations that we contacted agreed that OR&R headquarters had

[6]We attempted to review a random sample of 344 OR&R case files, representing 387 cases categorized as prospective rulings, but OR&R staff could not locate 19 of the files.

[7]The American Bar Association Customs Law Committee is concerned with the full range of laws and regulations administered by the Customs Service in connection with the importation and exportation of merchandise. The Committee provides information, educational programs and materials, and a forum for reviewing, advising, commenting on, and participating in the development of Customs laws, regulations, and practices.

[8]We attempted to conduct structured telephone interviews with a judgmental sample of 76 importer representatives. We successfully interviewed 35 of these importer representatives; the remaining 41 either did not return our messages, did not answer our questions, or could not be contacted at the telephone number we obtained from OR&R files.

improved the timeliness of its rulings. In addition, OR&R headquarters reported that it was successful in its efforts started in February 2002 to eliminate the backlog of 757 ruling requests that were open (i.e., had not been completed) for 90 days or more.

Since the Customs Commissioner's January 2002 mandate to issue rulings within 90 days, OR&R headquarters managers and attorneys have given ruling requests the highest priority, with increased attention to balancing workloads and increased management oversight so that the Commissioner's mandate is met and delays are prevented. Prior to 2002, OR&R attorneys spent most of their time on tasks and responsibilities other than ruling requests, such as providing training, participating in trade negotiations, and providing advice to other Customs offices. According to OR&R management, other actions were also taken to help improve the timeliness of rulings. For example, OR&R rejects ruling requests more frequently than in the past when needed information is not provided by importers, and OR&R attorneys started using teleconferences instead of in-person meetings to discuss ruling requests with importer representatives. Continuing to give priority to rulings should help institutionalize and sustain the progress OR&R has made in improving the timeliness of headquarters prospective rulings.

Our review of prospective ruling request cases showed that LCIS, OR&R's automated database, continued to face data reliability challenges potentially hindering its effectiveness as a management tool for tracking and monitoring the progress and history of cases and measuring timeliness. For example, our comparison of LCIS data to case files showed that 88 of the 325 cases we reviewed were inaccurately coded as rulings in LCIS. In response to recommendations made in our September 2000 report, and to data errors we found during this review, OR&R has taken corrective actions to improve the accuracy and reliability of LCIS data, such as developing uniform procedures for recording cases in LCIS. However, these corrective actions may not resolve the LCIS data reliability challenges. Although the corrective actions include goals, such as correctly coding cases and entering timely and accurate information into the database, some of the actions lack specific procedures for their effective implementation. For example, OR&R did not provide specific guidance as to how, when, and by whom the coding of information letters is to be done. This report contains a recommendation to the OR&R Assistant Commissioner regarding continued assessment of LCIS data reliability to determine whether the corrective actions taken are sufficient.

We provided Customs with a draft of this report for comment. On July 21, 2003, we received written comments from Customs' Acting Director, Office of Policy and Planning. Customs generally agreed with our findings and recommendations. However, Customs said that while the report acknowledges the improvement that OR&R has made in the timeliness of its rulings, it does not recognize the dramatic turnaround that OR&R accomplished in eliminating the February 2002 backlog of ruling requests and issuing nearly every prospective ruling request received since July 2002 within 90 days. Customs also commented on the steps OR&R has taken to improve LCIS data reliability, including issuing a policy requiring that OR&R managers verify the accuracy of LCIS data for each case as it is closed, as recommended in our draft report. Accordingly, we eliminated this recommendation. Customs also agreed to continue to assess LCIS' data reliability to determine whether recent improvements sufficiently corrected past problems. Customs' written comments are contained in appendix II of this report.

Background

Customs enforces the nation's trade laws and policies, including collecting duties on imported merchandise. OR&R plays an important role in carrying out Customs' trade mission by (1) drafting regulations implementing U.S. trade laws; (2) issuing rulings on the proper classification, valuation, marking, and entry of imported goods, as well as the application of drawback laws (drawbacks involve refunds on duties of imported merchandise when they are exported from the United States) and navigation laws (these laws govern the movement of vessels in international trade), in response to requests from importers and others; and (3) providing guidance to the trade community and other Customs offices on their compliance duties under Customs laws, and other laws enforced by Customs, as well as related regulations. OR&R provides compliance information to the trade community through various mechanisms, including issuing regulations, publications, and rulings, which establish the duty an importer will owe. These rulings advise importers on how they can stay in compliance with Customs laws and help them and importers of similar goods make marketing and pricing decisions by providing information on the cost of importing their goods. For example, OR&R's prospective classification rulings give both the requesting importer and importers of similar goods vital information to help them determine the amounts of the duties and fees they will be charged when they import their goods. Customs uses its Web site to disseminate information on completed rulings to the trade community and communicate other information, such as U.S. import requirements and

how to request a ruling from OR&R. Customs reported collecting about $19.8 billion in duties in fiscal year 2002.[9]

OR&R is headed by an Assistant Commissioner and has offices in Washington, D.C., and New York. OR&R reported 9,053 prospective ruling request cases closed in fiscal year 2002, most of which were processed by its New York office in 30 days or less, according to OR&R officials. Most of the rulings issued by the New York office concern the classification of imported goods and generally provide a brief description the merchandise along with the classification and the duty rate. OR&R's headquarters office in Washington, D.C., processes cases that are expected to take longer than 30 days to complete. OR&R headquarters rulings contain much more elaboration, including a detailed explanation of the legal basis for the conclusion reached by OR&R. Ruling requests received in OR&R's New York office that are considered highly complex or highly sensitive, or that involve novel issues never presented to Customs before, are referred to OR&R headquarters for a decision. OR&R reported 815 headquarters prospective ruling request cases closed in fiscal year 2002, or about 9 percent of all prospective ruling requests. OR&R had 232 total staff as of October 2002: 117 headquarters staff, including 90 attorneys; and 115 staff in the New York office, including 93 import specialists (about 45 of which are national commodity specialists) who classify imported merchandise. For fiscal year 2002, OR&R's budget was over $23 million.

In January 2002, the Customs Commissioner, in a memorandum to the Assistant Commissioner for OR&R, set a requirement that rulings were to be issued within 90 days. The Commissioner noted that timeliness of the guidance contained in rulings is essential in ensuring compliance with the law. The Commissioner further instructed the OR&R Assistant Commissioner to take appropriate measures to eliminate the backlog of ruling requests that existed. The backlog was to be eliminated by December 31, 2002, but the Customs Commissioner later changed this deadline to September 30, 2002.

[9] *Performance and Annual Report, Fiscal Year* 2002, U.S. Customs Service. This report contains Customs Fiscal Year 2002 Financial Statements, unaudited, which includes total duties collected.

OR&R uses its automated database, LCIS, to internally track cases, including rulings, pending before OR&R.[10] This system was designed as a management tool and was to serve as the principal means for recording and monitoring the progress and history of individual cases. According to OR&R officials, LCIS became OR&R's principal case tracking system in 1983 and is used to help ensure that ruling request cases are closed within 90 days. In our September 2000 report, however, we concluded that LCIS was not an effective tool for measuring the timeliness of headquarters rulings because it did not contain accurate and reliable data, and we recommended actions to address the LCIS data problems.

OR&R Headquarters Improved Response Time for Issuing Prospective Rulings

Our review of a sample of prospective ruling request cases showed that in response to the Customs Commissioner's January 2002 mandate, OR&R headquarters improved its response time for issuing prospective rulings. We previously concluded in September 2000 that OR&R headquarters did not issue the majority of its prospective rulings in a timely manner (i.e., within OR&R's 120-day goal). Our work for this report, on the other hand, demonstrated that OR&R headquarters completed the majority of its prospective ruling request cases opened and closed from February through October 2002 within the newly established goal of 90 days.[11] Further, OR&R reported that, with a few exceptions beyond Customs' control, it had eliminated its February 2002 backlog of prospective ruling requests that were still open after 90 days or more. Representatives of COAC's Subcommittee on OR&R, the American Bar Association Customs Law Committee, and five trade associations that we contacted agreed that OR&R headquarters had improved the timeliness of its rulings.

