

justifications for any changes to the listing.

\* \* \* \* \*

D. The book cost of gas plant retired shall be the amount at which such property is included in the gas plant accounts, including all components of construction costs. The book cost shall be determined from the utility's records and if this cannot be done it shall be estimated. Utilities must furnish the particulars of such estimates to the Commission, if requested. When it is impracticable to determine the book cost of each unit, due to the relatively large number or small cost thereof, an appropriate average book cost of the units, with due allowance for any differences in size and character, shall be used as the book cost of the units retired.

\* \* \* \* \*

7. In Part 201, Gas Plant Instruction 11, paragraph C is revised to read as follows:

11. *Work order and property record system required.*

\* \* \* \* \*

C. Each utility shall maintain records in which, for each plant account, the amounts of the annual additions and retirements are classified so as to show the number and cost of the various record units or retirement units.

#### **PART 216—UNITS OF PROPERTY FOR USE IN ACCOUNTING FOR ADDITIONS TO AND RETIREMENTS OF GAS PLANT**

8. Part 216 is removed.

#### **PART 352—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR OIL PIPELINE COMPANIES SUBJECT TO THE PROVISIONS OF THE INTERSTATE COMMERCE ACT**

9. The authority citation for Part 352 is revised to read as follows:

**Authority:** 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

10. In Part 352, Instructions for Carrier Property Accounts, instruction 3–2, *Minimum Rule* is removed. In instructions 3–5, introductory text, and 3–6(a), the phrase “subject to the minimum rule” is removed.

11. In Part 352, Instructions for Carrier Property Accounts, instruction 3–4, *Additions* is revised to read as follows:

3–4 *Additions*. Each carrier shall maintain a written property units listing for use in accounting for additions and retirements of carrier plant, apply the listing consistently, and if requested, furnish the Commission with justifications for any changes to the

listing. When property units are added to Carrier plant, the cost thereof shall be added to the appropriate carrier plant account as set forth in the policy.

12. In Part 352, Instructions for Carrier Property Accounts, instruction 3–7, *Retirements*, introductory text and paragraph (b)(1) are revised and new paragraph (c) is added to read as follows:

3–7 *Retirements*. When property units are retired from carrier plant, with or without replacement, the cost thereof and the cost of minor items of property retired and not replaced shall be credited to the carrier plant account in which it is included. The retirement of carrier property shall be accounted for as follows:

(a) \* \* \*

(b) Property. (1) The book cost, as set forth in paragraph (c) of this instruction, of units of property retired and of minor items of property retired and not replaced shall be written out of the property account as of date of retirement, and the service value shall be charged to account 31, Accrued Depreciation—Carrier Property.

\* \* \* \* \*

(c) The book cost of carrier property retired shall be determined from the carrier's records and if this cannot be done it shall be estimated. When it is impracticable to determine the book cost of each unit, due to the relatively large number or small cost thereof, an appropriate average book cost of the units, with due allowance for any differences in size and character, shall be used as the book cost of the units retired. Oil Pipelines must furnish the particulars of such estimates to the Commission, if requested.

13. In Part 352, Instructions for Carrier Property Accounts, instruction 3–14 *Accounting units of property* is removed.

[FR Doc. 97–20149 Filed 7–30–97; 8:45 am]  
BILLING CODE 6717–01–P

## **DEPARTMENT OF THE TREASURY**

### **Customs Service**

#### **19 CFR Parts 4, 122, 123, 148 and 192 RIN 1515–AB99**

#### **Lay Order Period; General Order; Penalties**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations to

require that the importing carrier notify a bonded warehouse proprietor of the presence of merchandise that has remained at the place of arrival or unloading beyond the lay order period without entry having been completed, thereby initiating the obligation of the bonded warehouse proprietor to arrange for transportation and storage of the unentered merchandise at the risk and expense of the consignee. The document also proposes to amend the Customs Regulations to provide for penalties against importing carriers for failure to notify Customs of the presence of such merchandise. These proposed regulatory changes reflect amendments to the underlying statutory authority enacted as part of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. Finally, the document makes certain conforming changes to the Customs Regulations in order to reflect a number of other statutory amendments and repeals enacted by the Customs Modernization provisions and in order to reflect the recent recodification and reenactment of title 49, United States Code.

**DATES:** Comments must be received on or before September 29, 1997.

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

**FOR FURTHER INFORMATION CONTACT:** Jeremy Baskin, Penalties Branch, Office of Regulations and Rulings (202) 482–6950.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 8, 1993, amendments to certain Customs and navigation laws became effective as the result of enactment of the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057. Title VI of that Act sets forth Customs Modernization provisions that are popularly referred to as the Mod Act.

