

originally recorded information. Thus, the erroneous information being crossed out would not be obliterated and an audit should reveal the original information recorded on the trading record, as well as any information subsequently recorded. Because the amendment to paragraph (d)(7) would make this provision applicable to all trading records, the Commission believes that this amendment would further limit the opportunity for the fabrication or alteration of trading records.

The Commission believes that erroneous data normally should be crossed out using the same or a similar pen as is used by the member to record trade executions. In any event, the use of a felt pen or marker that obliterates the original recorded information, even if the information is crossed out with no more than a single line, would not be in compliance with this amended regulation. Overwriting erroneous information with corrected information, rather than crossing out the erroneous information in the prescribed manner, also would not be in compliance with this amended regulation.

III. Other Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et. seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the RFA, and that the Commission need not, therefore, consider the effect of proposed amendments on contract markets in relation to the RFA. 47 FR 18618, 18619 (April 30, 1982). The Commission has also determined that FCMs should be excluded from the definition of "small entity" based upon the fiduciary nature of the FCM/customer relationships as well as the fact that FCMs must meet minimum financial requirements. 47 FR 18618, 18619 (April 30, 1982).

With respect to contract market members, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all members that would be affected by the rule should be considered small entities and, if so, to analyze the economic impact on such entities at that time. 47 FR 18618, 18620 (April 30, 1982). The contract market members affected by the proposed amendment, other than clearing members, would be floor brokers and floor traders.

The Commission recognizes that contract market members would be subject to the proposed amendments and that certain contract market members could be considered to be small entities for the purposes of the RFA. However, the Commission believes that the proposed amendment, as designed, would not impose a significant economic burden on members.

Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act: Comment Request

The Paperwork Reduction Act of 1980 ("ACT"), 44 U.S.C. 3501 *et. seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Act.

While this proposed rule has no burden, the group of rules (3038-0022) of which this is a part has the following burden:

Average burden hours per response—3,546.

Number of Respondents—15,286.

Frequency of Response—On occasion.

Persons wishing to comment on the information which would be required by this proposed/amended rule should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395-7340. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418-5170.

List of Subjects in 17 CFR Part 1

Commodity futures, Commodity options, Contract markets, Customers, Members of contract markets, Noncompetitive trading, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, Sections 5, 5a, 5b, 6(a), 6b, 8a(7), 8a(9) and 8c, 7 U.S.C. 7, 7a, 7b, 8(a), 8b, 12a(7), 12a(9), and 12c, the Commission hereby proposes to amend Part 1 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.35 is proposed to be amended by revising paragraph (d)(7) to read as follows:

§ 1.35 Records of Cash Commodity, Futures, and Option Transactions.

* * * * *

(d) * * *

(7) Trading records prepared by a member of a contract market pursuant to contract market rules must:

(i) Be submitted in accordance with contract market rules adopted pursuant to paragraph (j)(1) of this section; and
(ii) Be completed in non-erasable ink. A member may correct any errors (A) by crossing out erroneous information with no more than a single line through each character, without obliterating or otherwise making illegible any of the originally recorded information or (B) with regard to trading cards only, by rewriting the trading card; provided, however, that the member is accountable pursuant to paragraph (d)(6) of this section for any trading card that is subsequently rewritten.

* * * * *

Issued in Washington, DC on May 31, 1996 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96-14129 Filed 6-05-96; 8:45 am]

BILLING CODE 6351-01-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 19, 113 and 144

RIN 1515-AB86

Duty-Free Stores

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations principally with respect to duty-free stores in order to reduce the overall paperwork burden for proprietors thereof as well as for Customs. In particular, for purposes of Customs audit of, and control over, such facilities, greater reliance would be placed on the use of records generated and maintained by proprietors and importers in the ordinary course of business, instead of on the use of specially prepared Customs forms. The proposed amendments would provide

benefits in this regard to other classes of Customs bonded warehouses as well.

DATES: Comments must be received on or before August 5, 1996.

ADDRESSES: Written comments (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, DC 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael Jackson, Customs Management Center, Seattle, (206-553-6944).

SUPPLEMENTARY INFORMATION:

Background

By a final rule document published in the Federal Register as T.D. 92-81 on August 20, 1992 (57 FR 37692), the Customs Regulations were amended to designate duty-free stores as a new class of Customs bonded warehouse, and to incorporate operating procedures for the administration of these facilities.

However, in letters dated October 6 and 13, 1992, a major trade association voiced a number of concerns with respect to the final rule. Prompted by these correspondences, Customs, by a document published in the Federal Register (57 FR 47409) on October 16, 1992, delayed the October 19, 1992, effective date of the final rule until further notice, in order to review various aspects of the duty-free store rules. Before any changes could be made to the final rule, however, Customs concluded that its indefinite suspension was legally inoperative and proceeded to reinstate the original effective date thereof, by a document published in the Federal Register (58 FR 29349) on May 20, 1993.

After lengthy study, Customs has now determined that specific revisions to the duty-free store regulations are in order. The proposed changes would also provide some benefits to other classes of bonded warehouses, and are intended to reduce the overall paperwork burden both for warehouse proprietors and for Customs.

Discussion of Principal Changes

The following sections of the Customs Regulations would be amended: §§ 19.1, 19.2, 19.4, 19.6, 19.11, 19.12, 19.35, 19.36, 19.37, 19.39, 113.63, 144.34, 144.36, 144.37, 144.39 and 144.41.

Proposed Changes to Part 19

A sentence would be added to § 19.1(a)(9) to clarify that all distribution warehouses used exclusively to provide individual duty-free sales locations and

storage cribs with conditionally duty free merchandise are also Class 9 warehouses.

Section 19.1(c) would be deleted. While language concerning warehouse security would be added to § 19.4(b)(6), warehouse construction requirements will not be set forth in the regulations. The warehouse construction is a factor that will be considered by the port director in deciding whether to approve the application.

Section 19.2(a) would be amended to require that all bonded warehouse applicants have available an inventory control and recordkeeping system procedures manual. Also, the application would have to include a certification that the inventory control and recordkeeping system meets the requirements of § 19.12.

Section 19.2(b) would be modified to specify that the procedures for inventory control, recordkeeping and delivery methods must be set forth in the proprietor's procedures manual which must be furnished to Customs upon request.

References to § 19.3 (e) and (f) would be deleted from § 19.2(g).

Sections 19.4 and 19.12 would be reformatted to move the storage and security requirements from § 19.12 and consolidate them in § 19.4. Section 19.12 would be devoted to the inventory control and recordkeeping system requirements.

The heading of § 19.4 would be changed to "Customs and proprietor responsibility and supervision over warehouses", and two subsections would be added: (a) Customs supervision and (b) "Proprietor responsibility and supervision. Subsection (b) is divided into nine sections: (1) Supervision, (2) Customs access, (3) Safekeeping of merchandise and records, (4) Records maintenance, (5) Record retention in lieu of originals, (6) Warehouse and merchandise security, (7) Storage conditions, (8) Manner of storage, and (9) Miscellaneous responsibilities. The intent of these proposed changes is to clarify the proprietors' responsibilities.

Proposed § 19.4(a), entitled "Customs supervision", and proposed § 19.4(b)(2), entitled "Customs access", contain the current § 19.4 language relating to Customs supervision over warehouses.

The requirements of current § 19.12(b)(1), concerning supervision by the warehouse proprietor, would be moved to § 19.4(b)(1) and expanded to cover all activities that a bonded warehouse proprietor is authorized to perform.

The restrictions on unauthorized disclosure of proprietary information

would be moved from current § 19.12(a)(7) to § 19.4(b)(3). The last sentence in current § 19.12(a)(7) has been deleted because the consequence of unauthorized disclosure is covered by § 19.3(e)(8).

Proposed § 19.4(b)(4) summarizes the proprietor's responsibilities relating to records maintenance.

Proposed § 19.4(b)(5), dealing with the retention of copies of records in lieu of the originals, provides proprietors with the convenience of storing required records on microfilm, microfiche, CD ROM (compact disk, read-only memory), or other medium. Those approved for this storage method could do so any time after the final withdrawal of merchandise covered by the entry to which the records pertain. Duty-free store operators could use the aforementioned means to store sales ticket information after six months from the date of sale. This provision would greatly reduce the physical space required to maintain the volumes of hard-copy originals. Proprietors would be required to provide authenticated copies upon demand for audit purposes. Approval would be obtained from the appropriate regulatory audit field director.

Proposed § 19.4(b)(6), concerning warehouse and merchandise security, incorporates the requirements of current § 19.12(b) (3) and (4) relating to security of warehouses and bonded tanks. Specific reference to T.D. 72-56 is replaced with references to more general security standards.

The "safe and sanitary storage" requirements would be moved from § 19.12(b)(5) to § 19.4(b)(7). The sentences concerning prompt removal of trash and waste and prohibition of fires would be deleted because Customs believes that the first sentence in this paragraph provides adequate coverage.

Proposed § 19.4(b)(8), entitled "Manner of storage", is based on current § 19.12(b)(6), and would allow proprietors to store merchandise covered by a single entry number or unique identifier in more than one location within the warehouse, provided the inventory control system could identify the quantities in each location upon demand by Customs. It also provides regulatory recognition of First-In-First-Out (FIFO) inventory control systems for the first time.