[10]OR&R processes other types of cases in addition to prospective rulings, such as internal advice decisions, protest reviews, and ruling revocation and modification decisions. OR&R uses LCIS to track all such cases.

[11]OR&R headquarters improvement in its response time for issuing prospective rulings (i.e., the improvement in the percentage of cases that met OR&R's 120-day goal) cannot be quantified by comparing the percentage for the OR&R headquarters cases included in this review to the percentages for the cases included in our March 1997 testimony and September 2000 report. The percentages are not directly comparable because the samples and populations covered differ for each of the three reviews we conducted. For example, our March 1997 testimony discussed the percentage of classification cases (and not valuation or marking cases) that met the 120-day goal, while our September 2000 report included drawbacks (not considered by OR&R to be prospective cases) along with classification, valuation, and marking cases. While we cannot directly compare percentages, we compared the conclusions reached in our prior work, to arrive at our current conclusion that OR&R improved the timeliness of its prospective rulings.

Before 2002, OR&R headquarters had a 120-day goal for processing and issuing rulings from the date a ruling request was assigned to an OR&R attorney.[12] In March 1997, we testified that OR&R had not consistently met its 120-day timeliness goal. Specifically, OR&R did not meet this requirement for 53 percent of the 81 classification cases closed in 1996 that we reviewed. Later, in September 2000, we reported that our review of a random sample of 70 case files, representing approximately 610 prospective rulings, showed that about two-thirds of the rulings that were requested and issued between January 1, 1997, and October 26, 1999, were not completed within OR&R's 120-day goal. At the time, OR&R acknowledged having problems issuing headquarters rulings on a timely basis and attributed the problems to staffing shortages and competing workload demands.

To determine the amount of time taken by OR&R headquarters to issue prospective rulings after the Customs Commissioner established the 90-day timeliness goal in January 2002, we reviewed files for 124 prospective ruling request cases opened and closed from February 1, 2002, through October 31, 2002.[13] Our review showed that about 75 percent of the cases were completed in 120 days or less, the old goal, and about 64 percent were completed within 90 days, the new goal. Table 1 shows the number and percent of cases that took 90 days or less, from 91 to 120 days, and more than 120 days to complete from the date they were assigned to OR&R attorneys for processing. As also shown in table 1, most of the cases resulted in rulings being issued by OR&R, while some cases resulted

[12]A 1989 Customs directive, which applied solely to classification rulings, stated that rulings that were referred to OR&R headquarters—i.e., those deemed to be the most complex and sensitive—were to be issued within 120 days of the date of receipt by Customs. According to OR&R officials, ruling requests are typically assigned to attorneys within a few days of receipt at headquarters, and the date of assignment (referred to as the "date assigned" in LCIS) has been used to start the 120-day clock for all types of rulings since about 1996.

[13]In our sample of 325 cases categorized by OR&R as prospective rulings, 150 cases were opened and closed from February 1, 2002, though October 31, 2002 (the remaining 175 cases were opened before February 1, 2002). We attempted to review all of the 150 cases. However, 26 of these 150 cases did not meet our criteria (i.e., these cases were not ruling requests but were miscoded in LCIS). The 124 ruling request cases we reviewed allow us to make estimates to the entire population of prospective ruling cases opened and closed from February 1, 2002, though October 31, 2002. We determined the amount of time that OR&R took to process each of the cases using data we collected from OR&R's hard-copy case files.

in information letters sent to the requesters and other cases were administratively closed.[14]

Table 1: Timeliness of Prospective Ruling Request Cases Opened and Closed from February 1, 2002, through October 31, 2002

	Number of days taken to complete cases[a]		
Action taken	**90 days or less**	**91–120 days**	**121 days or more**
Ruling issued	58	13	28
Information letter sent	5	0	1
Administratively closed	17	1	1
Total	**80 (64%)**	**14 (11%)**	**30 (25%)**

Source: GAO review of OR&R headquarters data.

Note: We adjusted the percentages to account for cases that were missing and that did not meet our criteria (i.e., inaccurately coded as rulings in LCIS).

[a]Our analysis covers time from the date each ruling request was assigned to an OR&R attorney for processing to the date OR&R completed and closed the case.

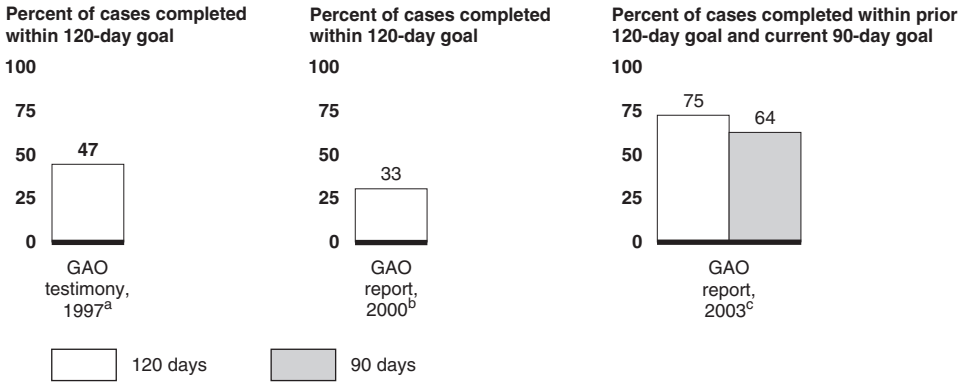
Our review of the 124 prospective ruling request case files also indicates that OR&R improved its response time during the latter part of the February through October 2002 time period, after OR&R had made significant progress in reducing the size of the backlog. For the 93 cases in our sample that were opened during the 5-month period from February through June 2002, OR&R completed an estimated 55 percent of the cases within 90 days. In contrast, OR&R completed an estimated 94 percent of the 31 cases in the latter part of our sample, cases opened and closed

[14]Some cases in our review resulted in an information letter while other cases were closed administratively. An information letter may be sent to an importer instead of a ruling letter if the importer's request lacks needed information or is insufficiently detailed to permit a ruling but OR&R can provide other helpful information. According to federal regulation (19 C.F.R. Part 177.1(d)(2)), an information letter is "a written statement issued by the Customs Service that does no more than call attention to a well-established interpretation or principle of Customs law, without applying it to a specific set of facts." According to OR&R officials, an information letter often takes less time to process than a ruling. OR&R may administratively close a ruling request case for various reasons, such as if needed information is missing that cannot be quickly obtained or the ruling request involves a current transaction that is not prospective in nature and a ruling would be inappropriate. OR&R sends a letter notifying the importer of the administrative closure and the reason the ruling request cannot be processed.

during the 4-month period from July through October 2002, within 90 days.[15]

Figure 1 summarizes the findings regarding the timeliness of OR&R headquarters prospective ruling request cases in our March 1997 testimony, September 2000 report, and work for this report. Specifically, figure 1 shows the percent of cases we examined during each of those reviews that were completed within OR&R's stated goals. As noted earlier, these percentages are not directly comparable because the samples and populations covered differ for each of the three reviews we conducted.

Figure 1: Findings of Three GAO Reviews of the Timeliness of Prospective Ruling Request Cases



Source: GAO reviews of OR&R headquarters data.

[a]OR&R headquarters classification cases closed in 1996.

[b]OR&R headquarters classification, valuation, marking, and drawback cases opened and closed between January 1, 1997 and October 26, 1999.

