

2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

**Rolls-Royce plc:** Docket No. FAA–2009–1004; Directorate Identifier 2009–NE–36–AD.

##### Comments Due Date

(a) We must receive comments by February 4, 2010.

##### Affected Airworthiness Directives (ADs)

(b) None.

##### Applicability

(c) This AD applies to Rolls-Royce plc RB211–Trent 875–17, Trent 877–17, Trent 884–17, Trent 884B–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines. These engines are installed on, but not limited to, Boeing 777 series airplanes.

##### Reason

(d) During 2004, an incident was reported involving uncontained multiple intermediate-pressure (IP) turbine blade release on a Trent 700 engine. The blade release was the result of an overspeed of the IP turbine rotor that was initiated by an internal fire in the high-pressure/intermediate-pressure (HP/IP) bearing chamber. Post-incident analysis and investigation has established that blockage of the HP/IP turbine bearing oil vent tube due to carbon deposits was a significant factor in the failure sequence. The Trent 800 has a similar type design standard to that of the Trent 700 and has also been found in service to be susceptible to carbon deposits in the oil vent tube.

This AD results from mandatory continuing airworthiness information (MCAI)

issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. We are issuing this AD to prevent internal oil fires due to coking and carbon buildup in the HP/IP turbine bearing oil vent tube that could cause uncontained engine failure and damage to the airplane.

#### Actions and Compliance

(e) Unless already done, do the following actions.

(1) At the next engine shop visit after the effective date of this AD and thereafter at each engine shop visit, using the Accomplishment Instructions of Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AE362, Revision 1, dated April 3, 2009:

(i) Inspect the HP/IP turbine bearing internal and external oil vent tubes and bearing chamber for carbon buildup.

(ii) Clean and flush the tubes and bearing chamber as required.

(iii) Reject any oil vent tubes that do not meet inspection requirements after cleaning.

(2) This AD does not require reporting of inspection results, as does paragraphs 3.B.(4)(g) and 3.C.(9) of Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AE362, Revision 1, dated April 3, 2009.

#### FAA AD Differences

(f) None.

#### Alternative Methods of Compliance (AMOCs)

(g) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(h) Refer to MCAI European Aviation Safety Agency AD 2009–0071 (corrected April 14, 2009), and Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AE362, Revision 1, dated April 3, 2009, for related information. Contact Rolls-Royce plc, P.O. Box 31, Derby, England; telephone: 011–44–1332–249428; fax: 011–44–1332–249223, for a copy of this service information.

(i) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [james.lawrence@faa.gov](mailto:james.lawrence@faa.gov); telephone (781) 238–7176; fax (781) 238–7199, for more information about this AD.

Issued in Burlington, Massachusetts, on December 29, 2009.

**Francis A. Favara,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E9–31275 Filed 1–4–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Parts 101, 113, and 133

[Docket No. USCBP–2006–0013]

RIN 1505–AB54

### Customs and Border Protection’s Bond Program

**AGENCIES:** Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes amendments to title 19 of the Code of Federal Regulations to reflect the centralization of the continuous bond program at Customs and Border Protection’s (CBP’s) Revenue Division, Office of Finance. Pursuant to this centralization, continuous bonds must be filed at the Revenue Division via mail, fax, or in an electronic format, and the Revenue Division will assume the bond functions previously performed at the port level. The authority to approve single transaction bonds will remain with port directors. The changes proposed in this document support CBP’s bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds. Additionally, the proposed changes update provisions to accommodate the use of information technology and modern business practices.

**DATES:** Comments must be received on or before March 8, 2010.

**ADDRESSES:** You may submit comments, identified by Docket No. USCBP–2006–0013, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments via Docket No. USCBP–2006–0013.

- **Mail:** Trade and Commercial Regulations Branch, Regulations and Rulings, Customs and Border Protection, 799 9th St., NW. (Mint Annex), Washington, DC 20229–1179.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the

“Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at (202) 325-0118.

**FOR FURTHER INFORMATION CONTACT:** Bruce Ingalls, Chief, Debt Management Branch, Revenue Division, Customs and Border Protection, Tel. (317) 298-1307.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rule. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

##### **Background**

This document proposes amendments to title 19 of the Code of Federal Regulations (19 CFR) to reflect the centralization of the continuous bond program at CBP's Revenue Division (RD), Office of Finance, in Indianapolis, Indiana. Pursuant to this centralization, continuous bonds must be filed, reviewed and, if approved, maintained at the RD. It is proposed that the documentation for these types of bonds, including CBP Form 301, applications, riders, terminations, power of attorney forms, and Importer ID Input Records (CBP Form 5106), must be filed at the RD via mail, fax, or in an electronic format as prescribed by CBP. The RD will assume the bond functions previously performed at the port level, with the noted exception that the authority to approve single transaction bonds will remain with port directors.

It is noted that most continuous basic importation bonds are no longer processed and retained on file at the ports, and the majority of bond

sufficiency matters concerning these bonds are currently processed at the RD. In 2003, CBP port directors delegated the authority to review and process these types of bonds to the RD. Consequently, under existing procedures, any person who is required to post a continuous basic importation bond to secure a CBP transaction or multiple transactions has the option of filing the bond directly with the port director (as per 19 CFR 113.11), or indirectly to the RD. In fact, continuous basic importation bonds that are submitted directly to the port are subsequently referred to the RD by the port director. Also in 2003, the Director of the International Trade Compliance Division authorized, per 19 CFR 113.15, port directors to allow the retention of approved continuous bonds at the RD.

Many of the changes to 19 CFR part 113 proposed in this document are intended to facilitate the use of electronic submission of continuous bond documentation. The requirements for the electronic submission of bond documentation will be available on the CBP Web site, <http://www.cbp.gov>. The Web site will feature a direct link to CBP bond program directives.

The changes proposed in this document implement recommendations set forth in a review of the continuous bond program commissioned by CBP. See “Grant Thornton Review of Customs Continuous Transaction (Entry) Bonds,” dated April 3, 2003. The study found that centralization of the continuous bond program would strengthen the effectiveness of the program by enhancing efficiency and uniformity. Arrangements for public inspection of the document may be made by calling Joseph Clark at (202) 572-8768.

This document also proposes non-substantive amendments to 19 CFR to reflect the nomenclature changes made necessary by the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) and DHS' subsequent renaming of the agency as U.S. Customs and Border Protection on March 31, 2007 (see 72 FR 20131, dated April 23, 2007). As a consequence of these changes, this document proposes certain non-substantive nomenclature changes to reflect the realities just described, and the issuance of new definitions in the regulations whereby the term “Customs” means “Customs and Border Protection,” the terms “Commissioner” and “Commissioner of Customs” mean “Commissioner of Customs and Border Protection,” the acronym “CBP” means “Customs and Border Protection,” and the acronym “RD” means “Revenue Division.”