Section 19.6(a)(1) would be amended to change the time requirement for filing a discrepancy report from two business days to five business days.

Section 19.6(d)(1) would be amended to allow a duty-free sales enterprise to use a blanket permit for withdrawal for transportation to another port.

Section 19.6(d)(2) would be amended to reflect a new cross-reference.

Section 19.6(d)(4), entitled "Blanket permit summary", would be redesignated as § 19.6(d)(5). A proposed new § 19.6(d)(4) would add a provision describing procedures under which blanket withdrawals for aircraft and vessel supplies from more than one warehouse entry could be combined on one Customs Form 7512.

Section 19.11(h) would be amended to change the phrase "saleable units" to "smallest irreducible unit", for purposes of clarification. Under the provisions for blanket permit to destroy, the phrase "upon receipt" would be deleted. Goods may be determined "nonsaleable" long after receipt. The dollar amount covered by a blanket permit for destruction would be increased from \$100 to less than 5 percent of the value of the merchandise at the time of entry or \$1250, whichever is less, in its undamaged condition. This increase is being proposed in order to reduce the number of permits for destruction that would otherwise be required under the circumstances.

Proposed § 19.12 is based on the inventory control and recordkeeping requirements in current § 19.12 which would thus be modified to more clearly describe the proprietor's responsibilities and what constitutes an adequate inventory control and recordkeeping system.

Proposed § 19.12(c)(1) includes the requirement for a proprietor receipt for merchandise transported to his warehouse by himself or his agent, as provided for by T.D. 94-81. Proposed changes to subsection (d)(1) and (d)(2) clarify the requirements for accounting for merchandise entered in the warehouse.

Proposed § 19.12(d)(3) modifies existing requirements relating to theft, shortage, overage or damage. To accommodate proprietors, the proposed modification extends the time for providing written confirmation for any theft, overage, extraordinary shortage or damage from two business days to five business days after the discrepancy is discovered. The definition of extraordinary shortage or damage would be expanded to cover missing merchandise on which duties and taxes in excess of \$100 are due. The time for paying applicable duties and taxes on thefts and shortages would be extended from 10 business days after discovery to 20 calendar days following the end of the calendar month in which the shortage is discovered.

The following new requirements would be added by Customs under proposed § 19.12(d)(3) in order to clarify

that the proprietor should ensure that the following actions are taken when discovered discrepancies occur: (1) An entry must be filed for all overages within five business days of the date of discovery; (2) When cumulative thefts, shortages or overages under a specific entry or unique identifier total one percent or more of the value of the merchandise or cumulative duties and taxes are in excess of \$100, the reporting and payment requirements of this paragraph must be met; (3) All shortages and overages must be recorded in the inventory control and recordkeeping system at the time of discovery, whether or not they must be reported to Customs at that time; (4) Duties and taxes applicable to any non-extraordinary shortage or damage, and not required to be paid earlier, shall be submitted at the time the Customs Form 300 is due or at the time the certification of preparation of the annual reconciliation report is due.

A proposed new § 19.12(d)(4)(ii), entitled "Review", the substance of which is currently set forth in § 19.12(a)(4), would change the permit file folder filing requirement for entries after final withdrawal from 30 business days to 30 calendar days. This is intended to provide greater ease in calculating the due date.

In an effort to reduce paperwork requirements for both warehouse proprietors and Customs, proposed § 19.12(d)(4)(iii), contains new provisions which would allow for exemption from maintaining the permit file folder (PFF), if the proprietor has a system which can provide a summary of all transactions relating to an entry, appropriately cross-referenced to supporting documents which are readily retrievable. Proposed § 19.12(d)(4)(iv) would also allow port directors to accept formal notification of final withdrawal in lieu of submission of the PFF or entry activity summary and only require submission of the PFF or alternative documentation on a selective basis. Failure to provide requested documentation would result in reinstatement of the requirements to maintain PFFs and to submit the PFF to Customs upon final withdrawal. This change would eliminate the current requirement that the proprietor maintain records in a specified method required by Customs and would allow the proprietor to use his normal recordkeeping system to satisfy Customs requirements. It would also allow the port director the option to review the number of permit file folders or the approved alternative system on a selective basis.

Proposed § 19.12(d)(5) would add a new requirement that proprietors must take at least an annual physical inventory, report any discrepancies discovered to the port director, record appropriate adjustments in the inventory control and recordkeeping system, and make any required entries and payments to Customs. The proprietor would have to advise Customs in advance of dates that the inventories would be taken so that Customs could observe or participate in the inventory process, if deemed necessary.

Although many warehouses currently use the FIFO inventory method for fungible merchandise, the current regulations do not provide any guidance for use of inventory control systems other than direct identification by Customs entry number. The acceptability of a FIFO inventory system has been recognized by Customs since issuance of C.S.D. 83-63, 17 Cust. Bull. 869 (1983), but the regulations were never revised to cover FIFO systems. Proposed § 19.12(f) is based on appropriate sections of the Bonded Warehouse Manual and would incorporate requirements into the regulations governing an acceptable FIFO inventory control system.

Proposed § 19.12(g) contains the requirement for the annual warehouse proprietor submission currently set forth in § 19.12(a)(5). A provision is added to allow use of an alternative format if prior written approval is obtained from the Customs field director of regulatory audit. Additional instructions are included for proprietors who have merchandise covered by one entry, but stored in multiple locations as provided for under proposed § 144.34.

To reduce paperwork requirements for the proprietor and handling by Customs, proposed § 19.12(h) discontinues the requirement to file a Customs Form 300, Warehouse Proprietor's Submission, for class 2, importers' private bonded warehouses and classes 4, 5, 6, 7, 8 and 9 warehouses if the warehouse proprietor and the importer are the same party. Instead, under the proposed revision, they must prepare a reconciliation report at the end of each fiscal year which will be kept on file. A certification would have to be sent to the field director, regulatory audit, stating that the reconciliation has been performed and is accurate.

Proposed § 19.12(i) requires all proprietors to perform an annual internal review of the inventory control and recordkeeping system, and to prepare and maintain on file a report

identifying deficiencies discovered and the corrective action taken.

Proposed § 19.12(j) provides special instructions for preparation of the Customs Form 300 or reconciliation when merchandise transferred from one warehouse continues to be accounted for under the original warehouse entry rather than under a rewarehouse entry, as provided for under proposed § 144.34(c).

In proposed § 19.13(g), specific reference to T.D. 72-56 is replaced with reference to the more general security standards contained in proposed § 19.4(b)(6).

Section 19.13a would be modified to delete the reference to § 19.12(a) and substitute references to §§ 19.4(b) and 19.12.

Section 19.13a(b) would be modified to delete the reference to § 19.12(a)(5) and substitute reference to § 19.12(g).

Section 19.35(c), entitled "Integrated locations", would be modified to accommodate duty-free stores which do not have inventory control systems which automatically reduce inventory balances on a real time basis. Proposed § 19.35(c) would allow multiple noncontiguous sales and crib locations to be treated by Customs as one location if inventory records are updated no less frequently than at the end of each business day to reflect that day's activity. Integrated locations are defined as separate sales and storage locations within a close proximity to one another, e.g., multiple outlets at an airport. Under the proposed revision, language is added to allow the proprietor discretion in determining if integrated status is desired and the word "will" is replaced with "may" in " * * * may be treated by Customs as one location * * *".

Section 19.35(f) would be modified to delete the reference to § 19.12(b)(3) and substitute a reference to § 19.4(b)(6).

Section 19.36(e) would be modified by deleting the requirement that purchasers know whether or not a commodity is either duty-paid or U.S.-origin.

Section 19.36(g) would be modified to replace the reference to § 19.12(a) with § 19.12 (d), (e) and (f).

Section 19.37(a), dealing with crib operations, would be modified by deleting the word "small" in the first sentence. Concerning the amount of goods which may be stored in a crib, the phrase, " * * * limited to an amount estimated to be a two weeks' supply * * *", appearing in the fourth sentence of § 19.37(a) would be removed, and the following phrase would be added in its place: " * * * an amount requested by the proprietor

which is commercially necessary for the delivery operations for a period, if approved by the port director."

Section 19.39(c)(2), entitled "Passenger delivery", would be modified by deleting the last three sentences to eliminate the requirement for airline officials to certify the proprietor's certificate of lading. It is the proprietor's responsibility to establish procedures to ensure exportation. The regulation as currently written creates an undue burden on both the proprietor and the airline.

Section 19.39(c)(3), entitled "Aircraft delivery", would be modified to include the statutory language that duty-free purchases must be laden on board the same aircraft on which the passenger will depart. It is the proprietor's obligation to establish procedures satisfactory to the port director to provide reasonable assurance of exportation.

A proposed new § 19.39(c)(4)(ii) would be added to clarify that unit-load delivery methods could be used only on the same aircraft as the passenger who purchased the conditionally duty-free merchandise will depart the United States. Existing paragraphs (c)(4) (ii)-(iv) of § 19.39 would be renumbered.