[c]OR&R headquarters classification, valuation, and marking cases opened and closed from February 1, 2002 through October 31, 2002.

OR&R reported that its efforts to eliminate the backlog of 757 headquarters ruling request cases open 90 days or more as of February 1, 2002, were successful. Table 2 shows the size of the ruling backlog as

[15]Our analysis of prospective ruling request cases opened and closed from July 1, 2002, through October 31, 2002, is limited because our sample does not include cases closed after October 31, 2002. However, OR&R data, which we did not independently verify, suggest that OR&R continued to issue most of its rulings within 90 days after October 31, 2002, as shown in table 2.

reported by OR&R for each month from February 2002 though April 2003. OR&R reported having two prospective ruling request cases that were open 90 days or more as of October 31, 2002, the last date of the cases included in our case file review, and the backlog did not substantially increase through April 30, 2003, when there were 6 such cases. According to OR&R, these cases took more than 90 days for reasons beyond Customs' control, such as being held at the request of the Department of the Treasury.

Table 2: OR&R Headquarters Ruling Request Backlog, February 1, 2002, through April 30, 2003

Date	Number of ruling requests open 90 days or more	Number of ruling requests open less than 90 days
February 1, 2002	757	187
March 1, 2002	672	228
April 1, 2002	565	254
May 1, 2002	509	277
June 1, 2002	442	262
July 1, 2002	448	261
August 1, 2002	298	217
September 1, 2002	185	191
October 1, 2002	14[a]	208
October 31, 2002	2	75
November 30, 2002	3	86
December 31, 2002	5	65
January 31, 2003	4	66
February 28, 2003	6	62
March 31, 2003	5	72
April 30, 2003	6	91

Source: Developed by GAO from OR&R data.

Note: OR&R initially reported the number of all administrative ruling requests that were open, including cases other than prospective rulings, such as protest review decisions, decisions on revocations and modifications to rulings, and internal advice decisions. For October 31, 2002, and later, OR&R reported only the number of open prospective ruling requests.

[a]According to OR&R, these 14 cases were not yet closed on October 1, 2002, for reasons beyond Customs' control. For example, OR&R officials said cases were being held at the request of the Treasury Department because of its involvement with the North American Free Trade Agreement Working Group on Rules of Origin and at the request of the Committee for the Implementation of Textile Agreements (an interagency group chaired by the Department of Commerce).

To determine how long some of the headquarters ruling request backlog cases were open before they were completed, we examined case files for

157 prospective ruling request cases opened before February 1, 2002, and closed from February 1, 2002, through October 31, 2002.[16] We determined that 131 of these cases were part of OR&R's backlog of ruling request cases open 90 days or more as of February 1, 2002. According to OR&R, these 131 cases were among the oldest cases in LCIS at that time. We determined that the 131 backlog cases took an average of 581 days to complete, from the date each case was assigned to an OR&R attorney (before OR&R started its efforts in 2002 to eliminate the ruling request backlog) until the date each case was closed. The amount of time taken to complete each of these 131 backlog cases ranged from 136 to 1,586 days,[17] with 501 days as the median.

Trade Community Agreed OR&R Improved the Timeliness of Headquarters Prospective Rulings

The chair of COAC's Subcommittee on OR&R, as well as representatives of the American Bar Association Customs Law Committee and five trade associations we contacted, told us that OR&R started issuing prospective rulings in 2002 more quickly than in the past. In April 2003, the chair of the COAC subcommittee told us that OR&R's efforts since February 2002 to eliminate the backlog of rulings and issue rulings within 90 days of receipt had been "outstanding." All of the association representatives said that OR&R headquarters had improved the timeliness of its rulings. One association's representative said OR&R's new policy of responding to all ruling requests within 90 days of receipt is a very positive development that should improve OR&R's responsiveness to the trade community.

[16]In our sample of 325 cases categorized by OR&R as prospective rulings, 175 cases were opened before February 1, 2002, and closed from February 1, 2002, though October 31, 2002 (the remaining 150 cases were opened and closed from February 1, 2002, through October 31, 2002). We attempted to review all of the 175 cases. However, 18 of these cases did not meet our criteria (i.e., these cases were not ruling requests but were miscoded in LCIS), and we reviewed 157 cases. We determined the amount of time that OR&R took to process each of the cases using data we collected from OR&R's hard-copy case files.

[17]This range of days is for only those cases for which we could identify the days in progress and does not include cases that had missing data.

Actions Taken by OR&R Headquarters to Improve the Timeliness of Rulings and Eliminate the Backlog

Since the Customs Commissioner required in January 2002 that OR&R issue rulings within 90 days and the existing backlog of ruling requests be eliminated, OR&R has given ruling requests its highest priority, according to OR&R officials. OR&R first concentrated its efforts starting in February 2002 primarily on eliminating the ruling backlog. Then, starting in July 2002 when significant progress had been made in reducing the size of the backlog, OR&R intensified its focus on issuing rulings within 90 days. According to OR&R officials and documentation we reviewed, OR&R increased the amount of attorney time spent on rulings to carry out these efforts. OR&R managers also provided increased oversight to the processing of rulings. In addition, OR&R took other actions to help address the backlog and issue rulings within 90 days, such as rejecting ruling requests when needed information could not be quickly obtained and holding teleconferences instead of face-to-face meetings with importers and their attorneys to discuss their requests and obtain further information or clarification. OR&R officials said OR&R will permanently maintain the high-priority status for rulings and will continue efforts to issue rulings within 90 days. We believe continuing to give priority to rulings, and continuing to streamline the processing of rulings, should help institutionalize and sustain the progress OR&R has made in improving the timeliness of headquarters prospective rulings.

OR&R reported that nine OR&R attorneys, who had been dividing their time between OR&R units, were reassigned in February 2002 to work full-time on rulings within the units that had the largest number of overdue ruling requests. Also, in July 2002, after the Customs Commissioner changed the deadline for eliminating the ruling request backlog to September 30, 2002, ruling cases were assigned to nine additional attorneys working in OR&R units that did not process rulings. Each of these nine attorneys had prior experience with rulings, according to an OR&R report, and they continued to handle their normal workload in addition to assisting with the elimination of the backlog. In addition, OR&R delayed the rotation of attorneys among its units while efforts were being taken to eliminate the ruling request backlog in 2002.[18] According to

[18]OR&R has a rotation policy in which, approximately every 18 months, attorneys are asked to specify whether they wish to rotate to a new OR&R unit in order to learn and master the various substantive legal areas within the office. Rotation also satisfies the diversity criterion in the current OR&R Attorneys GS-14 Promotion Plan. OR&R management noted that the policy of rotating attorneys is contingent on OR&R's staffing needs and that it was decided not to rotate attorneys while efforts were being taken to eliminate the ruling request backlog in 2002. According to OR&R, with the successful elimination of the ruling backlog, an attorney rotation took place in April 2003.

OR&R officials, OR&R managers have continued to provide sustained attention to balancing attorney workloads so that rulings are issued within 90 days.

OR&R managers explained to the attorneys that rulings were to be their highest priority. Previously, the attorneys would likely carry out other responsibilities and tasks before turning their attention to processing ruling requests. According to OR&R officials, prior to 2002, on the basis of priorities established by Customs management, OR&R attorneys spent a far greater percentage of their time on tasks and responsibilities other than ruling requests, such as providing domestic and international training, participating in trade negotiations, providing advice to other Customs offices, commenting on pending legislation, and assisting in Customs litigation. OR&R officials told us that OR&R is fully committed in its strategic planning to maintaining this high-priority status for rulings on a permanent basis in order to facilitate legitimate trade and informed compliance by the trade community.