#### **Explanation of Amendments**

It is proposed to amend title 19 of the CFR to reflect the consolidation of the continuous bond program at the Revenue Division (RD), the use of electronic filing for the submission of continuous bonds and related documentation, and the transfer of Customs and Border Protection (CBP) to the Department of Homeland Security (DHS). A more detailed explanation of the proposed amendments, other than those involving technical corrections or minor wording and editorial changes, is set forth below.

##### *Section 101.1 Definitions*

Section 101.1 of title 19 of the CFR (19 CFR 101.1) sets forth the meaning of certain terms as used throughout Chapter 1 of title 19. To reflect certain nomenclature changes made necessary by the transfer of the U.S. Customs Service from the Department of the Treasury to DHS and the subsequent renaming of the agency as the U.S. Customs and Border Protection (CBP), it is proposed to add new definitions to § 101.1 whereby:

- The terms “Customs” and “Customs Service” mean “Customs and Border Protection.”
- The terms “Customs Regulations” and “CBP Regulations” mean “title 19 of the Code of Federal Regulations (19 CFR).”
- The terms “Commissioner” and “Commissioner of Customs” mean “Commissioner of Customs and Border Protection.”
- The acronym “CBP” means “Customs and Border Protection.”
- The acronym “RD” means “Revenue Division, Office of Finance, Customs and Border Protection.”

##### *Section 113.1 Authority To Require Security or Execution of Bond*

Section 113.1 of title 19 of the CFR (19 CFR 113.1) provides that where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241, November 6, 1954), may by regulation or specific instruction require, or authorize the port director to require, such bonds or other security as may be considered necessary to protect the revenue or to assure compliance with the law.

It is proposed to amend § 113.1 to reflect:

- The transfer of authority over certain functions from the Secretary of the Treasury to the Secretary of Homeland Security effected by the Homeland Security Act of 2002;

- The delegation of the authority to approve certain customs revenue functions from the Secretary of the Treasury Department to the Secretary of Homeland Security pursuant to Treasury Department Order No. 100–16, dated May 15, 2003, Appendix to part 0 of title 19 of the CFR (19 CFR part 0); and

- The subsequent delegation of authority from the Secretary of Homeland Security to the Commissioner of CBP pursuant to DHS Delegation Order 7010.3, dated May, 2006.

Accordingly, it is proposed to remove from § 113.1 the references to Treasury Department Order No. 165 and T.D. 53654 and replace them with citations to the DHS Delegation Order. Also, language regarding the authority of the Commissioner to require bonds or other security by regulation is proposed to be removed from this section as unnecessary because any regulation requiring a bond will clearly state the authority under which the requirement is imposed. Lastly, it is proposed to amend this section by adding “Director, Revenue Division” as among those the Commissioner of CBP may authorize to require bonds or other security to reflect that continuous bonds will now be processed at the RD.

#### *Section 113.11 Bond Approval;*

#### *§ 113.12 Bond Application*

Section 113.11 of title 19 of the CFR (19 CFR 113.11) provides, in pertinent part, that bonds must be submitted on CBP Form 301 to the appropriate port director where they will undergo review for sufficiency. Section 113.12 of title 19 (19 CFR 113.12) sets forth the required elements of an application for both single transaction and continuous bonds.

This document proposes reversing the order of these provisions so that the section pertaining to bond applications (existing § 113.12) will appear first in the regulations at § 113.11, and the section pertaining to bond approval (existing § 113.11) will appear at § 113.12. It is also proposed to revise these provisions to more accurately reflect the sequence of events and current procedures that comprise the bond application and approval process.

To that end, it is proposed to amend newly designated § 113.11 (existing § 113.12) to more specifically identify the information required in a bond application, and to state that continuous bond applications must be submitted to the RD via mail, fax, or in an electronic format as prescribed by CBP. This section will provide that mail, fax, and electronic (e-mail) submissions must be sent to the addresses/fax number listed

on the CBP Web site located at <http://www.cbp.gov>.

It is also proposed to amend the certification requirements set forth in newly designated § 113.11(e) (existing § 113.12(c)), to provide for and facilitate electronic filing on the bond application. As noted above, this document proposes amendments to the continuous bond application process that would permit certain documentation to be submitted to the RD in an electronic format. Such electronic submissions will not contain a written signature or seal, as is required by various bond provisions throughout part 113. It is therefore proposed to add alternative certification language that states that bonds submitted electronically are legally binding to the same extent as if signed and under seal. Accordingly, it is proposed to divide newly designated § 113.11(e) (existing § 113.12(c)) into separate subparagraphs. Paragraph (e)(1) will set forth the existing certification language applicable to paper bond submissions and require that a bond be affixed with a corporate seal if required by § 113.33. New paragraph (e)(2) will state that electronic bond documentation containing the requisite certification language will be legally binding to the same extent as if signed and submitted under seal. New paragraph (e)(3) will state that CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

The changes proposed to newly designated § 113.12 involve separating the approval procedures applicable to single transaction and continuous bonds. It is proposed to add language stating that when CBP approves a bond, it will notify filers, sureties and principals by sending them a CBP-assigned bond number. It is also proposed to add a new paragraph (c) that states that CBP may refuse to accept any new obligations under a previously approved bond that requires modification, or where there has been a failure to comply with § 113.11(d) (failure to provide application updates) or § 113.24(d) (failure to provide rider).

Lastly, in order to accurately reflect the agency's name, it is proposed to change the name “Customs Form 301” where it appears in this section and elsewhere in part 113, to “CBP Form 301.”

#### *Section 113.13 Amount of Bond*

Section 113.13 of title 19 of the CFR (19 CFR 113.13) sets forth the guidelines

for determining bond amounts.

Specifically, this section addresses minimum bond amounts, guidelines for determining the sufficiency of bond amounts, and the procedures by which CBP will periodically review bond sufficiency and request additional security.

As noted above, most continuous basic importation bonds are no longer reviewed and approved at the port level. The vast majority of bond sufficiency matters concerning continuous bonds are processed at the RD. To reflect this centralization, it is proposed to amend § 113.13 (b), (c), and (d) by replacing the references to “port director” and “drawback office” with a more generalized reference to “CBP.” Also, it is proposed to remove the language in paragraph (c) that permits a principal 30 days from the date of notification to remedy a deficiency. If a deficiency is identified, CBP believes that in some instances 30 days is too long to permit the condition to continue. Accordingly, in recognition of the importance of bond sufficiency and to ensure compliance with all applicable laws and regulations in a more timely fashion, it is proposed to amend this provision to state that if a deficiency is identified, CBP may require additional securities for any and all of the principal's transactions until the deficiency is remedied. Similarly, it is proposed to amend paragraph (d) to state that CBP may immediately require additional security.

#### *Section 113.14 Approved Form of Bond Inadequate*

Section 113.14 of title 19 of the CFR (19 CFR 113.14) states that if none of the conditions contained in subpart G of part 113 is applicable to a transaction sought to be secured, the port director may draft conditions to cover the transaction and the bond may be executed upon approval by the Director, Border Security and Trade Compliance Division at CBP Headquarters.