Section 656 of the Mod Act amended section 448(a) of the Tariff Act of 1930 (19 U.S.C. 1448(a)) to provide, *inter alia*, that: (1) The owner or master of any vessel or vehicle, or the agent thereof, shall notify Customs of any merchandise or baggage unladen for which entry is not made within the time prescribed by law or regulation; (2) the

Secretary of the Treasury shall by regulation prescribe administrative penalties not to exceed \$1,000 for each bill of lading for which notice is not given; (3) any such administrative penalty shall be subject to mitigation and remission under section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618); and (4) such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 490 of the Tariff Act of 1930, as amended (19 U.S.C. 1490). This document proposes to revise paragraph (a) of § 4.37 of the Customs Regulations (19 CFR 4.37) and add new § 122.50 and § 123.10 (19 CFR 122.50 and 19 CFR 123.10) to implement these Mod Act statutory changes for air, land and sea carriers. Under the proposed regulatory text, importing carriers would be afforded a five-working-day lay order period after the conclusion of an initial five-working-day period after unloading or arrival of merchandise to notify Customs, in writing or by any Customs-authorized electronic data interchange system, of the presence of the unentered merchandise or baggage. Penalties may result if, after the five-day lay order period, Customs has not been notified of the presence of the merchandise. Applications for lay order will no longer be required on Customs Form 3171; the form will continue to be maintained for other purposes.

Section 658 of the Mod Act amended section 490 of the Tariff Act of 1930 (19 U.S.C. 1490) to provide that: (1) Except in the case of U.S. government importations, the importing carrier shall notify the bonded warehouse of any imported merchandise for which entry is not made within the time prescribed by law or regulation, or for which entry is incomplete because of failure to pay estimated duties, fees or interest, or for which entry cannot be made for want of proper documents or other cause, or which Customs believes is not correctly and legally invoiced; and (2) after such notification from the importing carrier, the bonded warehouse shall arrange for the transportation and storage of the merchandise at the risk and expense of the consignee. This document proposes to revise paragraph (b) of § 4.37 of the Customs Regulations and add §§ 122.50 and 123.10 to the Customs Regulations to implement these Mod Act statutory changes. The proposed regulatory text requires the carrier to provide the appropriate notification, in writing or by any Customs-authorized electronic data

interchange system, and also requires that the bonded warehouse operator take possession of the merchandise within five working days after receipt of such notification or else be liable for liquidated damages under the terms and conditions of his custodial bond (and with a cross-reference to 113.63(a)(1) of the Customs Regulations which Customs believes provides an appropriate basis for such liability). In addition, it is proposed to amend paragraph (d) of § 4.37 by replacing the word "owner" by "consignee" to align on the corresponding statutory language.

Section 611 of the Mod Act amended section 436 of the Tariff Act of 1930 (19 U.S.C. 1436), *inter alia*, by including therein a reference to 46 U.S.C. App. 91, with the result that penalties for violations of outbound vessel manifest filing requirements would be incurred under the provisions of 19 U.S.C. 1436 rather than under 46 U.S.C. App. 91. This document proposes to amend § 192.4 of the Customs Regulations (19 CFR 192.4) to reflect this change.

Section 690 of the Mod Act provided for the repeal of a number of statutory provisions, some of which are still referred to in parts 4 and 122 of the Customs Regulations (19 CFR parts 4 and 122). This document proposes to correct those outdated references by removing them or replacing them with references to their successor statutory provisions.

Finally, Pub. L. 103-272, 108 Stat. 745, dated July 5, 1994, reenacted and recodified the provisions of title 49, United States Code. Section 2(b) thereof reenacted as a new section (19 U.S.C. 1644a) certain title 49 provisions dealing with the application, to civil aircraft, of the laws and regulations regarding the entry and clearance of vessels. This document proposes to amend parts 122, 123 and 148 of the Customs Regulations (19 CFR parts 122, 123 and 148) by updating the "49 U.S.C. App." statutory references therein to reflect the changes made by section 2(b) or other provisions of Pub. L. 103-272.

#### Comments

Before adopting this proposed regulation as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch,

Office of Regulations and Rulings, U.S. Customs Service, Franklin Court, 1099 14th St. NW., 4th floor, Washington, DC.

#### Inapplicability of the Regulatory Flexibility Act and Executive Order 12866

For the reasons set forth above and because the proposed amendments conform the Customs Regulations to statutory requirements that are already in effect, pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Further, this document does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

#### List of Subjects

##### 19 CFR Part 4

Cargo vessels, Common carriers, Customs duties and inspection, Entry, Exports, Fishing vessels, Imports, Maritime carriers, Passenger Vessels, Penalties, Reporting and recordkeeping requirements, Shipping, Vessels, Yachts.