According to OR&R officials, OR&R managers started giving increased attention and review to rulings because of their high priority, including interacting more often with attorneys regarding the processing of rulings, as well as providing additional oversight and monitoring of the entire effort, to help ensure that ruling requests are issued within 90 days. OR&R officials told us that OR&R managers will continue to give increased attention and review to the rulings process, and this responsibility is emphasized in OR&R management staff meetings and in the evaluation of each manager's performance.

OR&R also started providing monthly reports to the Customs Commissioner regarding the status of its efforts to implement procedural changes to issue rulings within 90 days and eliminate the backlog, indicative of the high priority the Commissioner placed on rulings. OR&R officials said the monthly reports on the status of its work on rulings will continue to be provided to the Commissioner.

In addition, as part of its efforts in 2002, OR&R drafted procedures to provide a standardized approach for reviewing, researching, and finalizing rulings within OR&R. According to OR&R officials, each OR&R unit previously used its own procedures for processing rulings. OR&R officials said they believe use of the draft Standard Operating Procedure (SOP),

starting in February 2002, has streamlined their processes for issuing rulings, helped OR&R's efforts to issue rulings within 90 days, and will help sustain the elimination of the ruling backlog.[19] In July 2002, OR&R also issued a SOP on the use of the LCIS. According to OR&R officials, this SOP contains valuable guidance for attorneys with respect to the processing of ruling requests, including, for example, specifying that ruling requests are to be carefully reviewed for completeness when received.

During 2002, OR&R also revised its policy regarding the type of meetings scheduled with importer representatives if it is considered that discussions would be helpful in deciding ruling issues or a decision contrary to that advocated in a ruling request is contemplated. OR&R officials told us that, previously, such meetings were typically held in person; but to help meet the 90-day benchmark for issuing rulings, OR&R attorneys started primarily holding teleconferences for the discussions. Using teleconferences is consistent with the federal regulation providing for these conferences,[20] and, according to OR&R officials, saves time and is as effective as in-person meetings. According to OR&R officials, in-person meetings are almost always held at OR&R's office, are logistically harder and more time-consuming to schedule and hold than teleconferences, and tend to take longer than teleconferences. OR&R officials noted that in-person meetings used to be scheduled as a matter of course, and while they have not been entirely eliminated, OR&R attorneys now have fewer such meetings.

OR&R also took actions intended to reduce the amount of time spent writing ruling letters that are sent to importers, according to OR&R officials. Where appropriate, OR&R started using more standardized language in rulings, often using the same language that was used in previously issued rulings for similar products. Also, efforts were made to curtail the length of ruling letters. OR&R officials said that attorneys were told to be succinct and write only what is needed to rule on the matter at hand.

[19]According OR&R officials, the SOP was being used by OR&R but was still in draft form as of June 2003. The OR&R officials noted that the latest version of the draft SOP was dated June 2003, and the final version was expected to be issued by August 2003.

[20]This regulation provides that: "A person submitting a request for a ruling and desiring an opportunity to orally discuss the issue or issues involved should indicate that desire in writing at the time the ruling request is filed." 19 C.F.R. 177.4(a). "If a request for a conference is granted, the person making the request will be notified of the time and place of the conference." 19 C.F.R. 177.4(b).

OR&R officials said that another change made to help eliminate the ruling backlog and issue rulings within 90 days was that OR&R started holding importers making ruling requests to a more rigorous standard for submitting information. Some ruling requests did not contain all the information needed, or were insufficiently detailed, for OR&R to issue a ruling. Previously, OR&R attorneys would generally spend whatever amount of time it took to communicate with importers and obtain the needed information, according to OR&R officials. In 2002, however, rather than keeping cases open while waiting for more information, OR&R started administratively closing cases or sending information letters, which provide some information that may be helpful and often take less time to process than rulings, when missing information could not be quickly obtained. For administrative closures, OR&R sends a letter advising the importer that the ruling request case is being administratively closed and providing the importer with the reason the ruling request cannot be processed. OR&R also started generally closing ruling request cases administratively when they are contingent on other pending decisions, such as decisions for related rulings, litigation, legislation, or regulations, rather than keeping such cases open and postponing activity on them.

Trade Community Expressed Some Concerns about OR&R Headquarters Actions

Fourteen of 35 importer representatives we interviewed who had requested prospective rulings, but either did not receive a ruling or received one that took longer than 120 days to issue,[21] were critical of OR&R's actions in handling their requests. We interviewed these representatives to obtain their views on how OR&R handled their requests.

Seven importer representatives we interviewed noted that they disagreed with reasons generally given by OR&R to administratively close ruling request cases. In the sample of cases we reviewed, OR&R administratively closed cases because either the requests involved current transactions that

[21]For the interviews, we selected importer representatives who were involved with ruling request cases in our sample that were either untimely, administratively closed, or resulted in an information letter. The 35 representatives we interviewed were involved with 41 ruling requests that were in the sample of 325 cases we reviewed.

were not prospective in nature[22] or information needed to issue rulings was missing and could not be quickly obtained. Four of the 7 importer representatives said that OR&R administratively closing cases because importation transactions are no longer prospective is unfair, primarily because OR&R had, in the past, loosely defined prospective transactions, such as either transactions that had not yet begun or that had begun and were still in progress. One representative said that OR&R now seems to define prospective importation transactions only as those that have not yet begun, but did not officially alert importers to this change.[23] In addition, 4 of the 7 importer representatives said that OR&R's closing of cases almost immediately because information is missing is an inefficient practice. They said that it takes more time for OR&R to close a case and later receive a resubmitted request with complete information than it does for OR&R to allow importers to submit additional information while a case remains open. In response, OR&R officials said that one of the factors that lead to substantial delays in issuing rulings prior to 2002 was the willingness of OR&R to hold cases open while awaiting additional information from importers. OR&R management decided that it is a more efficient process to administratively close such cases.

Ten of the 35 importer representatives we interviewed disagreed with OR&R's decision in 2002 to have telephone discussions instead of in-person meetings with importers and/or their attorneys to discuss ruling requests.[24] Two of the 10 representatives said they believed that in the long run, this practice will be more time-consuming for OR&R than granting in-person meetings. Six of the importer representatives said that the discussions and the information presented at in-person meetings have, in

[22]For 8 of 31 prospective ruling request cases we reviewed that OR&R had administratively closed, OR&R explained to the importers that the importation transactions were current and not prospective and advised them to seek internal advice. Similarly, for 3 of 13 prospective ruling request cases we reviewed that resulted in an information letter, OR&R advised the importers to seek internal advice. Internal advice is a type of OR&R headquarters decision which has the same effect as a ruling, but it is given for current transactions (i.e., goods are at a Customs port or have already entered the country) when an importer disputes a decision made at a port and asks OR&R headquarters for a decision. OR&R's 90-day goal for issuing rulings does not apply to its issuance of internal advice.

[23]Federal regulation defines a prospective transaction as "…one that is contemplated or is currently being undertaken and has not resulted in any arrival or the filing of any entry or other document, or in any other act to bring the transaction, or any part of it, under the jurisdiction of any Customs office." 19 C.F.R. 177.1(d)(3).

[24]Three of these 10 importer representatives also disagreed with reasons given by OR&R to administratively close ruling request cases.

their experience, often led OR&R attorneys to change their contemplated ruling decisions. The representatives also believe that by having telephone discussions instead of in-person meetings, OR&R will likely make less informed ruling decisions, resulting in additional importer protests and requests for revocations of rulings. In response, OR&R officials said that OR&R has found conference calls to be a very effective means of obtaining needed information from importers in addition to informal contacts between staff attorneys and importers and their representatives. OR&R officials noted that where the nature of an issue suggests that an in-person meeting is needed to clarify the matter, OR&R may still schedule such a meeting.