As a result of the centralization of the bond program, continuous bonds will no longer be approved at the port level. The issuance of single transaction bonds, however, will remain under the authority of port directors. It is therefore proposed to amend § 113.14 to reflect that either the Director, Revenue Division or the port director, as appropriate, will draft conditions to secure a transaction when the conditions contained in subpart G of part 113 do not apply. It also proposed to remove the reference to “Director, Border Security and Trade Compliance Division” and provide, instead, that additional bond conditions to secure a transaction, where the conditions

contained in subpart G of part 113 do not adequately secure the transaction, must be approved by the Executive Director, Regulations and Rulings, Office of International Trade.

#### *Section 113.15 Retention of Approved Bonds*

Section 113.15 of title 19 of the CFR (19 CFR 113.15) provides, in pertinent part, that all bonds approved by the port director, except the bond containing the agreement to pay court costs (condemned goods), shall remain on file in the port office unless the port director is directed in writing as to other disposition.

It is proposed to amend this section to provide that approved continuous bonds will be retained on file at the RD or approved CBP back-up sites and approved single transaction bonds will remain on file at the port office.

#### *Section 113.21 Information Required on the Bond*

Section 113.21 of title 19 of the CFR (19 CFR 113.21) prescribes the information required on the bond.

This document revises paragraph (e) by removing the requirement that lines must be drawn through all blank spaces and blocks on the bond and adds language stating that CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

#### *Section 113.22 Witnesses Required*

Section 113.22 of title 19 of the CFR (19 CFR 113.22) sets forth the witness requirements applicable to bonds. The witness requirement originated during a time when bonds were approved at the district level. If a party unknown to the Customs district office sought to execute a bond, witnesses were required to verify the party's identity. It is proposed to remove this section. CBP recognizes that the witness requirement is unnecessary inasmuch as a party who makes entry under a bond is obligated by that bond.

#### *Section 113.23 Changes Made on the Bond*

Section 113.23 of title 19 of the CFR (19 CFR 113.23) describes the types of changes that may be made to a bond and the process by which to effect such changes. Paragraph (c) describes the type of changes that are permitted to a bond after it is signed, but prior to approval by CBP. Paragraph (d) provides that, except in limited circumstances, the port director will not permit changes

to a bond after it has been approved and if changes are desired, a new bond is required.

This document proposes to amend § 113.23(c) to provide that CBP will not permit substantive changes to be made to a bond after it has been signed. In such circumstances the existing bond will be cancelled and a new bond must be executed. To reflect the centralization of the continuous bond program at the RD, this document also proposes to amend paragraph (d) by replacing the reference to "port director" with a more general reference to "CBP."

#### *Section 113.24 Riders*

Section 113.24 of title 19 of the CFR (19 CFR 113.24) sets forth the terms pertaining to when riders may be attached to a bond and prescribes their appropriate formats. Paragraph (a) describes the types of riders that port directors may accept. Paragraph (b) describes where riders must be filed. Paragraph (c) requires that riders be attached to their related bond. Paragraph (d) prescribes the format of the rider and requires that riders be signed, sealed, witnessed and executed.

Although the riders listed in § 113.24(a) are the most common types of riders, they are not intended to represent an exhaustive list. For this reason, it is proposed to revise the first sentence of paragraph (a) so as to make clear that the list of enumerated riders is not comprehensive. Also, as a result of the centralization of the continuous bond program, it is proposed to state, in paragraph (b), that riders must be filed at the RD. Due to the fact that riders may be in an electronic format, it is proposed to amend paragraph (c) to state that riders submitted in this manner must contain a reference to the related bond's CBP-issued bond number. As this rulemaking proposes to remove the witness requirement set forth in § 113.22 from the regulations, it is similarly proposed to remove this requirement from paragraph (d) and to require that riders submitted in an electronic format contain the certification language set forth in newly designated § 113.11(e)(2). Lastly, to encourage the submission of complete and correct bonds, it is proposed to add a new paragraph that states that CBP may refuse to accept new conditions under a previously approved bond where there has been a failure to provide CBP with a required rider.

#### *Section 113.25 Seals*

Section 113.25 of title 19 of the CFR (19 CFR 113.25) sets forth the requirements for bonds under seal. This

section provides that seals must be affixed adjoining the signatures of the principal and surety and that bonds under seal must meet the requirements of the law of the State in which the bond was executed.

As this document proposes to permit bonds to be submitted to the RD electronically, the seal requirements set forth in § 113.25 require modification to accommodate electronic filing. It is proposed to separately describe the certification requirements applicable to paper bond submissions, and those applicable to bonds submitted in an electronic format. To that end, it is proposed that continuous bonds submitted electronically do not have to be affixed with a seal; however, where the law of the State in which the bond is executed requires a seal, the party executing the bond must include electronic certification language (set forth in newly designated § 113.11(e)(2) of this chapter, discussed *supra*), whereby the applicant certifies that he or she is acting under authority of the corporation and the certification constitutes legally binding evidence of the corporate seal. Additionally, it is proposed to require that where the law of the State in which the bond is executed requires a seal, the party executing the electronic bond must retain a copy of the paper seal and make such seal available to CBP for inspection upon request. This section also includes language stating that CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

#### *Section 113.26 Effective Dates of Bonds and Riders*

Section 113.26 of title 19 of the CFR (19 CFR 113.26) prescribes the effective dates of bonds and riders for both single transaction and continuous bonds. Paragraph (a) of this section provides that bonds and riders may be filed up to 30 days before the effective date in order to provide CBP with adequate time for administrative review and processing. Paragraph (e) states that a rider to delete trade names and unincorporated divisions of a corporate principal will be effective on the date identified in the rider if the date is at least 10 business days after the date the port receives the rider.

In an effort to permit both bond filers and CBP additional time for the filing and processing of bonds in advance of their effective date, it is proposed to extend the 30-day time period to 60 days. It is also proposed to require that

the effective date of a rider is the date stated, so long as that date is at least 15 business days from the date CBP receives the rider.

#### *Section 113.27 Effective Dates of Termination of Bond*

Section 113.27 of title 19 of the CFR (19 CFR 113.27) sets forth the effective dates of bond terminations made by the principal or surety, and describes the effect of such termination.