##### 19 CFR Part 122

Air carriers, Aircraft, Airports, Air transportation, Baggage, Bonds, Customs duties and inspection, Foreign commerce and trade statistics, Freight, Imports, Penalties, Reporting and recordkeeping requirements.

##### 19 CFR Part 123

Aircraft, Canada, Customs duties and inspection, Imports, International boundaries, International traffic, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Trade agreements, Vehicles, Vessels.

##### 19 CFR Part 148

Aliens, Baggage, Crewmembers, Customs duties and inspection, Declarations, Foreign officials, Government employees, International organizations, Privileges and Immunities, Reporting and recordkeeping requirements.

##### 19 CFR Part 192

Aircraft, Customs duties and inspection, Export Control, Penalties, Reporting and recordkeeping requirements, Seizures and forfeiture, Vehicles, Vessels.

## Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend parts 4, 122, 123, 148 and 192 of the Customs Regulations (19 CFR parts 4, 122, 123, 148 and 192) as set forth below:

### PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citations for §§ 4.7a, 4.36 and 4.37 continue to read, and the specific authority citations for §§ 4.9 and 4.68 are revised to read, as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91.

\* \* \* \* \*

Section 4.7a also issued under 19 U.S.C. 1498, 1584;

\* \* \* \* \*

Section 4.9 also issued under 42 U.S.C. 269;

\* \* \* \* \*

Section 4.36 also issued under 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. App. 100;

Section 4.37 also issued under 19 U.S.C. 1448, 1457, 1490;

\* \* \* \* \*

Section 4.68 also issued under 46 U.S.C. App. 817d, 817e;

\* \* \* \* \*

#### §§ 4.7a, 4.12, 4.36, and 4.37 [Amended]

2. Part 4 is amended by removing and reserving footnotes 17, 24, 71, and 74 in §§ 4.7a(a), 4.12(a)(3), and 4.36(c), and 4.37(d).

#### § 4.6 [Amended]

3. In § 4.6, paragraph (c) is amended by removing the reference "19 U.S.C. 1585" and adding, in its place, the reference "19 U.S.C. 1436".

#### § 4.7a [Amended]

4. In § 4.7a, the first sentence of paragraph (a) is amended by removing the words "required by section 432, Tariff Act of 1930, to be separately specified".

#### § 4.36 [Amended]

5. In § 4.36, paragraph (c) is amended by removing the words "within the purview of the proviso to the first subdivision of section 431 of the Tariff Act of 1930".

6. In § 4.37, paragraph (d) is amended by removing the word "owner" and adding, in its place, the word "consignee" and paragraphs (a) and (b) are revised to read as follows:

#### § 4.37 Lay order; general order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the close of business on the fifth working day after the day the vessel was entered. Within an additional five-working-day lay order period following the expiration of the original five-working-day period after landing, 19 U.S.C. 1448(a) requires the master or owner of the vessel or the agent thereof to notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the master or owner of the vessel or the agent thereof as provided in 19 U.S.C. 1448(a).

(b) In addition to the notification to Customs referred to in paragraph (a) of this section, within five working days following the expiration of the lay order period specified in paragraph (a) of this section, 19 U.S.C. 1490(a) requires the master or owner of the vessel or the agent thereof to provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the master or person in charge of the importing vessel or the agent thereof until it is removed from his control in accordance with this paragraph. If the bonded warehouse operator fails to take possession of the merchandise or baggage within five working days after receipt of notification of the presence of the unentered and unreleased merchandise or baggage, he shall be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

\* \* \* \* \*

### PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

#### § 122.2 [Amended]

2. Section 122.2 is amended by removing the reference "49 U.S.C. App. 1509(c)" and adding, in its place, the reference "19 U.S.C. 1644 and 1644a".

#### § 122.49 [Amended]

3. Section 122.49(f) is amended by removing the words "sections 440 (concerning post entry) and 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1440, 1584), apply" and adding, in their place, the words "section 584 (concerning manifest violations), Tariff Act of 1930, as amended (19 U.S.C. 1584), applies".

4. In subpart E, § 122.50 is added to read as follows:

#### § 122.50 Lay order; general order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the close of business on the fifth working day after the day the aircraft was entered. Within an additional five-working-day lay order period following the expiration of the original five-working-day period after landing, 19 U.S.C. 1448(a) requires the pilot or owner of the aircraft or the agent thereof to notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the pilot or owner of the aircraft or the agent thereof as provided in 19 U.S.C. 1448(a).