OR&R Has Taken Actions to Improve LCIS Data Reliability, but Challenges Remain

Our review of a sample of 325 OR&R headquarters cases, from a random sample of 344 cases, closed from February 1, 2002, through October 31, 2002, showed that LCIS continued to face data reliability challenges potentially hindering its effectiveness as a tool for monitoring cases and measuring the timeliness of rulings.[25] In response to recommendations we made in our September 2000 report,[26] OR&R completed certain actions by February 2003 to improve the accuracy and reliability of LCIS data. OR&R also initiated additional corrective actions based on data errors we found in our case file review. However, these actions may not sufficiently correct problems with LCIS because some of the actions lack specific procedures for their effective implementation. According to our internal control standards, for an agency to run and control its operations, it must have relevant, reliable information relating to internal events.[27] That information should be recorded and communicated to management and others within the agency who need it to carry out their responsibilities.

[25]We attempted to review a random sample of 344 OR&R headquarters case files, representing 387 cases categorized as prospective rulings, but OR&R staff could not locate 19 of the files. The 387 cases were categorized in LCIS as prospective rulings involving the classification, valuation, and marking of imported goods.

[26]Our case file review for our September 2000 report showed that most of the cases had missing or incorrect data in LCIS.

[27]U.S. General Accounting Office, *Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: Nov. 1999); *Internal Control Management and Evaluation Tool*, GAO-01-1008G (Washington, D.C.: Aug. 2001).

LCIS Data Often Inaccurate and Unreliable

Our comparison of LCIS data to 325 case files showed that LCIS data were often inaccurate, did not match the case files, or could not be easily verified. A total of 88 cases were inaccurately coded in LCIS as rulings. In addition, LCIS data for 153 of the 281 prospective ruling request cases in the sample either did not match data in the case files or could not be easily verified because case file data were missing for at least one of four key data elements (i.e., the "type of case code," "case category code," "date assigned," and "date closed").[28] Although OR&R uses LCIS to track the progress of its headquarters rulings, LCIS is not an effective tool for measuring the timeliness of rulings when it does not contain accurate and reliable dates.[29]

In our review of the 325 OR&R headquarters case files, we found that 44 of the cases did not involve prospective ruling requests and were inaccurately coded in LCIS as rulings. These 44 inaccurately coded cases were internal advice decisions, protest reviews, and ruling revocation and modification decisions. Such cases have different codes to be entered into LCIS.

Separately, we found that OR&R had not issued rulings for an additional 44 of the remaining 281 prospective ruling request cases. The cases originated with letters requesting rulings, but OR&R administratively closed 31 of the cases and issued information letters for the other 13 cases. However, the cases remained inaccurately coded in LCIS as rulings. We brought the cases to the attention of OR&R management while reviewing OR&R's case files. OR&R agreed that when the cases were closed they should no longer have been coded in LCIS as rulings because rulings were not issued (i.e., the codes should have been changed after OR&R decided

[28]Our comparison of data from the case files with corresponding data in LCIS focused on four pieces of information that are required data elements in LCIS and that are key to tracking OR&R cases and determining the number of days each case has been in progress: (1) type of case code—a numeric code used to define each type of case received and recorded in LCIS, such as a ruling case or an internal advice case; (2) case category code—a numeric code used in LCIS to further define the unique circumstances regarding an individual case, such as further defining a ruling as a valuation case; (3) date assigned—the actual date a case is assigned to an OR&R attorney, starting the clock used for the 90-day turnaround benchmark; and (4) date closed—the actual date a case is closed, which may involve actions such as issuing a ruling, administratively closing a case, or issuing an information letter.

[29]In our calculations of the amount of time that OR&R took to process ruling request cases, we used data that we collected from OR&R's hard-copy case files containing documents showing the dates cases were assigned to attorneys and the dates cases were closed. We did not use LCIS data for these calculations.

not to issue rulings for these cases). Consequently, OR&R officials advised us that they had decided to establish a uniform approach to the coding of such cases, including the identification of specific codes to be entered into LCIS, and had taken corrective action on the 44 cases we brought to their attention.

In reviewing the 281 prospective ruling request cases, we also found that 153 cases had LCIS data for at least one of four key data elements which either did not match data in the case files or we could not verify because case file data were missing. Table 3 shows our estimates of the extent to which these key data elements in LCIS matched, did not match, or could not be easily verified with data in individual case files for the 281 prospective ruling requests.[30]

Table 3: Comparison of LCIS and Case File Data for 281 Prospective Ruling Request Cases Closed from February 1, 2002, through October 31, 2002

Data element	Number of cases where LCIS data matched case file data[a]	Number of cases where LCIS data did not match case file data[a]	Number of cases where LCIS data could not be easily verified[b]
Type of case code	203	20	58
Case category code	210	12	59
Date assigned	190	64	27
Date closed	264	12	5

Source: GAO review of OR&R files.

[a]We defined a match as any numeric code or date for which the data recorded in LCIS matched the numeric code or date in the ruling request case file. For the type of case code and case category code, we compared LCIS data to the codes written on the Case Assignment sheet in each case file. For the date assigned and date closed, we compared LCIS data to all documentation in each case file, including the Case Assignment sheet, ruling, and Case History form.

[b]"Could not be easily verified" means that the data were missing from the case files. According to OR&R management, it is possible to verify the type of case codes and case category codes by examining documentation in case files, including rulings, that does not specifically state these codes. We do not have the expertise to make such determinations and relied on the Case Assignment sheets in the case files to verify these codes.

[30]Because our review focused on prospective rulings, the 44 OR&R headquarters cases (of the 325 cases in our sample) that were not ruling requests, but were incorrectly coded in LCIS as rulings, did not meet our sample criteria. Therefore, we did not review the case files of these 44 cases as thoroughly as the 281 prospective ruling request cases, and we did not compare their case category codes, dates assigned, and dates closed.

OR&R's ability to measure the timeliness of rulings is hindered when either the date a case is assigned to an attorney for processing or the date a case is closed is inaccurate in LCIS. These two dates are used by LCIS to automatically calculate and record the number of days in progress for each case.[31] OR&R managers monitor the timeliness of rulings using each case's days in progress from the date a case is assigned. However, LCIS errors with the date assigned and date closed can be substantial. For example, documents in one case file we reviewed showed that the case took 157 days from the date assigned to the date closed, but LCIS showed 35 days in progress for the case. In another case, we determined from the case file that it took 1,225 days from the date assigned to the date closed, but LCIS showed 587 days in progress.

It Is Uncertain Whether OR&R's Corrective Actions Will Improve LCIS Data Reliability

In our September 2000 report, we concluded that LCIS was not an effective tool for measuring the timeliness of OR&R headquarters prospective rulings because it did not contain accurate and reliable data. We recommended that the OR&R Assistant Commissioner take steps to

- modify LCIS to enable the system to record and retain key data so that managers can more readily monitor and track the history of cases;
- provide clear and complete guidance to ensure that staff that use LCIS understand and consistently interpret the guidance, as well as train staff on any modifications to LCIS; and
- establish an ongoing LCIS monitoring system to ensure the quality and integrity of the data entered and maintained in the system.

In response to our recommendations, OR&R took corrective actions that were completed by February 13, 2003. Specifically, OR&R developed and issued a new SOP for LCIS.[32] The purpose of the LCIS SOP is to ensure a consistent process for receiving, acknowledging, assigning, recording, tracking, updating, signing, and closing ruling cases in LCIS. For example,

[31]Days in progress is the number of calendar days from the date a case is assigned to an OR&R attorney for processing to the date the case is closed. Days in progress is automatically determined by LCIS.

[32]U.S. Customs Service Office of Regulations and Rulings, Standard Operating Procedure, Subject: *Using the Legal Case Inventory System (LCIS) to Control & Track Rulings*, Date: July 10, 2002.

the SOP explains how a Case Assignment sheet is to be used to enter, review, and update data in LCIS.