A revision of paragraph (c)(5) of § 19.39 is proposed to establish procedures to handle deliveries of duty-free merchandise to passengers whose flights have to be rescheduled by the airline. Customs believes that the rescheduling of a cancelled or aborted flight should not require the proprietor to retrieve the goods until the passenger departs on the rescheduled flight. The Customs Service believes that the revenue risk is minimal because the passenger has no control over rescheduling a flight that is cancelled by the airline. Merchandise would only be delivered to a passenger who has already bought a ticket that usually is far in excess of any possible duty savings. Customs believes that to monitor the period between the cancellation of the passenger's original flight and the departure of the passenger on the rescheduled flight is wasteful of Customs and trade resources because of that risk assessment. With respect to merchandise delivered to an airline on behalf of a passenger who fails to board the flight, the proprietor must coordinate with the airline to establish a procedure to retrieve the merchandise because in that situation the passenger has acted contrary to the stated intention to export the goods and there is no reason to believe that the passenger will reschedule a different flight.

Also, § 19.39(e) would be modified by adding the phrase, "or bonded carriers", after the reference to "licensed cartmen". See T.D. 94-81, 59 FR 51496.

Warehouse Withdrawals and Rewarehouse Entries

An extensive change to the procedures governing transfers of warehoused merchandise is proposed.

Currently, the procedure to transfer warehoused merchandise requires the transfer to be done by Customs bonded cartage operators or carriers. The transfer in the same port may require a rewarehouse entry into the destination warehouse when both warehouses are within the same port. A rewarehouse entry is required if the transfer is between warehouses in different ports. The current procedure will be retained in § 144.34 (a) and (b).

An alternative procedure for merchandise in Class 2 or Class 9 warehouses is proposed in a new paragraph (c) to § 144.34. Under the alternative, the merchandise would be treated as remaining in the warehouse in which it was originally entered for warehouse. The importer and the proprietor of that warehouse would be liable for duties and for the proprietor's custodial responsibilities, respectively. To ensure that the parties in interest are fully aware of their responsibilities, the proposal requires the importer, all proprietors, and their sureties to sign the application to use the alternative procedure. Section 113.63 would be revised by adding new paragraphs (a)(4) and (b)(4), and by revising paragraph (d), in order to secure the obligors' custodial performance here.

The primary attribute of the proposed alternative is the eligibility requirement that the applicant have a centralized inventory control system so that Customs is able to spot check and verify the status of warehoused merchandise, by location, at all times. Although the proposal requires that each warehouse location keep subordinate or secondary records of merchandise at the location, the concept of the proposal is that the importer and the warehouse into which the merchandise was first entered remain liable as though the merchandise was present in that warehouse. That concept, implemented by the required centralized inventory system, is expected to ensure that Customs can administer its obligations to protect the revenue and ensure that no merchandise is released from Customs custody before any required charge, such as a lien, has been satisfied.

The alternative would eliminate the documentary transfers of liability for custodians because conceptually the

warehoused merchandise is treated as not having left the original warehouse. For that reason, no significant change to § 144.39 is proposed as a result of the alternative to the procedures in paragraphs (a) and (b) of § 144.34.

Section 144.36(c) would be substantially revised to allow for withdrawals for transportation from a single warehouse, via a single conveyance, consigned to the same consignee and to be deposited into a single warehouse to be combined on one Customs Form 7512. The exemption contained in proposed § 144.34(c), addressed above, would be incorporated into §§ 144.36 (f) and (g).

The signature requirement on sales tickets contained in § 144.37(h)(2)(v) would be deleted for all purchases. Also, the address requirement would be deleted for all purchases except alcoholic beverages in quantities in excess of 4 liters and cigarettes in quantities in excess of 3 cartons.

Section 144.37(h)(3) would be modified by deleting the reference “§ 19.6(d)(4)” and substituting a reference to “§ 19.6(d)(5)” in place thereof.

Section 144.41(c), entitled “Combining separate shipments”, would be modified and expanded to allow multiple withdrawals from a single warehouse which are transported on a single conveyance to be rewarehoused, at the proprietor's discretion, as one or more warehouse entries. To ensure the five-year provision of 19 U.S.C. 1557 is met, the combined rewarehouse entries will assume the import date of the oldest warehouse entry in the new combined entry. This provision will reduce the number of rewarehouse entry transactions at the receiving port.

Comments

Before adopting the proposed amendments, consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

Regulatory Flexibility Act and Executive Order 12866

For the reasons set forth in the preamble, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C.

601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604. Nor would the proposed amendments result in a “significant regulatory action” under E.O. 12866.

Paperwork Reduction Act

The collection of information in this document is contained in §§ 19.2, 19.4, 19.6, 19.11, 19.12, 19.36, 19.37, 19.39, 144.36, 144.37 and 144.41. This information is required and will be used to ensure the exportation of merchandise from duty-free stores and other Customs bonded warehouses, and to otherwise satisfy the requirements of law and the protection of the revenue. This notice of proposed rulemaking is intended to simplify recordkeeping requirements for duty-free stores and other Customs bonded warehouses. The likely respondents and/or recordkeepers are business or other for-profit institutions.

The collection of information contained in this notice of proposed rulemaking has already been approved by the Office of Management and Budget (OMB) under 1515-0005. An Inventory Control Worksheet will be submitted to OMB, which will reflect any changes in the information collection burdens occasioned by this rule, together with a request for a suitable extension of the existing approval.

Estimated annual reporting and/or recordkeeping burden: 61,000 hours.

Estimated average annual burden per respondent/recordkeeper: 10 hours.

Estimated number of respondents and/or recordkeepers: 10,000.

Estimated annual frequency of responses: On-Occasion.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Drafting Information

The principal author of this document was Russell Berger, Regulations Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 19

Customs duties and inspection, Imports, Exports, Warehouses.

19 CFR Part 113

Customs bonds.

19 CFR Part 144

Customs duties and inspection, Imports, Warehouses.

Proposed Amendments

It is proposed to amend parts 19, 113 and 144, Customs Regulations (19 CFR parts 19, 113 and 144) as set forth below.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The general authority citation for part 19 and the specific authority for §§ 19.1, 19.6, 19.11, and 19.35–19.39 would continue to read as follows:

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

Section 19.1 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562;

Section 19.6 also issued under 19 U.S.C. 1555;

* * * * *

Section 19.11 also issued under 19 U.S.C. 1556, 1562;

* * * * *

Sections 19.35–19.39 also issued under 19 U.S.C. 1555;

* * * * *

2. It is proposed to amend § 19.1 by adding a sentence at the end of paragraph (a)(9) to read as set forth below, and by removing paragraph (c).

§ 19.1 Classes of customs warehouses.

(a) * * *

(9) * * * All distribution warehouses used exclusively to provide individual

duty-free sales locations and storage cribs with conditionally duty-free merchandise are also Class 9 warehouses.

* * * * *

3. It is proposed to amend § 19.2 by revising its heading, by adding three sentences at the end of paragraph (a), and by revising paragraphs (b)(2) and (g), to read as follows:

§ 19.2 Applications to bond.

(a) * * * The applicant must prepare and have available at the warehouse a procedures manual describing the inventory control and recordkeeping system that will be used in the warehouse. A certification by the proprietor that the inventory control and recordkeeping system meets the requirements of § 19.12 will be submitted with the application. The physical security of the facility must meet the approval of the port director.

(b) * * *

(2) A description of the store's procedures, which includes inventory control, recordkeeping, and delivery methods. These procedures must be set forth in the proprietor's procedures manual. Such manual and subsequent changes therein must be furnished to the port director upon request. The procedures in the manual shall provide reasonable assurance that conditionally duty-free merchandise sold therein will be exported;

* * * * *

(g) The port director shall promptly notify the applicant in writing of his decision to approve or deny the application to bond the warehouse. If the application is denied the notification shall state the grounds for denial. The decision of the port director will be the final Customs administrative determination in the matter.

4. It is proposed to revise § 19.4 to read as follows:

§ 19.4 Customs and proprietor responsibility and supervision over warehouses.

(a) *Customs supervision.* The character and extent of Customs supervision to be exercised in connection with any warehouse facility or transaction provided for in this part shall be in accordance with § 161.1 of this chapter. Independent of any need to appraise or classify merchandise, the port director may authorize a Customs officer to supervise any transaction or procedure at the bonded warehouse facility. Such supervision may be performed through periodic audits of the warehouse proprietor's records, quantity counts of goods in warehouse inventories, spot checks of selected

warehouse transactions or procedures or reviews of conditions of recordkeeping, storage, security, or safety in a warehouse facility.

(b) *Proprietor responsibility and supervision.*—(1) *Supervision.* The proprietor shall supervise all transportation, receipts, deliveries, sampling, recordkeeping, repacking, manipulation, destruction, physical and procedural security, conditions of storage, and safety in the warehouse as required by law and regulations. Supervision by the proprietor shall be that which a prudent manager of a storage and manipulation facility would be expected to exercise.

(2) *Customs access.* The warehouse proprietor shall permit access to the warehouse by any Customs officer.

(3) *Safekeeping of merchandise and records.* The proprietor is responsible for safekeeping of merchandise and records concerning merchandise entered in Customs bonded warehouses. The proprietor or his employees shall safeguard and shall not disclose proprietary information contained in or on related documents to anyone other than the importer, importer's transferee, or owner of the merchandise to whom the document relates or their authorized agent.