It is proposed to make changes to paragraph (a), which provides for bond termination by the principal, and to paragraph (b), which provides for bond termination by the surety, to ensure that the terms of these provisions conform to one another. To that end, it is proposed to amend paragraph (a) to require that a principal's request to terminate a continuous bond be sent to the RD and that the termination will take effect on the date requested if that date is at least 15 business days from the date the termination request was received by the RD. Otherwise, the termination will be effective on the close of business 15 business days from the date the termination request was received by the RD. It is proposed to amend paragraph (b) to require that a surety's notice of bond termination be sent to the RD, as well as to the principal. The surety's obligation under a bond will terminate on the date requested by the surety in the written notice of termination so long as that date is at least 15 business days from the date a request meeting all requirements was received by CBP. It is proposed to add language to both paragraphs (a) and (b) stating that once the RD has received a bond termination request, the termination cannot be withdrawn. Lastly, it is proposed to add language to paragraph (c) that provides that when a principal intends to continue to engage in the same activity as that secured by a bond to be terminated pursuant to this section, and the principal has submitted a replacement bond to secure that continued activity, no termination requested by a principal or surety will take effect until CBP has reviewed and approved the replacement bond.

#### *Section 113.32 Partnerships as Principals*

Section 113.32 describes the various partnership requirements and liabilities as they pertain to bonds.

It is proposed to revise paragraph (a) of this section by removing the bond requirements that pertain specifically to limited partnerships. As CBP's importer records in the automated systems make no distinction between limited partnerships and other partnerships, it

is not necessary to collect this information from limited partnerships. It is also proposed to replace the more specific reference to "port director or drawback office" in paragraph (a) with a more general reference to "CBP."

#### *Section 113.33 Corporations as Principals*

Section 113.33 of title 19 of the CFR (19 CFR 113.33) sets forth the requirements pertaining to corporations that execute a bond as principal. This section also describes when a power of attorney is necessary for either a corporate officer or attorney, and states that the provisions of this section apply to a corporate subsidiary that joins its parent corporation by signing the bond as co-principal.

As the proposals in this document would permit continuous bonds to be submitted to the RD in an electronic format, this document proposes to amend § 113.33 to reflect the use of this technology. It is also proposed to clarify within this section that a Limited Liability Corporation (LLC) is included within the concept of corporation.

In paragraph (a), it is proposed to remove the signature requirement as this requirement is discussed in paragraph (b). In paragraph (b), it is proposed to add language stating that where the bond of a corporate principal is submitted in an electronic format, the bond must contain the certification language set forth in newly designated § 113.11(e)(2) and the party executing the bond may be required to retain a copy of the seal, as per § 113.25 as it is proposed to be amended. Also, it is proposed to add language stating that CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws. It is proposed to amend paragraph (c) by removing the language that states that a power of attorney will not be required if the person signing the bond on behalf of the corporation is known to the port director or drawback office to be the president, vice-president, treasurer, or secretary of the corporation. Due to the fact that most bonds will now be sent to a centralized location at the RD, personal knowledge of an individual's position within a company is an unrealistic concept upon which to base the need for a power of attorney. It is also proposed to add in paragraph (c) that CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full

compliance with all applicable laws. Lastly, it is proposed to amend paragraph (d) by replacing the reference to "port director" with "RD."

#### *Section 113.35 Individual Sureties*

Section 113.35 of title 19 of the CFR (19 CFR 113.35) prescribes the criteria applicable to individuals who sign as sureties on a bond.

The types of changes proposed to this section are the same as those discussed above (*i.e.*, references to "port director" and "Customs" are replaced with references to "CBP"). Regarding the surety qualifications set forth in § 113.35(b), it is proposed to remove the requirement in paragraph (b)(2) that states that a married woman may be accepted as a surety, unless the State in which the bond is executed prohibits her from acting in that capacity. Similarly, it is proposed to remove the reference to married women in paragraph (b)(3). CBP will permit individuals who are legally authorized to act as sureties to do so. Also, it is proposed to amend paragraph (b)(4) which currently provides that each individual surety must have property available as security within the limits of the port where the contract of suretyship is to be approved. The local property requirement is no longer relevant and it is therefore proposed to amend the regulations to provide that individuals who sign as sureties on any type of bond must possess property within the customs territory of the United States. Lastly, it is proposed to amend paragraph (d) to remove the reference to "special agent-in-charge" and replace it with a reference to "Immigration and Customs Enforcement (ICE)." This change is necessary to reflect the fact that the former Customs Service special agents-in-charge are now part of ICE as a result of the transfer of the U.S. Customs Service to DHS and the subsequent division of the Customs Service into CBP and ICE.

#### *Section 113.37 Corporate Sureties*

Section 113.37 of title 19 of the CFR (19 CFR 113.37) sets forth the rules pertaining to corporations executing a bond as surety.

This document proposes to amend paragraph (e) to state that where a corporate surety submits a continuous bond to the RD in an electronic format the bond must contain the certification language prescribed by newly designated § 113.11(e)(2) and the party executing the bond must retain a copy of the seal in accordance with § 113.25(b). It is proposed to add to paragraph (e) that CBP is entitled to presume, without verification, that

submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

In § 113.37(f), it is proposed to amend the last paragraph in the “Corporate Sureties Agreement for Limitation of Liability,” in the signature block, to require that an authorized CBP officer, and not specifically the Port Director or Director of the Drawback Office, sign the Agreement.

Section 113.37(g) prescribes how corporations may execute powers of attorney to act on their behalf. Paragraphs (g)(1)(iii) and (g)(5)(iii) within this section pertain to the identification of specific ports on the CBP Form 5297 where an agent or attorney is authorized to act. As centralization of the bond program requires that all continuous bonds and the accompanying CBP Form 5297 be filed and processed at the RD, the identification of specific ports in this regard is no longer necessary, and it is proposed to remove these provisions from the regulations.

Sections 113.37(g)(1)(v) and (vi) provide that the corporate surety power of attorney must contain the signatures of two principal officers of the corporation and be under seal. If the CBP Form 5297 is submitted to the RD in an electronic format, it is proposed to require that the document contain the certification language prescribed in newly designated § 113.11(e)(2) and the corporate surety retain a copy of the seal as per § 113.25(b).

As noted above, as a result of the centralization of the bond program, it is proposed to amend § 113.37(g)(2) to provide that a corporate surety power of attorney executed on a CBP Form 5297 in conjunction with a continuous bond must be filed at the RD via mail, fax, or in an electronic format. The RD will retain a copy of the CBP Form 5297 and return a RD-validated copy to the grantee.

Section 113.37(g)(3) provides that if a grantee desires to use a power of attorney at a port covered by the power of attorney, other than the port where the power of attorney was filed, but before the first computer printout reflecting this power of attorney is received, the CBP Form 5297 must be filed in triplicate (original and two copies), rather than duplicate. As notice of approval of a power of attorney is electronically transmitted to the ports, it is proposed to remove this provision from the regulations.

It is proposed to add a new paragraph (g)(5) to § 113.37 that provides that CBP is entitled to presume, without

verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

#### *Section 113.38 Delinquent Sureties*

Section 113.38 of title 19 of the CFR (19 CFR 113.38) prescribes the extent to which a principal or surety on a CBP bond which is in default will be accepted on another CBP bond.