OR&R also began producing monthly LCIS reports of open and closed cases and reports for cases nearing or over the 90-day ruling issuance turnaround benchmark. OR&R managers are to use these reports to determine case status and resolve barriers to completion. At the same time, the OR&R managers are to review the monthly reports to help ensure the accuracy of the information entered into LCIS for these cases.

Another corrective action taken by OR&R was to conduct training of employees to ensure that they are familiar with LCIS requirements and capabilities. A training session was conducted in November 2002, and two more sessions were planned for fiscal year 2003. In addition, according to OR&R officials, informal training of employees, such as new employees and employees transferring among OR&R units, has taken place on a one-on-one basis.

OR&R initiated additional corrective actions based on LCIS data errors we found and discussed with an OR&R official as we conducted our case file review for this report. As discussed earlier, OR&R decided to establish a uniform approach to the coding of ruling requests that result in administrative closures or the issuance of information letters, including the identification of specific codes to be entered into LCIS. In addition, OR&R units responsible for processing prospective rulings were instructed to check the accuracy of the LCIS "type of case code" for all cases closed between October 1, 2002, and March 3, 2003. The OR&R units compared hard copy documentation to LCIS data and made the necessary corrections to LCIS. In the future, the OR&R units are to perform a similar check of a selected percentage of LCIS data on a quarterly basis.

OR&R's corrective actions to improve the accuracy and reliability of LCIS data are steps in the right direction, but they do not provide assurance that LCIS data reliability challenges have been resolved. Although the corrective actions include goals, some actions lack specific procedures indicating how the goals will be met. For example, OR&R's recent decision to establish a uniform approach to the coding of administrative closures and information letters did not include any specific guidance as to how and when the coding is to be done and by whom. According to OR&R management, as of June 2003, the OR&R Assistant Commissioner was drafting a memorandum to provide such guidance.

In addition, the LCIS SOP does not provide specific and thorough guidance to ensure consistent recording, updating, and verification of LCIS data. The SOP directs administrative staff to enter timely and accurate information into LCIS, but it does not provide detailed guidance for the verification of LCIS data during the life of a case. Although the LCIS SOP instructs OR&R attorneys to compare LCIS data hard-copy summaries to Case Assignment sheets in case files to ensure that the information matches, the SOP appears to suggest that attorneys carry out this task before conducting research and other work on cases. The SOP does not specifically require the verification of LCIS data for individual cases at other times, such as when each case is closed. After we discussed this with OR&R officials, the OR&R Assistant Commissioner issued a memorandum on July 8, 2003, requiring OR&R managers to verify the accuracy of LCIS data for each case as it is closed.

Conclusions

OR&R headquarters improved the timeliness of its prospective rulings since we issued our September 2000 report concluding that most rulings were untimely. Starting in February 2002, OR&R gave ruling requests its highest priority and took other actions to help issue rulings within 90 days and eliminate the backlog of ruling requests that existed. By continuing to give priority to rulings and continuing to streamline the processing of rulings, OR&R headquarters may be able to institutionalize and sustain the progress it has made in improving timeliness. This would benefit the trade community and help ensure compliance with U.S. trade law.

LCIS, OR&R's automated database, continued to face data reliability challenges. OR&R has taken corrective actions to improve the accuracy and reliability of LCIS data. However, these actions do not provide assurance that OR&R has resolved its LCIS data reliability challenges because some of the actions lack specific procedures for their effective implementation. LCIS needs accurate and reliable data so that it can effectively serve as an OR&R management tool for recording and monitoring the progress and history of individual prospective ruling requests and measuring timeliness. To achieve this, additional corrective actions may be necessary.

Recommendation for Executive Action

To help ensure that LCIS data are accurate and that OR&R can reliably use the database as a management tool to record and monitor prospective rulings and measure timeliness, we recommend that the OR&R Assistant Commissioner take steps to continue to assess LCIS data reliability to

determine whether recent improvements sufficiently correct past problems.

Agency Comments and Our Evaluation

Customs provided written comments on a draft of this report and generally agreed with our findings and recommendations. Customs' comments are contained in appendix II.

While Customs said that the report acknowledges OR&R's improvement in the timeliness of its rulings, Customs believed the report did not convey that OR&R has dramatically improved the timeliness of its rulings and eliminated timeliness as a problem. Customs also said that the report did not recognize the dramatic turnaround that OR&R accomplished, including the elimination of the backlog of 757 ruling requests that existed on February 1, 2002; the issuance of nearly every prospective ruling request received since July 2002 within 90 days; and the issuance of nearly every prospective ruling request received since September 2002 within 70 days. Customs also said that the report did not sufficiently emphasize that OR&R has maintained its record of issuing rulings well within the 90-day time frame in the months since September 30, 2002, when the backlog was eliminated.

We believe that the report appropriately reflects the improvements OR&R has made in the timeliness of its prospective rulings. Regarding OR&R's issuance of prospective rulings since September 2002, we did not assess OR&R's timeliness for cases closed after October 31, 2002. Rather, we assessed OR&R's timeliness by reviewing the files for prospective ruling request cases opened and closed from February 2002, when OR&R started its efforts to issue rulings within 90 days, through October 2002, when we initiated our review. In addition, our report identifies that OR&R improved its response time for cases in the latter part of our sample (i.e., cases opened and closed from July through October 2002, after OR&R had made significant progress in reducing the size of its ruling request backlog), with an estimated 94 percent of these cases completed within 90 days.

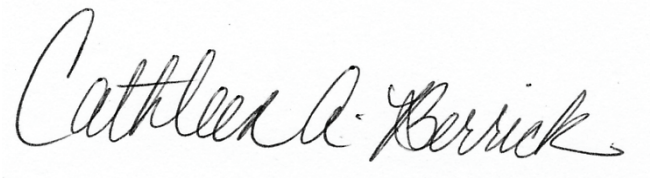
Regarding whether OR&R has eliminated timeliness as a problem, the scope of our work and the possibility of OR&R changing its priorities does not allow us to reach this conclusion. We identified, however, that OR&R continuing to give priority to rulings should help institutionalize and sustain the progress made in improving the timeliness of headquarters prospective rulings. In addition, although Customs said that the report did not recognize the elimination of the February 2002 backlog of cases open 90 days or more, the report clearly identified that OR&R reported it had

eliminated the backlog, with a few exceptions that were beyond Customs' control.

Customs also commented on recent steps OR&R has taken to improve LCIS data reliability, as outlined in a July 8, 2003, memorandum from the OR&R Assistant Commissioner to OR&R managers. The memorandum formally establishes and communicates two corrective actions taken by OR&R to address LCIS data errors that we identified in the report: verifying the accuracy of LCIS data on a quarterly basis, and establishing a uniform approach to coding ruling requests that result in administrative closures or the issuance of information letters. The memorandum also requires OR&R managers to verify the accuracy of LCIS data for each case as it is closed and note their review on the Case Assignment sheet, which is now to be retained in each case file. We agree with Customs that this action sufficiently addresses a second recommendation made in our draft report. Accordingly, we removed this recommendation. In addition to implementing this recommendation, Customs also concurred with our remaining recommendation to continue to assess LCIS data reliability issues and is taking actions to address it. We believe OR&R's recent actions demonstrate a willingness to continue to assess and improve data reliability for LCIS.

We are sending copies of this report to the Commissioner of Customs and interested congressional committees. We will also make copies available to others upon request. In addition, the report will be available on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact Seto J. Bagdoyan, Assistant Director, at 202-512-8658, or me at 202-512-8777. Other staff are acknowledged in appendix III.