(b) In addition to the notification to Customs referred to in paragraph (a) of this section, within five working days following the expiration of the lay order period specified in paragraph (a) of this section, 19 U.S.C. 1490(a) requires the pilot or owner of the aircraft or the agent thereof to provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall

remain the responsibility of the pilot or person in charge of the importing aircraft or the agent thereof until it is removed from his control in accordance with this paragraph. If the bonded warehouse operator fails to take possession of the merchandise or baggage within five working days after receipt of notification of the presence of the unentered and unreleased merchandise or baggage, he shall be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

#### § 122.161 [Amended]

5. In § 122.161, the first sentence is amended by removing the reference “§ 122.14” and adding, in its place, the words “subpart S of this part” and by removing the reference “49 U.S.C. App. 1474” and adding, in its place, the reference “19 U.S.C. 1644 and 1644a”.

#### § 122.165 [Amended]

6. In § 122.165, the first sentence of paragraph (a) is amended by removing the parenthetical reference “(49 U.S.C. App. 1508(b))” and adding, in its place, the parenthetical reference “(49 U.S.C. 41703)”, and the second sentence of paragraph (b) is amended by removing the reference “49 U.S.C. App. 1471” and adding, in its place, the reference “49 U.S.C. Chapter 463”.

### PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for part 123 and the specific authority citation for § 123.8 are revised to read, and the specific authority citation for § 123.1 continues to read, as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624.

Section 123.1 also issued under 19 U.S.C. 1459;

\* \* \* \* \*

Section 123.8 also issued under 19 U.S.C. 1450–1454, 1459;

\* \* \* \* \*

2. The specific authority citation for § 123.11 is removed.

#### § 123.1 [Amended]

3. In § 123.1, paragraph (a)(2) is amended by removing the words “sections 1433 or 1644 of title 19, United States Code (19 U.S.C. 1433, 1644), or section 1509 of title 49, United States Code App. (49 U.S.C. App. 1509),” and adding, in their place, the words “section 1433, 1644 or 1644a of title 19, United States Code (19 U.S.C. 1433, 1644, 1644a),”.

4. In subpart A, § 123.10 is added to read as follows:

#### § 123.10 Lay order; general order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the close of business on the fifth working day after the day the vehicle was entered. Within an additional five-working-day lay order period following the expiration of the original five-working day period after unloading, 19 U.S.C. 1448(a) requires the operator or owner of the vehicle or the agent thereof to notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the operator or owner of the vehicle or the agent thereof as provided in 19 U.S.C. 1448(a).

(b) In addition to the notification to Customs referred to in paragraph (a) of this section, within five working days following the expiration of the lay order period specified in paragraph (a) of this section, 19 U.S.C. 1490(a) requires the operator or owner of the vehicle or the agent thereof to provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any Customs-authorized electronic data interchange system. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the operator or person in charge of the importing vehicle or the agent thereof until it is removed from his control in accordance with this paragraph. If the bonded warehouse operator fails to take possession of the merchandise or baggage within five working days after receipt of notification of the presence of the unentered and unreleased merchandise or baggage, he shall be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(a)(1) of this chapter).

### PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The authority citation for part 148 continues to read in part as follows:

**Authority:** 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States).

\* \* \* \* \*

#### § 148.67 [Amended]

2. In § 148.67, paragraph (b) is amended by removing the words “section 1474 of title 49, United States Code,” and adding, in their place, the reference “19 U.S.C. 1644 and 1644a”.

### PART 192—EXPORT CONTROL

1. The authority citation for Part 192 continues to read as follows:

**Authority:** 19 U.S.C. 66, 1624, 1627a, 1646a.

#### § 192.4 [Amended]

2. In § 192.4, the first sentence is amended by removing the reference “46 U.S.C. App. 91” and adding, in its place, the reference “19 U.S.C. 1436” and the second sentence is amended by removing the words “a liability of not more than \$1,000 nor less than \$500 will be incurred” and adding, in their place, the words “a liability for penalties may be incurred”.

**Samuel H. Banks,**

*Acting Commissioner of Customs.*

Approved: May 21, 1997.

**Dennis M. O'Connell,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 97–20227 Filed 7–30–97; 8:45 am]

BILLING CODE 4820–02–P

### RAILROAD RETIREMENT BOARD

#### 20 CFR Part 295

#### RIN 3220–AB29

#### Payments Pursuant to Court Decree or Court-Approved Property Settlement

**AGENCY:** Railroad Retirement Board.

**ACTION:** Proposed rule.

**SUMMARY:** The Railroad Retirement Board hereby proposes to amend its regulations under part 295 by eliminating the Medicare Part B premium as a deduction from the amount of benefits available for division in a divorce proceeding or property settlement related to a divorce or legal separation.

**DATES:** Comments must be received on or before September 29, 1997.