It is proposed to amend § 113.38(c)(1) to state that an internal advice request made pursuant to § 177.11 should be directed to the Executive Director, Regulations and Rulings, Office of International Trade. It is proposed to amend paragraph (c)(2) to reflect the centralization of the continuous bond program at the RD by adding that the Director, Revenue Division, in addition to the Commissioner, may instruct CBP officers to not accept a bond secured by a corporate surety for the reasons specified. It is also proposed to require in § 113.38(c)(4) that a copy of the notice of CBP’s refusal to accept a surety’s bonds, if not originating from the RD, must be sent to the Director, Revenue Division.

#### *Section 113.39 Procedure To Remove a Surety From Treasury Department Circular 570*

Section 113.39 of title 19 of the CFR (19 CFR 113.39) sets forth the procedures by which CBP may seek to remove a surety company from Treasury Department Circular 570, which sets forth the list of approved surety companies.

The changes proposed in this document would amend this section by removing references to port director and Fines, Penalties, and Forfeitures Officers and replacing them with a more general reference to “appropriate CBP officer.” This change is to reflect the fact that CBP personnel from the RD may also initiate the surety removal process.

#### *Section 113.40 Acceptance of Cash Deposits or Obligations of the United States in Lieu of Sureties on Bonds*

Section 113.40 of title 19 of the CFR (19 CFR 113.40) prescribes the terms by which cash deposits or other types of U.S. obligations (*i.e.*, certificates of indebtedness, Treasury notes, Treasury bills) may be accepted by CBP in lieu of sureties on bonds.

To reflect the delegation of authority discussed earlier in this document, it is proposed to amend paragraph (a) of this section to include the Secretary of Homeland Security as among those who may authorize the enforcement of bond laws and regulations. To reflect the

centralization of the continuous bond program at the RD, it is also proposed to amend this paragraph by stating that the Director, Revenue Division, and not the Port Director, is authorized to accept cash deposits in lieu of sureties on bonds. It is also proposed to add clarifying language that provides that cash deposits or other types of U.S. obligations accepted by CBP in lieu of sureties on bonds must be in an amount equal to the face amount of the bond that would be required if CBP were to elect to accept a bond. It is also proposed to amend the language to make clear that the option to deposit cash or U.S. obligations is at the option of the importer.

Paragraph (b) is amended to reflect that the Director, Revenue Division, and not the port director, is authorized to sell U.S. obligations in case of any default in the performance of any of the conditions of the bond.

In § 113.40(c), it is proposed to amend the heading and text to reflect that the provision pertains to United States obligations, as well as cash deposited in lieu of sureties on the bond.

Lastly, it is proposed to add new paragraphs (d) through (g) to clarify CBP’s requirements with regards to these alternatives to surety bonds.

#### *Section 113.43 Extension of Time Period*

Section 113.43 of title 19 of the CFR (19 CFR 113.43) provides that the port director, in certain circumstances, may extend the 120 day time period within which a document for which a bond or stipulation is given must be produced (*see* 19 CFR 113.42). The port director may extend this period for an additional period of 2 months.

To lend more specificity to the time frames cited in this provision, it is proposed to state in paragraph (a) that the port director may extend the time period to produce documents for a period “not to exceed 60 days.” It is also proposed to use the more specific 60-day time frame in paragraph (b) that provides for late applications for bond extensions.

#### *Section 113.62 Basic Importation and Entry Bond Conditions*

Section 113.62 of title 19 of the CFR (19 CFR 113.62) prescribes the conditions applicable to basic importation and entry bonds.

The proposed changes to this section are predominantly editorial in nature, with the exception of a change proposed to paragraph (a) which clarifies that the bond covers payments of duties, taxes and other charges made via periodic monthly statement, and to paragraph

(a)(3) which would remove the reference to port director and replace it with a reference to “CBP” to reflect the fact that pursuant to the consolidation of the bond program at the RD, most bonds will no longer be filed with the port director.

#### *Section 113.64 International Carrier Bond Conditions*

Section 113.64 of title 19 of the CFR (19 CFR 113.64) pertains to international carrier bond conditions. Paragraph (a) describes a principal's and surety's agreement to pay penalties, duties, taxes, and other charges. The last sentence of paragraph (a) prescribes the penalties (liquidated damages) applicable to principals who fail to timely pay passenger processing fees to CBP.

In an effort to more clearly describe when an obligor will be subject to liquidated damages for failure to timely pay certain fees, it is proposed to restructure this section so as to create a new paragraph (b) that specifically addresses situations where an obligor must pay liquidated damages for failure to timely submit passenger user fees, railroad car processing fees, and express courier consignment fees. It is also proposed to clarify that this section applies not only to collected fees, but to fees that were required to be collected but not timely remitted to CBP.

#### *Sections 133.21, 133.25, 133.42 Bonds Related to Allegations of Counterfeit Trademarks*

Sections 133.21, 133.25 and 133.42 concern bonds relating to allegations of counterfeit trademarks. It is proposed to amend these provisions to allow these bonds to be continuous bonds.

#### **Executive Order 12866**

Executive Order 12866 requires Federal agencies to conduct economic analyses of significant regulatory actions as a means to improve regulatory decision making. Significant regulatory actions include those that may: “(1) [h]ave an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) [c]reate a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) [m]aterially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) [r]aise novel legal or policy issues arising out of legal mandates, the President's priorities, or

the principles set forth in this Executive Order.” These proposed amendments do not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

#### **Regulatory Flexibility Act**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to examine the impact a rule would have on small entities. A small entity may be: A small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

The entities affected by this proposed rule are importers and various other parties who file continuous bonds with CBP as required by CBP regulations. “Importers” are not defined as a “major industry” by the Small Business Administration (SBA) and do not have a unique North American Industry Classification System (NAICS) code; rather, virtually all industries classified by SBA include entities that import goods and services into the United States. Thus, entities affected by this proposed rule would likely consist of the broad range of large, medium, and small businesses operating under the customs laws and other laws that CBP administers and enforces. These entities include, but are not limited to, importers, brokers, and freight forwarders, as well as other businesses that conduct various activities under continuous bonds.

The proposed amendments, if adopted as final, would align regulations with current common practice and improve efficiency by explicitly requiring importers to file continuous bonds at the Revenue Division via mail, fax, or in an electronic format. The changes proposed in this document support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds. Additionally, the proposed changes update provisions to accommodate the use of information technology and modern business practices by removing requirements for signatures and seals on electronic submissions.

Because these amendments to the regulations affect such a wide-ranging group of entities involved in the importation of goods to the United States, the number of entities subject to this proposed rule would be considered “substantial.” It is not anticipated that there will be additional costs associated

with filing continuous bonds with the Revenue Division instead of the local port, and many importers already file continuous bonds directly with the Revenue Division. Additionally, these changes to the regulations would confer a benefit to the entities as a result of the removal of the requirement for signatures and seals on electronic submissions. The effects of these amendments, however, would not rise to the level of being considered a “significant” economic impact. We welcome comments on this conclusion. If we do not receive any comments contradicting our findings, we may certify that this rule will not have a significant economic impact on a substantial number of small entities at the final rule stage.