Cathleen A. Berrick, Acting Director
Homeland Security and Justice Issues

Appendix I: Scope and Methodology

Our scope and methodology for responding to our three objectives, presented earlier in the report, and carrying out related work is described in the next sections.

Response Time for OR&R Headquarters Rulings

To determine whether the Office of Regulations and Rulings (OR&R) headquarters improved its response time for issuing prospective rulings on the classification, valuation, and marking of imported goods since our September 2000 report, we reviewed hard-copy files for a sample of 325 headquarters cases. OR&R had categorized these cases as prospective rulings involving requests for the classification, valuation, and marking of imported goods, and they were closed from February 1, 2002, through October 31, 2002. We attempted to review a random sample of 344 case files, representing 387 cases categorized in OR&R's Legal Case Inventory system (LCIS) database as prospective rulings, but OR&R staff could not locate 19 of the files. We grouped the cases into three categories: those cases that were assigned to OR&R attorneys for processing before February 1, 2002; cases assigned from February 1, 2002, through June 30, 2002; and cases assigned from July 1, 2002, through October 31, 2002; with all cases in each of the three categories closed from February 1, 2002, through October 31, 2002. We were primarily interested in whether or not the days in progress for prospective rulings has decreased if they were assigned after February 1, 2002. Days in progress, as defined by OR&R, is measured as the number of calendar days from the date a case was assigned to an OR&R attorney for processing (date assigned) until the date that same case was closed (date closed). We determined the days in progress with data we collected from OR&R's hard-copy case files and recorded using an electronic data collection instrument.

We obtained from OR&R a listing of cases categorized as prospective rulings, which OR&R extracted from its LCIS database and put on an electronic spreadsheet. We narrowed down this population so that it consisted of only cases categorized as prospective rulings that were closed from February 1, 2002, through October 31, 2002. These prospective ruling cases involved the classification, valuation, and marking of imported goods and were from OR&R's Textile Branch, General Classification Branch, Value Branch, and Special Classification and Marking Branch. We excluded other prospective ruling cases that the Trade Act of 2002 did not require us to study. Our sampling units are each individual prospective ruling request case. There were a total of 387 cases categorized in the LCIS database as prospective rulings covering the classification, valuation, and marking of imported goods that were from these four OR&R branches and were closed between February 1, 2002, and October 31, 2002.

In conducting the file review, we used a random list of the 387 cases to ensure a random sample regardless of whether or not we would be able to review all of the cases, and we reviewed 325 of the 387 cases (as noted earlier, we attempted to review a random sample of 344 of the 387 cases, but OR&R staff could not locate files for 19 cases). Table 4 provides details of the strata samples and population.

Table 4: File Review Strata for OR&R Headquarters Cases Categorized as Prospective Rulings and Closed from February 1, 2002, through October 31, 2002

Strata	Time period	Total cases	Cases randomly selected	Cases reviewed
1	Cases assigned before February 1, 2002	229	186	175
2	Cases assigned between February 1, 2002, and June 30, 2002	125	125	117
3	Cases assigned between July 1, 2002, and October 31, 2002	33	33	33
Total		**387**	**344**	**325**

Source: GAO data.

Our probability samples allow us to make estimates to the populations of total cases for each of the three time periods. Because we used random sampling, the results obtained are subject to some uncertainty or sampling error. The sampling error can be expressed in terms of confidence levels and ranges. The confidence level indicates the degree of confidence that can be placed in the estimates derived from the samples. The range is a pair of values derived from the sample data, an upper and lower limit, between which the actual population values might be found. Our samples were designed so that the sampling error around the estimates of percentages would not be greater than 5 percentage points at the 95-percent confidence level. Thus, if all cases in our populations had been examined, the chances are 95 out of 100 that the results obtained would be included in the range formed by adding or subtracting no more than 5 percentage points from the sample estimates. Table 5 provides the 95-percent confidence intervals for each of the estimates to the populations of total cases that we made in this report.

Table 5: 95-Percent Confidence Intervals for Estimates to Populations of Total Cases

Estimate	Confidence interval	Report page number
75%	66.9% - 82.7%	3
64%	60.1% - 68.0%	3
94%	79.8% - 99.3%	3
75%	66.9% - 82.7%	8
64%	60.1% - 68.0%	8
64%	60.1% - 68.0%	9
11%	6.4% - 18.3%	9
25%	17.3% - 33.1%	9
55%	49.7% - 60.0%	9
94%	79.8% - 99.3%	9
581 days average	553 - 609 days	11
501 days median	463 - 540 days	11

Source: GAO data.

OR&R Headquarters Actions on Rulings

To determine what actions OR&R headquarters took to improve the timeliness of its prospective rulings and eliminate its backlog of ruling request cases, we interviewed OR&R management officials and collected and reviewed pertinent documentation (e.g., OR&R reports to the Commissioner regarding the status of efforts to implement procedural changes to issue rulings within 90 days and eliminate the backlog; the July 2002 draft Standard Operating Procedure intended to provide a standardized approach for processing and issuing rulings[1]).

OR&R Data Reliability Challenges

To determine whether OR&R resolved the data reliability challenges it faced with LCIS, we interviewed OR&R management officials; reviewed case file information for our sample of 325 OR&R headquarters cases categorized in LCIS as prospective rulings; and collected and reviewed other available information, such as the July 2002 Standard Operating Procedure intended to ensure a consistent process for receiving, acknowledging, assigning, recording, tracking, updating, signing, and closing ruling cases in LCIS.

[1]According OR&R officials, the SOP was being used by OR&R but was still in draft form as of June 2003. The OR&R officials noted that the latest version of the draft SOP was dated June 2003, and the final version was expected to be issued by August 2003.

In reviewing OR&R's case files for our sample of cases and noting discrepancies with LCIS data for "type of case code," "case category code," "date assigned," and "date closed," we did not discuss each case with OR&R officials to determine the reasons that case file data did not match LCIS data or data were missing from case files. To do so would have been a time-consuming and complex task, for us as well as OR&R, with little likelihood of determining the reason for each discrepancy. In carrying out the work for our September 2000 report on OR&R headquarters rulings, we asked OR&R officials to explain the reasons for discrepancies as part of our methodology. However, we reported that we could not always identify the reasons why LCIS data were inaccurate for the cases we reviewed.

Trade Community Perspective on OR&R Headquarters Rulings

We also obtained the trade community's perspective on OR&R headquarters' prospective rulings. We interviewed the chair of the Subcommittee on OR&R of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC), representatives of selected associations, and selected importer representatives. The trade representatives we interviewed are not a representative, national sample from which we can make estimates to the entire trade community. We did not independently validate or verify the accuracy or reliability of information they provided.

We conducted a telephone interview with the chair of COAC's Subcommittee on OR&R. We also conducted telephone interviews with representatives of the American Bar Association Customs Law Committee[2] and five trade associations suggested to us by congressional staff and identified by the media and other sources as being knowledgeable about OR&R headquarters' prospective rulings: the American Association of Exporters & Importers; Business Alliance for Customs Modernization; International Mass Retail Association; Joint Industry Group Import Committee; and National Customs Brokers & Forwarders Association of America.

[2]The American Bar Association is not a trade association. However, the association's Customs Law Committee is concerned with the full range of laws and regulations administered by the Customs Service in connection with the importation and exportation of merchandise. The Committee provides information, educational programs and materials, and a forum for reviewing, advising, commenting on, and participating in the development of Customs laws, regulations, and practices.

We attempted to conduct structured telephone interviews with a judgmental sample of 76 importer representatives who had requested rulings from OR&R to obtain their views on how OR&R handled their requests and to ask whether OR&R's response had adversely affected the importers. We successfully interviewed 35 of these importer representatives; the remaining 41 either did not return our messages, did not answer our questions, or could not be contacted at the telephone number we obtained from OR&R files. For the interviews, we selected importer representatives who were involved with ruling request cases in our sample that were either untimely, administratively closed, or resulted in an information letter.