(4) *Records maintenance.*—(i) *Maintenance.* The proprietor shall:

(A) Maintain the inventory control and recordkeeping system in accordance with the provisions of § 19.12 of this part;

(B) Retain all records required in this part and defined in § 162.1(a) of this chapter, pertaining to bonded merchandise for 5 years after the date of the final withdrawal under the entry; and

(C) Protect proprietary information in its custody from unauthorized disclosure.

(ii) *Availability.* Records shall be readily available for Customs review at the warehouse. In addition, a proprietor may keep records at another location for Customs review, but only if the proprietor first receives written approval for such storage from the port director.

(5) *Record retention in lieu of originals.* A warehouse proprietor may utilize alternative storage methods in lieu of maintaining records in their original formats, if such storage is approved by Customs under paragraph (b)(5)(i) of this section. For Customs purposes, original records may be stored in alternate form at any time after the final withdrawal under the entry to which these records pertain, except that duty-free store operators may store original sales tickets in alternate form at

any time beginning six months after date of sale. If the proprietor chooses to use alternative storage methods, the following conditions must be met:

(i) *Approval.* The proprietor may request approval to maintain records in an alternative format by writing and describing the system of storage, the conversion techniques used and the security safeguards to be employed to prevent alteration, to the director of the regulatory audit field office closest to the party's headquarters operation. If satisfied that the alternative storage proposed will ensure the accuracy and availability of the records when required, the director will grant written approval.

(ii) *Retention of reproductions.* The proprietor shall retain and keep available an original and one duplicate of each microfilm, microfiche, cd ROM (compact disk, Read-Only Memory), or other storage medium used, for five years from the date of the final withdrawal under the entry to which these records pertain. Duty-free store operators must keep alternate storage media containing sales tickets for five years from the date of the final withdrawal or five years from the date of the sale, whichever is shorter.

(iii) *Hard-copy reproductions.* The proprietor must have the capability of making direct hard-copy reproductions of the data stored on the microfilm, microfiche, cd ROM, or other storage medium. The proprietor shall bear the expense of making hard-copy reproductions of any or all records required by any proper official of the U.S. Customs Service for the audit or inspection of books and records.

(iv) *Standards required for reproducing records.* Proprietors shall maintain the integrity of the original records by insuring that copies are true reproductions of the original records and serve the purpose for which such records were created. The following shall be observed: Copies shall contain all significant record detail shown on the original; copies of the record shall be so arranged, identified, and indexed that any individual document or component of the records can be located with reasonable facility; any indexes, registers, or other finding aids shall be contained on the storage medium at the beginning of the records to which they relate; each time reproductions are made, a written certification will be executed by a responsible company official (see § 191.6(a) of this chapter; the same parties who have authority to sign drawback documents are "responsible company officials" for purposes of this section), stating that the reproductions stored on the microfilm,

microfiche, cd ROM, or other storage medium constitute a true, complete and accurate reproduction of the original documents; and the proprietor shall maintain and make available a manual describing procedures for reproducing original records on alternative storage media and controls in effect for assuring completeness and accuracy of the reproductions. The procedures shall incorporate reasonable controls for assuring accuracy and completeness of alternative records. The proprietor is responsible for assuring that these controls are executed each time original records are reproduced.

(v) *Revocation of alternative record storage method.* Failure to maintain the records in accordance with these conditions and requirements will constitute a breach of the proprietor's bond and may result in the revocation by Customs of the privilege of maintaining records in a form other than the original format.

(6) *Warehouse and merchandise security.* The warehouse proprietor shall maintain the warehouse facility in a safe and sanitary condition and establish procedures adequate to ensure the security of all merchandise under Customs custody stored in the facility. The warehouse construction will be a factor that will be considered by the port director in deciding whether to approve the application. The facility shall be built in such a manner as to render it impossible for unauthorized personnel to enter the premises without such violence as to make the entry easy to detect. If a portion of the facility is to be used for the storage of non-bonded merchandise, the port director shall designate the means for effective separation of the bonded and non-bonded merchandise, such as a wall, fence, or painted line. All inlets and outlets to bonded tanks shall be secured with locks and/or in-bond seals.

(7) *Storage conditions.* Merchandise in the bonded area shall be stored in a safe and sanitary manner to minimize damage to the merchandise, avoid hazards to persons, and meet local, state, and Federal requirements applicable to specific kinds of goods. Aisles shall be established and maintained, and doors and entrances left unblocked for access by Customs officers and warehouse proprietor personnel.

(8) *Manner of storage.* Packages shall be received in the warehouse and recorded in the proprietor's inventory and accounting records according to their marks and numbers. Packages containing weighable or gaugeable merchandise not bearing shipping marks and numbers shall be received

under the weighers or gaugers numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality of contents shall be stored separately until the discrepancy is resolved with Customs. Merchandise received in the warehouse shall be stored in a manner directly identifying the merchandise with the entry, general order, or seizure number; using a unique identifier for inventory categories composed of fungible merchandise accounted for on a First-In-First-Out (FIFO) basis; or using a unique identifier for inventory categories composed of fungible merchandise accounted for using another approved alternative inventory method.

(i) *Direct identification.* The warehouse proprietor shall mark all shipments for identification, showing the general order or warehouse entry number or seizure number and the date of the general order, entry, or delivery ticket in the case of seizures. Containers covered by a given warehouse entry, general order or seizure shall not be mixed with goods covered by any other entry, general order or seizure. Merchandise covered by a given warehouse entry, general order or seizure may be stored in multiple locations within the warehouse if the proprietor's inventory control system specifically identifies all locations where merchandise for each entry, general order or seizure is stored and the quantity in each location. The proprietor must provide, upon request by a Customs officer, a record balance of goods, specifying the quantity in each storage location, covered by any warehouse entry, general order, or seizure so a physical count can be made to verify the accuracy of the record balance.

(ii) *FIFO.* A proprietor may account for fungible merchandise on a First-In-First-Out (FIFO) basis instead of specific identification by warehouse entry number, provided the merchandise meets the criteria for fungibility and the recordkeeping requirements contained in § 19.12 of this part are met. As of the beginning date of FIFO procedures, each kind of fungible merchandise in the warehouse under FIFO shall constitute a separate inventory category. Each inventory category shall be assigned a unique number or other identifier by the proprietor to distinguish it from all other inventory categories under FIFO. All of the merchandise in a given inventory category shall be physically placed so as to be segregated from merchandise under other inventory categories or merchandise accounted for under other inventory methods. The unique identifier shall be marked on the

merchandise, its container, or the location where it is stored so as to clearly show the inventory category of each article under FIFO procedures. Merchandise covered by a given unique identifier may be stored in multiple locations within the warehouse if the proprietor's inventory control system specifically identifies all locations where merchandise for a specific unique identifier is stored and the quantity in each location. The proprietor must provide, upon request by a Customs officer, a record balance of goods, specifying the quantity in each storage location, covered by any warehouse entry, general order, or seizure so a physical count can be made to verify the accuracy of the record balance.

(iii) *Other alternative inventory methods.* Other alternative inventory systems may be used, if Customs approval is obtained. Importers or proprietors who wish to use an alternative inventory method other than FIFO must apply to Customs Headquarters, Office of Regulations and Rulings, for approval.

(9) *Miscellaneous responsibilities.* The proprietor is responsible for complying with requirements for transport to his warehouse, deposit, manipulation, manufacture, destruction, shortage or overage, inventory control and recordkeeping systems, and other requirements as specified in this part.

5. It is proposed to amend § 19.6 by revising the fourth sentence of paragraph (a)(1), paragraph (d)(1), and the sixth sentence of paragraph (d)(2), by redesignating paragraph (d)(4) as (d)(5) and by adding a new paragraph (d)(4), to read as follows:

§ 19.6 Deposits, withdrawals, blanket permits to withdraw and sealing requirements.

(a)(1) *Deposit in warehouse.* * * * A copy of any joint report of discrepancy shall be made within five business days of agreement and provided to the port director on the appropriate cartage documents as set forth in § 125.31 of this chapter. * * *

* * * * *

(d) *Blanket permits to withdraw.* (1) *General.* (i) Blanket permits may be used to withdraw merchandise from bonded warehouses for:

(A) Delivery to individuals departing directly from the Customs territory for exportation under the sales ticket procedure of § 144.37(h) of this chapter (Class 9 warehouses only);

(B) Aircraft or vessel supplies under section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317); or

(C) The personal or official use of personnel of foreign governments and

international organizations set forth in subpart I, part 148 of this chapter; or

(D) A combination of the foregoing.

(ii) Blanket permits to withdraw may be used only for delivery at the port where withdrawn and not for transportation in bond to another port, except for a withdrawal for transportation to another port by a duty-free sales enterprise which meets the requirements for exemption as stated in § 144.34(c) of this chapter. Blanket permits to withdraw may not be used for delivery to a location for retention or splitting of shipments under the provisions of § 18.24 of this chapter. A withdrawer who desires a blanket permit shall state in capital letters on the warehouse entry, or on the warehouse entry/entry summary when used as an entry, that "Some or all of the merchandise will be withdrawn under blanket permit per section 19.6(d), C.R." Customs acceptance of the entry will constitute approval of the blanket permit. A copy of the entry will be delivered to the proprietor, whereupon merchandise may be withdrawn under the terms of the blanket permit. The permit may be revoked by the port director in favor of individual applications and permits if the permit is found to be used for other purposes, or if necessary to protect the revenue or properly enforce any law or regulation Customs is charged with administering. Merchandise covered by an entry for which a blanket permit was issued may be withdrawn for purposes other than those specified in this paragraph if a withdrawal is properly filed as required in subpart D, part 144, of this chapter.