#### **Paperwork Reduction Act**

The collection of information contained in this proposed rulemaking was previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1651–0050. There are no new collections of information proposed in this document.

#### **Signing Authority**

This document is being issued in accordance with 19 CFR 0.1(a)(1).

#### **List of Subjects**

##### *19 CFR Part 101*

Administrative practice and procedure, Customs duties and inspections, Organization and functions (Government agencies).

##### *19 CFR Part 113*

Bonds, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Surety bonds.

##### *19 CFR Part 133*

Bonds, Copyrights, Counterfeit goods, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Restricted merchandise, Seizures and forfeitures.

#### **Proposed Amendments to the Regulations**

For the reasons stated above, it is proposed to amend parts 101 and 113 of title 19 of the Code of Federal Regulations (19 CFR parts 101 and 113) as follows:

#### **PART 101—GENERAL PROVISIONS**

1. The general authority citation for part 101 is revised to read as follows:



**Authority:** 5 U.S.C. 301; 6 U.S.C. 101, *et seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

\* \* \* \* \*

2. Section 101.1 is amended by adding five new definitions, in alphabetical order, to read as follows:

**§ 101.1 Definitions.**

\* \* \* \* \*

**CBP.** The term “CBP” means Customs and Border Protection.

**Commissioner or Commissioner of Customs.** The terms “Commissioner” or “Commissioner of Customs” mean Commissioner of Customs and Border Protection.

**Customs or Customs Service.** The terms “Customs” or “Customs Service” mean Customs and Border Protection.

**Customs Regulations or CBP Regulations.** The terms “Customs Regulations” or “CBP Regulations” mean Chapter 1 of title 19 of the Code of Federal Regulations (19 CFR Chapter 1).

\* \* \* \* \*

**RD.** “RD” means Revenue Division, Office of Finance, Customs and Border Protection.

\* \* \* \* \*

**PART 113—CBP BONDS**

3. The general authority citation for part 113 is revised to read as follows:

**Authority:** 6 U.S.C. 101, *et seq.*; 19 U.S.C. 66, 1623, 1624.

\* \* \* \* \*

4. The part 113 heading is revised to read as set forth above.

**§ 113.0 [Amended]**

5. Section 113.0 is amended by removing the word “Customs” and adding in its place the term “CBP”.

6. Section 113.1 is revised to read as follows:

**§ 113.1 Authority to require security or execution of bond.**

Where a bond or other security is not specifically required by law or regulation, the Commissioner of CBP, pursuant to DHS Delegation Number 7010.3, or any successive order, may by specific instruction require, or authorize the Director, Revenue Division or the port director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

7. In § 113.2:

a. The heading text is amended by removing the word “Customs” and adding in its place the term “CBP”;

b. The introductory text is amended by removing the word “Customs” and adding in its place the term “CBP”;

c. Paragraph (c) is amended by removing the word “shall” and adding in its place the word “will”, and by adding the word “as” before the word “he”; and

d. In paragraph (d), the first sentence is amended by removing the word “entry” and adding in its place the word “transaction”; the second sentence is amended by removing the word “shall” and adding in its place the word “will”; and the third sentence is amended by removing the word “Customs” and adding in its place the term “CBP”.

8. Section 113.4 is amended by revising paragraph (a) and amending paragraph (b) by removing the words “Customs laws or regulations” and adding in their place the words “customs laws or CBP regulations”.

The revision of § 113.4(a) reads as follows:

**§ 113.4 Bonds and carnets.**

(a) **Bonds.** All bonds required to be given under the customs laws or CBP regulations will be known as CBP bonds.

\* \* \* \* \*

9. Section 113.11 is revised to read as follows:

**§ 113.11 Bond application.**

Each person who is required by law, regulation, or specific instruction to post a bond to secure a single or continuous (multiple) CBP transaction must submit a bond application in addition to the CBP Form 301, as follows:

(a) **Single transaction bond application.** A port director may require a person who will be engaged in a single customs transaction to file a written bond application. The application for a single transaction bond may be in the form of a letter. The application must contain the information set forth in paragraph (c) of this section, where applicable, and must be filed at the port where the transaction will occur. When the proper bond in a sufficient amount is filed with the entry summary or with the entry, or when the entry summary is filed at the time of entry, an application will not be required.

(b) **Continuous bond application.** To secure continuous (multiple) transactions, a bond application containing the applicable information set forth in paragraph (c) of this section must be submitted to the CBP Revenue Division (RD). The application may be in the form of a letter, and must be submitted to the RD via mail, fax, or in an electronic format (as prescribed by

CBP) to the addresses/fax number listed on the CBP Internet Web site located at <http://www.cbp.gov> (see direct link to CBP bond program directives).

(c) **Required bond application information.** (1) Applications for both the single and continuous transaction bonds described in paragraphs (a) and (b) of this section must contain the following information numerically identified in the following order:

(i) Importer name;  
(ii) Importer number;  
(iii) Importer’s physical address;  
(iv) Name, number, and address of any co-principals or unincorporated divisions/trade names that will use this bond (if applicable);

(v) Description of the nature of the relationship between principal, co-principals, or unincorporated divisions/trade names that will use this bond (if applicable);

(vi) A listing of any other importer numbers or bond numbers associated with the principal and all co-principals or unincorporated divisions/trade names;

(vii) A description of the merchandise to be entered, including country of origin designations and applicable Harmonized Tariff Schedule of the United States (HTSUS) numbers;

(viii) A description of the merchandise to be imported during the subsequent 12 months (if applicable), including country of origin designations and applicable HTSUS numbers. This will include imports of all the business entities that will be listed on the bond. If it is anticipated that the nature of the merchandise to be imported will change in any material respect during the subsequent 12 months, the change must be identified;

(ix) For continuous bonds, the total entered value and total amount of all duties, taxes, and fees paid to CBP for the previous 12 months, plus the total estimated entered value and total estimated amount of all duties, taxes, and fees that will be paid to CBP during the subsequent 12 months. The total amount of duties, taxes and fees is the amount that would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If no imports were made during the 12 months prior to the application, the application letter should indicate “zero” and provide a statement of all duties, taxes, and fees it is estimated will accrue on all importations during the subsequent 12 months. If it is anticipated that the value of the merchandise to be imported will change in any material respect during the



subsequent 12 months, the change must be identified. These estimations will include the import activity of all business entities that will be listed on the bond;

(x) The type of bond applied for, including the proposed bond amount, activity code, and effective date;

(xi) The printed name, title, phone, and fax numbers of a company officer or attorney-in-fact signing on behalf of principal;

(xii) A certification statement (*see* paragraph (e) of this section); and

(xiii) Signature of applicant and date. Electronic applications that contain the certification statement prescribed in paragraph (e)(2) of this section will be considered legally binding to the same extent as if signed and submitted under seal.