We conducted our work between October 2002 and June 2003 in accordance with generally accepted government auditing standards.

Appendix II: Comments from the Bureau of Customs and Border Protection

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

July 21, 2003

MEMORANDUM FOR CATHLEEN BERRICK
U.S. GENERAL ACCOUNTING OFFICE

FROM: Acting Director
Office of Policy and Planning

SUBJECT: GAO Draft Report Entitled "U.S. Customs Service: Prospective Rulings More Timely, but Database Reliability Questions Remain"

Thank you for transmitting a draft copy of the General Accounting Office (GAO) report entitled "U.S. Customs Service: Prospective Rulings More Timely, but Database Reliability Questions Remain" and for providing an opportunity to review and comment on the report.

While the report acknowledges Customs efforts with this program, we believe that the report does not recognize the dramatic turnaround that was accomplished by the Office of Regulations and Rulings (OR&R) including

1) the elimination of a backlog of 757 rulings requests identified in February 2002, by September 30, 2002;

2) the issuance of nearly every prospective ruling request within 90 days since July 2002; and

3) the issuance of nearly every prospective ruling request within 70 days since September 30, 2002.

The Bureau of Customs and Border Protection (CBP) has taken a number of steps to address the issues of data reliability identified during your review. On July 8, 2003, Assistant Commissioner Michael Schmitz issued a policy that required that each OR&R manager verify the accuracy of LCIS data for each case as it is closed - a requirement extends to all cases that are in the LCIS system. Since this action addresses GAO's second recommendation, we suggest that this recommendation be removed from this report. Further details of the steps taken to address GAO's findings

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and recommendations are outlined in the attached document.

We have determined that the information in the audit report does not warrant protection under the Freedom of Information Act.

If you have any questions regarding these comments, please do not hesitate to contact me at (202) 927-1507.

Brenda B. Smith

Brenda B. Smith

Attachment

Bureau of Customs and Border Protection

Comments on Report by the General Accounting Office on "U.S. Customs Service: Prospective Rulings More Timely, But Database Reliability Questions Remain"

Timeliness of Rulings

GAO has acknowledged the improvement that the Office of Regulations and Rulings (OR&R) has made in the timeliness of its rulings. In our view, however, the GAO report fails to convey that OR&R has dramatically improved the timeliness of its rulings and has eliminated timeliness as a problem. This is particularly true in the executive summary found in the Results in Brief section.

As was mentioned in the cover memo, this report does not recognize with sufficient emphasis the dramatic turnaround that was accomplished by OR&R in the year 2002. Specifically, the report does not highlight:

1) the elimination by September 30, 2002 of a backlog of 757 rulings requests that existed as of February 1, 2002,

2) that commencing in July 2002 nearly every prospective ruling request received was issued within 90 days and

3) that since September 30. 2002, nearly every prospective ruling request received was issued within 70 days.

In addition, the GAO report does not sufficiently emphasize that in the months since the elimination of the backlog in September 30, 2002, OR&R has maintained its outstanding record of issuing rulings well within the ninety day time frame. As a result, while the reader is made aware that some progress has been made on the timeliness of rulings, there is nothing to convey that the problem has been overcome. Indeed the GAO Report focuses more on the timeliness issue as reflected in the backlog on February 1, 2002 rather than the elimination of that backlog and the continued maintenance of a less than ninety day response time.

The continued maintenance of this high level of performance goes to the essence of the question of the timeliness of the rulings issued. These major accomplishments by OR&R address the heart of the problem that gave rise to the Congressional mandate given to GAO in the Trade Act of 2002. These accomplishments also demonstrate how well OR&R responded to Commissioner Bonner's leadership on this issue. The report should more prominently reflect the success that the agency has demonstrated on these issues. At the very least, the Results in Brief Section should contain the following conclusions found in the body of the report on pages 7 and 9:

> Our work for this report demonstrated that OR&R headquarters completed the majority of its prospective ruling request cases opened and closed from February through October 2002 within the newly established goal of 90 days. Further, OR&R reported that, with a few exceptions beyond Customs' control, it had eliminated its February 2002 backlog of prospective ruling requests that were still open after 90 days or more.

(GAO report at page 7)

> ...for the four month period from July 2002 through October 2002 OR&R completed an estimated 94 percent of prospective rulings within 90 days.

(GAO report at page 9)

LCIS Data Reliability

With respect to the GAO Report's discussion of the data reliability issues for LCIS, we wish to point out that in addition to the corrective actions that are identified in the GAO Report, we have taken other important corrective actions. These actions are embodied in the memorandum of July 8, 2002, from OR&R Assistant Commissioner Michael T. Schmitz, which institutes a number of measures that will improve the reliability of LCIS data. The corrective actions include a requirement that each OR&R manager verify the accuracy of LCIS data of each and every case when the case is closed and note that conclusion on the case assignment sheet. This is precisely what is recommended by the GAO report. Moreover, we note that this requirement is not limited to LCIS prospective rulings cases but extends to all cases that are in the LCIS system.

In addition, OR&R has instituted a system of verification of LCIS data on a quarterly basis in order to improve the reliability of data with respect to cases already closed and prospectively to act as a second verification of the LCIS data. Finally, we have formally communicated the proper codes for cases which are administratively closed and for information letters so that uniformity will be achieved.

These steps, taken together, should provide GAO with assurance that LCIS reliability will be improved. Accordingly, we respectfully request that the GAO Report be revised to take these corrective actions into account.

Corrective Action for GAO's Recommendations

GAO Recommendation: We recommend that the OR&R Assistant Commissioner take steps to continue to assess LCIS data reliability to determine whether recent improvements sufficiently correct past problems

CBP Response: Concur

CBP notes that it has issued a memorandum dated July 8, 2003, copy attached, which takes the following actions:

- Requires the retention of the case assignment sheet.

This is directly responsive to the conclusion on page 19 of the GAO Report that certain LCIS data elements either did not match or could not be verified. While our view was that the data elements could be verified without the case assignment sheet, we adopted the implicit recommendation on this issue so that verification will be facilitated.

- Specified the proper codes for cases which are administratively closed and for information letters and requires verification of these codes when a case is closed.

This responds directly to the observation on page 21 of the GAO Report on the coding of these types of cases. As a result of the July 8, 2003 memorandum, OR&R management has put into place a mechanism that assures that these codes will be properly reflected.

- Institutes a system of verification of LCIS data on a quarterly basis in order to improve the reliability of LCIS data both with respect to cases already closed and for future cases.

This will add a second documented verification of LCIS data.

GAO Recommendation: We recommend that the OR&R Assistant Commissioner take steps to require that OR&R managers verify the accuracy of LCIS rulings data for individual cases as each case is closed by comparing the LCIS data to the case files to ensure that the information matches.

CBP Response: Concur

CBP notes that the Assistant Commissioner's memo of July 8, 2003, requires precisely the action recommended by GAO: i.e., that each OR&R manager verify the accuracy of LCIS data for each case as it is closed. Moreover, we note that this requirement is not limited to LCIS prospective rulings cases but extends to all cases that are in the LCIS system. Accordingly, since this recommendation has already been complied with, we suggest that this recommendation be removed from this report.

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

Cathleen A. Berrick 202-512-8777
Seto J. Bagdoyan 202-512-8658

Staff Acknowledgments

In addition to those named above, Ronald G. Viereck, Brian J. Lipman, Kristy N. Brown, Elizabeth Neidert, Michele C. Fejfar, Kriti Bhandari, Nathan A. Morris, Elizabeth A. Laffoon, and Ann H. Finley made key contributions to this report.

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