(2) *Withdrawals under blanket permit.*

* * * A copy of the withdrawal shall be retained in the records of the proprietor as provided in § 19.12(d)(4) of this part.

* * *

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(4) *Withdrawals under blanket permit for aircraft or vessel supplies.* Multiple withdrawals under a blanket permit for aircraft or vessel supplies, if consigned to the same daily aircraft flight number or vessel sailing, may be filed on one Customs Form 7512; however, an attachment form, developed by the warehouse proprietor and approved by the port director may be used for all withdrawals. This attachment form shall provide a sufficient summary of the goods being withdrawn, and shall include the warehouse entry number, the quantity and weight being withdrawn, the Harmonized Tariff Schedule of the United States number(s), the value of the goods, import and export lading information,

the duty rate and amount, and any applicable Internal Revenue Tax Calculation, for each warehouse entry being withdrawn. A copy of Customs Form 7512 and the summary attachment must be attached to each permit file folder unless the warehouse proprietor qualifies for the permit file folder exemption under § 19.12(d)(4)(iii) of this part.

* * * * *

6. It is proposed to amend § 19.11 by revising paragraph (h) to read as follows:

§ 19.11 Manipulation in bonded warehouses and elsewhere.

* * * * *

(h) Merchandise which has been entered for warehouse and placed in a Class 9 warehouse (duty-free store) may be unpacked into its smallest irreducible unit for sale without a prior permit issued by the port director. The port director may issue a blanket permit to a duty-free store for up to one year permitting the destruction of merchandise covered by any entry and found to be nonsaleable, if the merchandise to be destroyed is valued at less than 5 percent of the value of the merchandise at entry or \$1250, whichever is less, in its undamaged condition. Such permit may be revoked in favor of a permit for each entry and/or destruction whenever necessary to assure proper destruction and protection of the revenue. The proprietor shall maintain a record of unpacking merchandise into saleable units and destruction of nonsaleable merchandise in its inventory and accounting records.

7. It is proposed to revise § 19.12 to read as follows:

§ 19.12 Inventory control and recordkeeping system.

(a) *Systems capability.* The proprietor shall maintain either manual or automated inventory control and recordkeeping systems or combination manual and automated systems capable of:

(1) Accounting for all merchandise transported, deposited, stored, manipulated, manufactured, smelted, refined, destroyed in or removed from the bonded warehouse and all merchandise collected by a proprietor or his agent for transport to his warehouse. The records shall provide an audit trail from deposit through manipulation, manufacture, destruction, and withdrawal from the bonded warehouse either by specific identification or other Customs authorized inventory method. The records to be maintained are those which a prudent businessman in the

same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and correctness of his annual submission or reconciliation;

(2) Producing accurate and timely reports and documents as required by this part; and

(3) Identifying shortages and overages of merchandise in sufficient detail to determine the quantity, description, tariff classification and value of the missing or excess merchandise so that appropriate reports can be filed with Customs on a timely basis.

(b) *Procedures manual.* (1) The proprietor shall have available at the warehouse an English language copy of its written inventory control and recordkeeping systems procedures manual in accordance with the requirements of this part.

(2) The proprietor shall keep current its procedures manual and shall submit to the port director a new certification at the time any change in the system is implemented.

(c) *Entry of merchandise into a warehouse.*—(1) *Identification.* All merchandise collected by a proprietor or his agent for transport to his warehouse shall be receipted. In addition, all merchandise entered in a warehouse will be recorded in a receiving report or document using a Customs entry number or unique identifier if an alternate inventory control method has been approved. All merchandise will be traceable to a Customs entry and supporting documentation.

(2) *Quantity verification.* Quantities received will be reconciled to a receiving report or document such as an invoice with any discrepancy reported to the port director as provided in § 19.6(a).

(3) *Recordation.* Merchandise received will be accurately recorded in the accounting and inventory system records from the receiving report or document using the Customs entry number or unique identifier if an alternative inventory control method has been approved.

(d) *Accountability for merchandise in a warehouse.*—(1) *Identification of merchandise.* The Customs entry number or unique identifier, as applicable under § 19.4(b)(8), will be used to identify and trace merchandise.

(2) *Inventory records.* The inventory records will specify by Customs entry number or unique identifier if an alternative inventory control method is approved:

(i) The location of the merchandise within the warehouse;

(ii) The cost or value of the merchandise, unless the proprietor's financial records maintain cost or value and the records are made available for Customs review; and

(iii) The beginning balance, cumulative receipts and withdrawals, adjustments, destructions, and current balance on hand by date and quantity.

(3) *Theft, shortage, overage or damage.* Any theft or suspected theft or overage or any extraordinary shortage or damage (one percent or more of the value of the merchandise in an entry or covered by a unique identifier; or if the missing merchandise is subject to duties and taxes in excess of \$100) shall be immediately brought to the attention of the port director, and confirmed in writing within five business days after the shortage, overage, or damage has been brought to the attention of the port director. An entry for warehouse must be filed for all overages by the person with the right to make entry within five business days of the date of discovery. The applicable duties, taxes and interest on thefts and shortages so reported shall be paid by the responsible party to Customs within 20 calendar days following the end of the calendar month in which the shortage is discovered. The port director may allow the consolidation of duties and taxes applicable to multiple shortages into one payment. These same requirements shall apply when cumulative thefts, shortages or overages under a specific entry or unique identifier total one percent or more of the value of the merchandise or if the duties and taxes owed exceed \$100. Upon identification, the proprietor shall record all shortages and overages in its inventory control and recordkeeping system, whether or not they are required to be reported to the port director at the time. The proprietor shall also record all shortages and overages as required in the Customs Form 300 or annual reconciliation report under paragraphs (f) or (g) of this section, as appropriate. Duties and taxes applicable to any non-extraordinary shortage or damage and not required to be paid earlier shall be submitted to the port director at the time the Warehouse Proprietor's Submission, Customs Form 300 is due or at the time the certification of preparation of the annual reconciliation report is due, as prescribed in paragraphs (g) and (h) of this section.

(4) *Permit file folders.*—(i) Maintenance. Permit file folders shall be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, withdrawals, removals and blanket permit summaries within five business days after the event

occurs. The permit file folders shall be kept in a secure area and shall be made available for inspection by Customs at all reasonable hours.

(ii) *Review.* When the final withdrawal of merchandise relating to a specific warehouse entry, general order or seizure occurs, the warehouse proprietor shall: Review the permit file folder to ensure that all necessary documentation is in the file folder accounting for the merchandise covered by the entry; notify Customs of any merchandise covered by the warehouse entry, general order or seizure which has not been withdrawn or removed; and file the permit file folder with Customs within 30 calendar days after final withdrawal, except as allowed by paragraph (b)(4)(iv) of this section. The permit file folder for merchandise not withdrawn during the general order period shall be submitted to the port director upon receipt from Customs of the Customs Form 6043.

(iii) *Exemption to maintenance requirement.* Maintenance of permit file folders will not be required, if the proprietor has an automated system capable of: satisfactorily summarizing all actions by Customs warehouse entry; providing upon demand by Customs an entry activity summary report which lists all individual receipts, withdrawals, destructions, manipulations and adjustments by warehouse entry and is cross-referenced to the source documents for each transaction; and maintaining source documents so that the documents can be readily retrieved upon request. Failure to provide the entry activity summary report or documentation supporting the entry activity summary report upon demand by the port director or the field director of regulatory audit could result in reinstatement by the port director of the requirement to maintain the permit file folder for all warehouse entries. When final withdrawal is made, the proprietor must submit the entry activity summary report to Customs. Prior to submission, the proprietor must ensure the accuracy of the summary report and assure that all supporting documentation is on file and available for review if requested by Customs.

(iv) *Exemption to submission requirement.* At the discretion of the port director, a proprietor may be allowed to furnish formal notification of final withdrawal in lieu of the requirement to submit the permit file folder or entry activity summary within 30 calendar days of each final withdrawal. If approved to use this procedure the proprietor could be required by the port director to submit permit file folders or entry activity

summaries on a selective basis. Failure to promptly provide the permit file folder or entry activity summary upon request by the port director or the field director of regulatory audit could result in withdrawal of this privilege.