(2) In addition to the data elements set forth in paragraph (c)(1) of this section, CBP may require the bond applicant to submit additional information as is deemed necessary for CBP to evaluate the application. Such information may be commodity-specific or company-specific.

(d) *Application updates.* If CBP approves a bond based upon the application, the principal on the bond must submit a new application to the issuing office (to the CBP Revenue Division in the case of continuous bonds) containing an update of the information required by paragraph (c) of this section whenever there is a material change in such information.

(e) *Signature and Certification*—(1) *Paper bonds.* Paper bonds must be signed by the applicant, affixed with the corporate seal where required (*see* § 113.33), and contain the following certification:

I, \_\_\_\_\_, certify that the factual information contained in this submission is true and accurate, that the corporate seal (if applicable) complies with § 113.25 of this chapter, and any information provided that is based upon estimates is based upon the best information available on the date of this document.

(2) *Bonds submitted in an electronic format.* Bond applications submitted in an electronic format must contain the following certification and are legally binding to the same extent as if signed and submitted under seal:

I, \_\_\_\_\_, certify that the factual information contained in this submission is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this document. I also certify that I am acting under authority of \_\_\_\_\_ corporation and this certification constitutes evidence of the corporate seal and complies with § 113.25 of this chapter.

(3) *Presumption of proper execution.* CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

10. Section 113.12 is revised to read as follows:

#### **§ 113.12 Bond approval.**

(a) *Single transaction bonds.* The director of the CBP port where a single transaction bond is filed will approve a bond that is in proper form and that provides adequate security for the transaction. CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

(b) *Continuous bonds.* Continuous bonds must be filed with the Revenue Division (RD). The RD bond team will determine whether the continuous bond is in proper form and provides adequate security. CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws. If approved, the RD will notify the filer, surety, and principal by issuing a CBP-assigned bond number. Only one continuous bond for a particular activity will be authorized for each principal.

(c) *Previously approved bond.* CBP may refuse to accept any new obligations under a previously approved bond that requires modification, including where the principal or surety has failed to comply with § 113.11(d) or § 113.24(d), or where the principal has failed to deposit the required financial instruments as described in § 113.40(a) for cash-in-lieu of surety bonds.

#### **11. In § 113.13:**

a. The first sentence in paragraph (a) is amended by removing the words “Customs bond shall” and adding in their place the words “CBP bond must”, and the second and third sentences in paragraph (a) are amended by removing the word “shall” each place that it appears and adding the word “will”;

b. The introductory text of paragraph (b) is amended by removing the words “the port director or drawback office in the case of a bond relating to repayment of erroneous drawback payment (*see* § 113.11) should at least” and adding in their place the words “CBP will”; paragraph (b)(2) is revised; and paragraph (b)(4) is amended by

removing the word “Customs” and adding in its place the term “CBP”;

c. Paragraph (c) is revised; and

d. Paragraph (d) is amended by removing the words “a port director or drawback office” and adding in their place the term “CBP”; by removing the word “Customs” and adding in its place the words “all applicable”; and by removing the words “he shall” and adding in their place the words “CBP may immediately”.

The revision of § 113.13(b)(2) and (c) reads as follows:

#### **§ 113.13 Amount of bond.**

\* \* \* \* \*

(b) \* \* \*

(2) The prior record of the principal in complying with CBP demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of customs and other laws and CBP regulations;

\* \* \* \* \*

(c) *Periodic review of bond sufficiency.* CBP will periodically review each bond on file to determine whether the bond is adequate to protect the revenue and ensure compliance with applicable law and regulations. If CBP determines that a bond is inadequate, the principal will be promptly notified in writing. Additional securities for any and all of the principal's transactions may be required until the deficiency is remedied.

\* \* \* \* \*

12. Section 113.14 is revised to read as follows:

#### **§ 113.14 Approved form of bond inadequate.**

If CBP determines that none of the conditions contained in subpart G of this part is applicable to a transaction sought to be secured, the Director, Revenue Division or, in the case of a single transaction bond, the port director, will draft conditions that cover the transaction. Before execution of the bond, the conditions must be submitted to Headquarters, Attention: Executive Director, Regulations and Rulings, Office of International Trade, for approval.

#### **13. In § 113.15:**

a. The first sentence is revised; and

b. The second and third sentences are amended by removing the word “shall” each place that it appears and adding the word “will”.

The revision reads as follows:

#### **§ 113.15 Retention of approved bonds.**

Except for bonds containing the agreement to pay court costs

(condemned goods—see § 113.72), single transaction bonds that are approved by the port director will remain on file at the port office and approved continuous bonds (including bonds relating to repayment of erroneous drawback payments containing the conditions set forth in § 113.65) will remain on file at the RD.

\* \* \*

14. In § 113.21:

a. Paragraph (a)(1) is revised;

b. Paragraphs (b) and (c) are amended by removing the word “shall” each place that it appears and adding the word “must”;

c. Paragraph (d) is amended by removing the word “shall” and adding in its place the word “may”; and

d. Paragraph (e) is revised.

The revision of § 113.21(a)(1) and (e) reads as follows:

#### § 113.21 Information required on the bond.

(a)(1) *Identification of principal, co-principal, and sureties.* The names of the principal, co-principal, and sureties, and their respective places of residence, must appear in the bond. In the case of a corporate principal, co-principal or surety, its legal designation and the address of its principal place of business must appear.

\* \* \* \* \*

(e) *Presumption of proper execution.* CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

#### § 113.22 [Removed and Reserved]

15. Section 113.22 is removed and reserved.

16. In § 113.23:

a. The heading and text of paragraph (a)(2) are amended by removing the words “or erasures”;

b. Paragraph (b) is amended by removing the word “erasures,” and by removing the word “shall” and adding in its place the word “must”; and

c. Paragraphs (c) and (d) are revised.

The revisions of § 113.23(c) and (d) read as follows:

#### § 113.23 Changes made on the bond.

\* \* \* \* \*

(c) *After signing, prior to approval.* If minor alterations, other than modifications or interlineations (*i.e.*, changes that go to the substance of the bond), are made to the bond after it is signed, but prior to its approval by CBP, the consent of all the parties must be indicated on the bond. When a modification or interlineation is desired, the existing bond will be cancelled and a new bond will be executed.

(d) *After approval.* Except in cases where a change in the bond is expressly authorized by regulations or instructions from the Commissioner of CBP, CBP will not permit a change as defined in paragraph (a) of this section after the bond has been approved. When changes are desired, the existing bond will be cancelled and a new bond is required which, when approved, will supersede the cancelled bond.