(5) *Physical inventory.* The proprietor shall take at least an annual physical inventory of all merchandise in the warehouse, or periodic cycle counts of selected categories of merchandise such that each category is counted at least once during the year, with prior notification of the date(s) given to Customs so that Customs personnel may observe or participate in the inventory if deemed necessary. If the proprietor of a Class 2 or Class 9 warehouse has merchandise covered by one warehouse entry, but stored in multiple warehouse facilities as provided for under § 144.34 of this chapter, the facility where the original entry was filed must reconcile the on-hand balances at all locations with the record balance for those entries with merchandise in multiple locations. The proprietor shall notify the port director of any discrepancies, record appropriate adjustments in the inventory control and recordkeeping system, and make required payments and entries to Customs, in accordance with paragraph (d)(3) of this section. Discrepancies found in a Class 9 warehouse with integrated locations as set forth in § 19.35(c) will be the net discrepancies for a specific identifier such that overages within one sales location will be offset against shortages in another location that is within the integrated location. A Class 9 proprietor who transfers merchandise between facilities in different ports without being required to file a rewarehouse entry in accordance with § 144.34 of this chapter may offset overages and shortages within the same specific identifier for merchandise located in stores in different ports.

(e) *Withdrawal of merchandise from a warehouse.* All bonded merchandise withdrawn from a warehouse will be accurately recorded within the inventory control and recordkeeping system. The inventory control and recordkeeping system must have the capability to trace all withdrawals back to a Customs entry and to ultimate disposition of the merchandise by the proprietor.

(f) *Special provisions for use of FIFO inventory procedures.*—(1) *Notification.* A proprietor who wishes to use FIFO procedures for all or part of the merchandise in a bonded warehouse shall provide the port director a written certification that: the proprietor has read and understands Customs FIFO procedures set forth in this section; the

proprietor's procedures are in accordance with Customs FIFO procedures, and the proprietor agrees to abide by those procedures; and the proprietor of a public warehouse will obtain the written consent of any importer using the warehouse before applying FIFO procedures to their merchandise.

(2) *Qualifying merchandise.* FIFO inventory procedures may be used only for fungible merchandise. For purposes of this section, "fungible merchandise" means merchandise which is identical and interchangeable for all commercial purposes. While commercial interchangeability is usually decided between buyer and seller or between proprietor and importer, Customs is the final arbiter of fungibility in bonded warehouses. The criteria for determining whether merchandise is fungible include, but are not limited to, Governmental and recognized industrial standards, part numbers, tariff classification, value, brand name, unit of quantity (such as barrels, gallons, pounds, pieces), model number, style and same kind and quality.

(3) *Merchandise specifically excluded.* FIFO procedures cannot be applied to the following merchandise, as well as any other merchandise which does not comply with the requirements of paragraph (f)(2) of this section:

(i) Merchandise subject to quota, visa or export restrictions chargeable to different countries of origin;

(ii) Textile and textile products of different quota categories;

(iii) Merchandise with different tariff classifications or rates of duty, except where the difference is within the merchandise itself (such as kits, merchandise in unusual containers) or where the tariff classification or dutiability is determined only by conditions upon withdrawal (for example, withdrawal for vessel supplies, bonded wool transactions);

(iv) Merchandise with different legal requirements for marking, labelling or stamping;

(v) Merchandise with different trademarks;

(vi) Merchandise of different grades or qualities;

(vii) Merchandise with different importers of record;

(viii) Damaged or deteriorated merchandise;

(ix) Restricted merchandise; or

(x) General order, abandoned or seized merchandise.

(4) *Maintenance of FIFO.* FIFO procedures used for merchandise in any inventory category, must be used consistently throughout the warehouse storage and recordkeeping practices and

procedures for the merchandise. For example, merchandise may not be added to inventory by FIFO but withdrawn by bypassing certain inventory layers to reach a specific warehouse entry other than the oldest one. However, this does not preclude the use of specific identification for some merchandise in a warehouse entry and FIFO for other merchandise, so long as they are segregated in physical storage and clearly distinguished in the inventory and accounting records.

(5) *FIFO recordkeeping.* In the inventory and accounting records, the proprietor shall establish an inventory layer for each warehouse entry represented in each inventory category. The layers shall be established in the order of time of acceptance of the entry or by the date of importation of merchandise covered by each applicable warehouse entry. There shall be no mixing of layering both by time of acceptance and date of importation in the same warehouse. Records for each layer shall, as a minimum, show the warehouse entry number, date of acceptance, date of importation, quantity and unit of quantity. They shall also show for each entry the type of warehouse withdrawal number or other specific removal event charged against the entry, by date and quantity. Each addition to or deduction from the inventory category shall be posted in the appropriate inventory category within 2 business days after the event occurs. All FIFO records and documentation shall consistently use the same unit of quantity within each inventory category.

(6) *Entry requirements.* Warehouse entries covering any merchandise to be accounted for under FIFO must be prominently marked "FIFO" on the face of the entry document. The entry document or an attachment thereto shall show the unique identifier of each inventory category to be accounted for under FIFO, the quantity in each inventory category and the unit of quantity.

(7) *Receipts.* Any shortages, overages, or damage found upon receipt shall be attributed to the entry under which the merchandise was received. FIFO procedures will not take effect until the merchandise is physically placed in the storage location for the inventory category represented in the entry.

(8) *Manipulation.* When manipulation results in a product with a different unique identifier, the inventory and accounting records shall show the quantities of merchandise in each inventory category appearing in the product covered by the new unique identifier. The withdrawal shall show the unique identifiers of both the

materials used in the manipulation and the product as manipulated. The quantities of the original unique identifiers will be deducted from their respective warehouse entries on a FIFO basis when the resultant product is withdrawn.

(9) *Discontinuance of FIFO.* A proprietor may voluntarily discontinue the use of FIFO procedures for all or part of the merchandise currently under FIFO by providing written notification to the port director. The notification shall clearly describe the merchandise, by commercial names and unique identifiers, to be removed from FIFO. Following notification, the merchandise shall be segregated in both the recordkeeping system and the physical location by warehouse entry number and the quantities so removed shall be deducted from the appropriate FIFO inventory category balances. Merchandise so removed shall be maintained under the specific identification inventory method. FIFO procedures which were voluntarily discontinued may be reinstated, but not for merchandise covered by any warehouse entry for which FIFO was discontinued.

(g) *Warehouse proprietor submission.* Except as otherwise provided in paragraph (h) of this section or § 19.19(b) of this part, the warehouse proprietor shall file with the field director of regulatory audit within 45 calendar days from the end of his business year a Warehouse Proprietor's Submission on Customs Form 300. If the proprietor of a Class 2 or Class 9 warehouse has merchandise covered by one warehouse entry, but stored in multiple warehouse facilities as provided for under § 144.34 of this chapter, the CF 300 shall cover all locations and warehouses of the proprietor. An alternative format may be used for providing the information required on the CF 300, if prior written approval is obtained from the field director of regulatory audit.

(h) *Annual reconciliation.*—(1) *Report.* Instead of filing Customs Form 300 as required under paragraph (g) of this section, the proprietor of a class 2, importers' private bonded warehouse, and proprietors of classes 4, 5, 6, 7, 8, and 9 warehouses if the warehouse proprietor and the importer are the same party, shall prepare a reconciliation report within 90 days after the end of the fiscal year unless the port director authorizes an extension for reasonable cause. The proprietor shall retain the annual reconciliation report for 5 years from the end of the fiscal year covered by the report. The report must be available for a spot check or audit by

Customs, but need not be furnished to Customs unless requested. There is no form specified for the preparation of the report.

(2) *Information required.* The report must contain the company name; address of the warehouse; class of warehouse; date of inventory or information on cycle counts; a description of merchandise for each entry or unique identifier, quantity on hand at the beginning of the year, cumulative receipts and transfers (by unit), quantity on hand at the end of the year, and cumulative positive and negative adjustments (by unit) made during the year. If the proprietor of a Class 2 or Class 9 warehouse has merchandise covered by one warehouse entry, but stored in multiple warehouse facilities as provided for under § 144.34 of this chapter, the reconciliation shall cover all locations and warehouses of the proprietor at the same port. If the annual reconciliation includes entries for which merchandise was transferred to a warehouse without filing a rewarehouse entry, as allowed under § 144.34, the annual reconciliation must contain sufficient detail to show all required information by location where the merchandise is stored. For example, if merchandise covered by a single entry is stored in warehouses located in 3 different ports, the annual reconciliation should specify individually the beginning and ending inventory balances, cumulative receipts, transfers, and positive and negative adjustments for each location.

(3) *Certification.* The proprietor shall submit to the field director of regulatory audit within 10 business days after preparation of the annual reconciliation report, a letter signed by the proprietor certifying that the annual reconciliation has been prepared, is available for Customs review, and is accurate. The certification letter must contain the proprietor's IRS number; date of fiscal year end; the name and street address of the warehouse; the name, title, and telephone number of the person having custody of the records; and the address where the records are stored. Reporting of shortages and overages based on the annual reconciliation will be made in accordance with paragraph (d)(3) of this section. Any previously unreported shortages and overages should be reported to the port director and any unpaid duties, taxes and fees should be paid at this time.

(i) *System review.* The proprietor shall perform an annual internal review of the inventory control and recordkeeping system and shall prepare and maintain on file a report identifying any deficiency discovered and corrective

action taken, to ensure that the system meets the requirements of this part.

(j) *Special requirements.* A warehouse proprietor submission (CF 300) or annual reconciliation must be prepared for each facility or location as defined in §§ 19.2(a) and 19.35(c) of this part. When merchandise is transferred from one facility or location to another without filing a rewarehouse entry, as provided for in § 144.34(c) of this chapter, the submission/reconciliation for the warehouse where the entry was originally filed should account for all merchandise under the warehouse entry, indicating the quantity in each location.

8. It is proposed to amend § 19.13 by revising the fourth sentence of paragraph (g) to read as follows:

§ 19.13 Requirements for establishment of warehouses.

(g) *Secure storage.* * * * The areas for storage of bonded material and manufactured products shall be secured in accordance with the standards prescribed in § 19.4(b)(6) of this part.

9. It is proposed to amend § 19.13a by revising the first sentence of its introductory text and by revising paragraph (b) to read as follows:

§ 19.13a Recordkeeping requirements.

The proprietor of a manufacturing warehouse shall comply with the recordkeeping requirements of §§ 19.4(b) and 19.12.* * *

(b) Take an annual physical inventory of the merchandise as provided in § 19.12(d)(5) in conjunction with the annual submission required by § 19.12(g); and

10. It is proposed to amend § 19.35 by revising the introductory text of paragraph (c) and by revising paragraphs (c)(2) and (f) to read as follows:

§ 19.35 Establishment of duty-free stores (Class 9 warehouses).

(c) *Integrated locations.* A Class 9 warehouse with multiple noncontiguous sales and crib locations (see § 19.37(a) of this part) containing conditionally duty-free merchandise and requested by the proprietor may be treated by Customs as one location if:

(2) The recordkeeping system is centralized up to the point where a sale is made so as to automatically reduce the sale quantity by location from

centralized inventory or inventory records must be updated no less frequently than at the end of each business day to reflect that day's activity.

(f) *Security of sales rooms and cribs.* The physical and procedural security requirements of § 19.4(b)(6) of this part shall be applied to the security of the sales rooms and cribs by the port director. The proprietor shall establish procedures to safeguard the merchandise so as to accommodate the movement of purchasers and prospective purchasers of conditionally duty-free merchandise contained in duty-free sales rooms and cribs.

11. It is proposed to amend § 19.36 by revising the last sentence of paragraph (e) and the third sentence of paragraph (g) to read as follows:

§ 19.36 Requirements for duty-free store operations.

(e) *Merchandise eligible for warehousing.* * * * However, such merchandise must be either identified or marked "DUTY-PAID" or "U.S.-ORIGIN", or similar markings, as applicable, so that Customs officers can easily distinguish conditionally duty-free merchandise from other merchandise in the sales or crib area.

(g) *Inventory procedure.* * * * The inventory shall be reconcilable with the accounting and inventory records and the permit file folder requirements of § 19.12(d), (e) and (f) of this part. * * *

12. It is proposed to amend § 19.37 by revising the first and fourth sentences, and the fifth (and last) sentence of paragraph (a) to read as follows:

§ 19.37 Crib operations.

(a) *Crib.* A crib means a bonded area, separate from the storage area of a Class 9 warehouse, for the retention of a supply of articles for delivery to persons departing from the United States. * * * The quantity of goods in the crib may be an amount requested by the proprietor which is commercially necessary for the delivery operations for a period, if approved by the port director. The port director may increase or decrease the quantity as deemed necessary for the protection of the revenue and proper administration of U.S. laws and regulations, or may order the return to the storage area of goods remaining unsold.

13. It is proposed to amend § 19.39 by removing the last three sentences of

paragraph (c)(2); it is further proposed to amend § 19.39 by revising the first sentence of paragraph (c)(3), by redesignating paragraphs (c)(4)(ii), (c)(4)(iii) and (c)(4)(iv), as (c)(4)(iii), (c)(4)(iv) and (c)(4)(v), respectively, and adding a new paragraph (c)(4)(ii), and by revising paragraphs (c)(5) and (e), to read as set forth below:

§ 19.39 Delivery for exportation.

* * * * *

(c) * * *

(3) *Aircraft Delivery.* The merchandise will be delivered by a licensed cartman for lading as baggage directly on the aircraft on which the passenger will depart. * * *;

(4) Unit-load delivery. * * *

(ii) Merchandise shall be placed on the aircraft on which the passenger departs the United States for carriage as passenger baggage;

* * * * *

(5) *Cancelled or aborted flights or no-show passengers.* (i) *Cancelled or aborted flights.* The proprietor shall, upon request, make available to Customs the purchaser's name and address, the purchaser's airline ticket number and the identity and quantity of the merchandise delivered by the proprietor to the purchaser (if the merchandise was delivered to the airline rather than the passenger, the name of the airline employee to whom the merchandise was delivered), and the date and time of that delivery in lieu of retrieving the merchandise for safekeeping until the purchaser actually departs.

(ii) *No-show passengers.* A proprietor who delivers merchandise directly to an airline for delivery to a passenger who does not board the flight shall establish a procedure to obtain redelivery of that merchandise from the airline.

* * * * *

(e) *Delivery method.* Delivery of conditionally duty-free merchandise to persons for exportation will be made by licensed cartmen or bonded carriers under the procedures in subpart D, part 125, and § 144.34(a), of this chapter, or under a local control system approved by the port director wherein any discrepancy found in the merchandise will be treated as if it occurred in the bonded warehouse.

* * * * *

PART 113—CUSTOMS BONDS

1. The general authority citation for part 113 would continue to read as follows:

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

* * * * *

2. It is proposed to amend § 113.63 by redesignating paragraph (a)(4) as (a)(5) and adding a new paragraph (a)(4), by adding a new paragraph (b)(4), and by revising the first sentence of paragraph (d), to read as follows:

§ 113.63 Basic custodial bond conditions.

(a) * * *

(4) If authorized to use the alternative transfer procedure set forth in § 144.34(c) of this chapter, to operate as constructive custodian for all merchandise transferred under those procedures, thereby assuming primary responsibility for the continued proper custody of the merchandise notwithstanding its geographical location;

* * * * *

(b) * * *

(4) If authorized to use the alternative transfer procedure set forth in § 144.34(c) of this chapter, to keep safe any merchandise so transferred.

* * * * *

(d) * * * If the principal is designated a bonded carrier, or licensed to operate a cartage or lighterage business, or authorized to use the alternative transfer procedure set forth in § 144.34(c) of this chapter, the principal agrees to redeliver timely, on demand by Customs, any merchandise delivered to unauthorized locations or to the consignee without the permission of Customs. * * *

* * * * *

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. The general authority citation for part 144 and the specific authority for § 144.37 would continue to read as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1624;

* * * * *

Section 144.37 also issued under 19 U.S.C. 1555, 1562.

2. It is proposed to amend § 144.34 by adding a new paragraph (c) to read as follows:

§ 144.34 Transfer to another warehouse.

* * * * *

(c) *Transfers between integrated bonded warehouses.*—(1) *Eligibility.*

(i) Only an importer who will transfer warehoused merchandise among Class 2 and 9 warehouses listed on the application in paragraph (c)(2) of this section is eligible to participate.

(ii) The importer must have a centralized inventory control system that shows the location of all of the

warehoused merchandise at all times, including merchandise in transit.

(iii) The importer and its surety must sign the application. If the application to use this alternative procedure is approved by the appropriate port director, the importer's entry bond containing the conditions provided under § 113.62 of this chapter will continue to attach to any merchandise transferred under these alternative procedures.

(iv) Each proprietor of a warehouse listed on the application and each surety who underwrites that proprietor's custodial bond coverage under § 113.63 of this chapter shall sign the application.

(2) *Application.* Application must be made in writing to the port director of the port in which the applicant's centralized inventory control system exists, with copies to all affected port directors, for exemptions from the requirements for transfer of merchandise from one bonded warehouse to another set forth in paragraphs (a) and (b) of this section. The application must list all bonded warehouses to and from which the merchandise may be transferred; all such warehouses must be covered by the same centralized inventory control system. Only blanket exemption requests will be considered; exemptions will not be considered for individual transfers. The application may be in letter form, signed by all participants, and contain a certification to the port director by the applicant that he maintains accounting records, documents and financial statements and reports that adequately support Customs activities.

(3) *Operation.* An importer who receives approval to transfer merchandise between bonded warehouses in accordance with the provisions of this section may, after entry into the first warehouse, transfer that merchandise to any other warehouse without filing a withdrawal from warehouse or a rewarehouse entry. The warehoused merchandise will be treated as though it remains in the first warehouse so long as the actual location of the merchandise at all times is recorded as provided under the provisions of this section.

(4) *Inventory control requirements.* The records required to be maintained must include a centralized inventory control system and supporting documentation which meets the following requirements:

(i) Provide Customs upon demand with the proper on-hand balance of each inventory item in each warehouse

facility and each storage location within each warehouse;

(ii) Provide Customs upon demand with the proper on-hand balance for each open warehouse entry and the actual quantity in each warehouse facility;

(iii) If an alternative inventory system has been approved, provide Customs upon demand with the proper on-hand balance for each unique identifier and the quantity related to each open warehouse entry and the quantity in each warehouse facility;

(iv) Maintain documentation for all intracompany movements, including authorizations for the movement, shipping documents and receiving reports. These documents must show the appropriate warehouse entry number or unique identifier, the description and quantity of the merchandise transferred, and must be properly authorized and signed evidencing shipment from and delivery to each location;

(v) Maintain a consolidated permit file folder at the location where the merchandise was originally warehoused. The consolidated permit file folder must meet the requirements of § 19.12(d)(4) of this chapter regardless of the warehouse facility in which the action occurred. Documentation for all intracompany movements, including authorizations for movement, shipping documents, receiving reports, as well as documentation showing ultimate disposition of the merchandise must be filed in the consolidated permit file folder within seven business days; and

(vi) Maintain a subordinate permit file at all intracompany locations where merchandise is transferred containing copies of documentation required by § 19.12(d)(4) of this chapter and by paragraph (c)(3)(v) of this section relating to merchandise quantities transferred to the location. A copy of all documents in the subordinate permit file folder must be filed in the consolidated permit file folder within seven business days; no exceptions will be granted to this requirement. When the final withdrawal is made on the respective entry, the subordinate permit file shall be considered closed and filed at the intracompany location to which the merchandise was transferred.

(vii) File the withdrawal from Customs custody at the original warehouse location at which the merchandise was entered.

(5) *Waiver of permit file folder requirements.* The permit file folder requirements of paragraphs (c)(3)(v) and (c)(3)(vi) of this section may be waived if the proprietor's recordkeeping and inventory control system qualifies under

the requirements of § 19.12(d)(4)(iii) of this chapter at all locations where bonded merchandise is stored.

(6) *Procedure not available.* (i) *Liens.* The transfer procedures permitted under paragraph (c) of this section shall not be available for merchandise with respect to which Customs is notified of the existence of a lien, as prescribed in § 141.112 of this chapter (see 19 U.S.C. 1564), until proof shall be produced at the original warehouse location that the lien has been satisfied or discharged.

(ii) *Restricted merchandise.* Merchandise subject to a restriction on release such as covered by a licensing, quota or visa requirement, is not eligible.

3. It is proposed to amend § 144.36 by revising paragraphs (c) and (f), and by adding the word "or" at the end of paragraph (g)(5) and adding a new paragraph (g)(6) thereafter, to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(c) *Form.* (1) A withdrawal for transportation shall be filed on Customs Form 7512 in five copies. An extra copy or copies of the Customs Form 7512 may be required for use in connection with the delivery of the merchandise to the bonded carrier and, in the case of alcoholic beverages, two extra copies shall be required for use in furnishing the duty statement to the port director at destination.

(2) Separate withdrawals for transportation from a single warehouse, via a single conveyance, consigned to the same consignee, and deposited into a single warehouse, can be filed on one Customs Form 7512, under one control number, provided that there is an attachment, to be certified by a Customs officer, providing the information for each withdrawal, as required in paragraph (d) of this section. This procedure shall not be allowed for merchandise which is in any way restricted (for example, quota/visa).

(3) The requirement that a Customs Form 7512 be filed and the information required in paragraph (d) of this section be shown shall not be required if the merchandise qualifies under the exemption in § 144.34(c).

* * * * *

(f) *Forwarding procedure.* The merchandise shall be forwarded in accordance with the general provisions for transportation in bond (§§ 18.1 through 18.8 of this chapter). However, when the alternate procedures under § 144.34(c) are employed, the merchandise need not be delivered to a bonded carrier for transportation, and an entry for transportation (Customs

Form 7512) and a rewarehouse entry will not be required.

(g) *Procedure at destination.* * * * (5) * * *; or

(6) Deposited into the proprietor's bonded warehouse or duty free store warehouse without rewarehouse entry as required in § 144.41, if the merchandise qualifies for the exemption specified in § 144.34(c).

* * * * *

4. It is proposed to amend § 144.37 by revising paragraph (h)(2)(v), and by revising the fourth sentence and the sixth (and last) sentence of paragraph (h)(3), concluding text, to read as follows:

§ 144.37 Withdrawal for exportation.

* * * * *

(h) * * *

(2) * * *

(v) The full name and address of the purchaser. However, the port director may waive the address requirement for all merchandise except for alcoholic beverages in quantities in excess of 4 liters and cigarettes in quantities in excess of 3 cartons; and

* * * * *

(3) *Sales ticket register.* * * * The sales ticket register shall be included in the permit file folder with or in lieu of the blanket permit summary, as provided in § 19.6(d)(5) of this chapter. * * * In lieu of placing a copy of sales tickets in each permit file folder, the warehouse proprietor may keep all sales tickets in a readily retrievable manner in a separate file.

5. It is proposed to amend § 144.39 by revising its first sentence to read as follows:

§ 144.39 Permit to transfer and withdraw merchandise.

With the exception of merchandise transferred under the procedures of § 144.34(c), if all legal and regulatory requirements are met, the appropriate Customs officer shall approve the application to transfer or withdraw merchandise from a bonded warehouse by endorsing the permit copy and returning it to the applicant. * * *

6. It is proposed to amend § 144.41 by revising paragraph (c) to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(c) *Combining Separate shipments.* (1) Separate shipments consigned to the same consignee and received under separate withdrawals for transportation may be combined into one rewarehouse entry if the warehouse withdrawals are from the same original warehouse entry.

(2) Shipments covered by multiple warehouse entries, and shipped from a

single warehouse under separate withdrawals for transportation, via a single conveyance, may be combined into one rewarehouse entry if consigned to the same consignee and deposited into a single warehouse. This procedure shall not be allowed for merchandise which is in any way restricted (for example, quota/visa). The combined rewarehouse entry shall have attached either copies of each warehouse entry package which is being combined into the single rewarehouse entry or a summary with pertinent information, that is, the date of importation, commodity description, size, HTSUS and entry numbers, for all entries withdrawn for consolidation as one rewarehouse entry. Any combining of separate withdrawals into one rewarehouse entry shall result in the rewarehouse entry being assigned the import date of the oldest entry being combined into the rewarehouse entry.

(3) Combining of separate shipments shall be prohibited in all other circumstances.

* * * * *

Michael H. Lane,
Acting Commissioner of Customs.

Approved: April 8, 1996.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 96-14125 Filed 6-5-96; 8:45 am]
BILLING CODE 4820-02-P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 351, 353 and 355

Antidumping Duties; Countervailing Duties

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Announcement of opportunity to file public comments on the public hearing of proposed antidumping and countervailing duty regulations.

SUMMARY: The Department of Commerce (the Department) is announcing the opportunity to file public comments on issues raised at the public hearing on the proposed antidumping and countervailing duty regulations. The deadline for filing comments is June 17, 1996. The public hearing will be held on June 7, 1996.

DATES: A public hearing will be held at 10:00 on June 7, 1996. The deadline for filing comments is June 17, 1996.

ADDRESSES: The public hearing will be held in the Auditorium of the Herbert C. Hoover Building at Pennsylvania

Avenue and 14th Street, N.W., Washington, D.C. Address written comments and requests to participate in the public hearing to Paul Joffe, Acting Assistant Secretary for Import Administration, Central Records Unit, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230. Comments on the proposed regulations should be addressed:

Attention: Hearing Comments. Each person submitting a comment should include his or her name, address, and give reasons for any recommendation.

FOR FURTHER INFORMATION CONTACT: Penelope Naas at (202) 482-3534.

SUPPLEMENTARY INFORMATION: On February 27, 1996, the Department published proposed antidumping and countervailing duty regulations (61 FR 7308). We will hold a public hearing on June 7, 1996. We are allowing submission of written comments on issues raised at the hearing. As well, we are allowing submission of written comments on any issue raised in written comments previously submitted.

Proposed Regulations

The proposed regulations are available on the Internet at the following address:

HTTP://WWW.ITA.DOC.GOV/IMPORT—
ADMIN/RECORDS/

In addition, the proposed regulations are available to the public on 3.5" diskettes, with specific instructions for accessing compressed data, at cost, and paper copies available for reading and photocopying in Room B-099 of the Central Records Unit. Any questions concerning file formatting, document conversion, access on Internet, or other file requirements should be addressed to Andrew Lee Beller, Director of Central Records, (202) 482-1248.

Format and Number of Copies

To simplify the processing and distribution of the public comments pertaining to the Department's proposed regulations, parties are encouraged to submit documents in electronic form accompanied by an original and three paper copies. All documents filed in electronic form must be on DOS formatted 3.5" diskettes, and must be prepared in either WordPerfect format or a format that the WordPerfect program can convert and import into WordPerfect. Please submit comments on a separate file on the diskette and labeled by the section number in the regulations. If possible, the Department would appreciate the documents being filed in either ASCII format or WordPerfect 5.1, and containing generic

codes. The Department would also appreciate the use of descriptive file names.

Dated: June 3, 1996.

Paul Joffe,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96-14308 Filed 6-5-96; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-26-94]

RIN 1545-AU34

Qualified Small Business Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations relating to the 50-percent exclusion for gain from certain small business stock. The proposed regulations reflect changes to the law made by the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and provide guidance to the issuers and owners of the stock of certain small businesses. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written comments and outlines of oral comments to be presented at the public hearing scheduled for October 3, 1996 must be received by September 4, 1996.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (IA-26-94), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (IA-26-94), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. The public hearing will be held in Room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Catherine A. Prohowsky at (202) 622-4930; concerning submissions and the public hearing, Christina Vasquez at (202) 622-7180; (not toll-free numbers).