17. Section 113.24 is revised to read as follows:

#### § 113.24 Riders.

(a) *Types of riders.* The Revenue Division (RD) may accept bond riders, including the following types:

(1) *Name change of principal/trade name/unincorporated division.* A bond rider to change the name of a principal/trade name/unincorporated division on a bond may be used only when the change in name does not change the legal identity or status of the entity. If a new corporation is created as a result of a merger, reorganization or similar action, a bond rider cannot be used and a new bond will be required.

(2) *Address change.* A bond rider may be used to change the address on a bond.

(3) *Addition and deletion of trade names and unincorporated divisions of a corporate principal.* A bond rider may be used to add to or delete from a bond trade names and the names of unincorporated divisions of a corporate principal that do not have a separate and distinct legal status.

(b) *Where filed.* A bond rider must be filed at the RD.

(c) *Attachment of rider and, where applicable, CBP Form 5106 to bond.* All riders expressly authorized by the Commissioner of CBP must be filed with the related bond and must reference the related bond's CBP-issued bond number. Where applicable, a completed CBP Form 5106 must be submitted with the bond rider.

(d) *Failure to provide rider.* CBP may refuse to accept any new conditions under a previously approved bond where a rider that is expressly authorized by the Commissioner of CBP has not been submitted to CBP.

(e) *Format of rider.* A rider submitted to the RD on paper must be signed by both the principal (including all co-principals) and surety, sealed, executed, include a certificate as to corporate principal, if applicable, and otherwise comply with the requirements of this part. A rider submitted to the RD in an electronic format must contain the certification set forth in § 113.11(e)(2) and the filer must retain a copy of the seal as per § 113.25(b). CBP is entitled

to presume, without verification, that submitted riders are properly executed, complete, accurate, and in full compliance with all applicable laws. A rider must contain one or more of the following formats, as applicable:

(1) *Name change of principal/trade name/unincorporated division.*

By this rider to CBP Form 301 (or other form as designated by regulation), \_\_\_\_\_ (bond number), executed on \_\_\_\_\_ (date), by \_\_\_\_\_ (former name), as principal \_\_\_\_\_ (importer number), the \_\_\_\_\_ (new name), hereby certifies that it is the same entity formerly known as \_\_\_\_\_ (former name), and the principal and surety agree that they are responsible for any act secured by this bond done under the aforementioned new name of the principal/trade name/unincorporated division. This rider is effective on \_\_\_\_\_ (date).

(2) *Address change.*

By this rider to CBP Form 301 (or other form as designated by regulation), \_\_\_\_\_ (bond number), executed on \_\_\_\_\_ (date), by \_\_\_\_\_ (name of principal/trade name/unincorporated division), as principal, \_\_\_\_\_ (importer number), and \_\_\_\_\_ (surety's name and code), as surety, which is effective on \_\_\_\_\_ (date), the principal, surety, or both, intend that the bond be amended to show \_\_\_\_\_ (new address) as their address. The principal, surety, or both, as may be appropriate, agree to be bound as though this bond has been executed with the new address shown.

(3) *Addition or deletion of trade names and unincorporated divisions of a corporate official—(i) Addition rider.*

By this rider to CBP Form 301 (or other form as designated by regulation), \_\_\_\_\_ (bond number), executed on \_\_\_\_\_ (date), by \_\_\_\_\_ (name of principal/co-principal/trade name/unincorporated division), as principal \_\_\_\_\_ (importer number), and \_\_\_\_\_ (surety's name and code), as surety, which is effective on \_\_\_\_\_ (date), the principal, co-principal and surety agree that the below listed names are unincorporated units of the principal or are trade or business names used by the principal in its business and that this bond covers its business and that this bond covers any act done in those names to the same extent as though done in the name of the principal. The principal and surety agree that any such act will be considered to be the act of the principal.

(ii) *Deletion rider.*

By this rider to CBP Form 301 (or other form as designated by regulation), \_\_\_\_\_ (bond number), executed on \_\_\_\_\_ (date), by \_\_\_\_\_ (name of principal/trade name/unincorporated division), as principal \_\_\_\_\_ (importer number), and \_\_\_\_\_ (surety's name and code), as surety, which is effective on \_\_\_\_\_ (date), the principal and surety agree that the below listed names of unincorporated units of the principal or trade or business names used by the principal in its business are deleted from the bond effective upon the date of approval of the rider by the appropriate CBP official.

18. Section 113.25 is revised to read as follows:

**§ 113.25 Seals.**

(a) *Paper bonds.* When a seal is required, the seal must be affixed adjoining the signatures of the principal and corporate surety, and the corporate seal must be affixed close to the signatures of persons signing on behalf of a corporation. Bonds must be under seal in accordance with the law of the State in which executed. When the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

(b) *Bonds submitted electronically.* Continuous bonds submitted in an electronic format do not have to be affixed with a seal; however, electronic bonds must include the certification language required by § 113.11(e)(2) which states that the applicant is acting under authority of the [named] corporation and the certification constitutes legally binding evidence of the corporate seal. Additionally, where either the law of the State in which the bond is executed or the CBP regulations require a seal, the party executing the electronic bond must retain a copy of the paper seal and make such seal available to CBP for inspection upon request.

(c) *Presumption of proper execution.* CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

19. In § 113.26:

a. Paragraph (a) is amended by removing the word “Bonds” and adding in its place the words “Continuous bonds”; removing the number “30” and adding in its place “60”; and; removing the word “Customs” and adding in its place the term “CBP”;

b. Paragraph (b) is amended by removing the words “Customs Bond, Customs” and adding in their place the term “CBP”;

c. Paragraph (c) is amended by removing the words “Customs Bond, Customs” and adding in their place the term “CBP”; and

d. Paragraph (e) is revised.

The revision to § 113.26(e) reads as follows:

**§ 113.26 Effective dates of bonds and riders.**

(e) *Rider to delete trade names and unincorporated divisions of a corporate principal.* A rider to delete trade names and unincorporated divisions of a corporate principal is effective on the effective date identified on the rider if the date is at least 15 days after the date CBP receives the rider. If the rider is not

received 15 days before the identified effective date or no effective date is identified on the rider, it will be effective on the close of business of the fifteenth business day after it is received by CBP.

20. Section 113.27 is revised to read as follows:

**§ 113.27 Effective dates of termination of bond.**

(a) *Termination by principal/co-principal.* A written request by a principal or co-principal to terminate a continuous bond must be addressed to the Revenue Division (RD) and must state the date the termination will take effect. Once the RD has received a valid bond termination request, the termination cannot be withdrawn. The termination will take effect on the date requested if that date is at least 15 business days after the date the request is received by CBP. Where the requested date of termination is less than 15 business days from the date CBP received the request, or where no termination date has been requested, the termination will take effect on the close of business on the fifteenth business day after the request is received by CBP.

(b) *Termination by surety.* A surety may, with or without the consent of the principal, terminate a CBP bond on which it is obligated. Written notice of the termination must be sent to the principal and the RD and must state the date the termination will take effect. Once the RD has received a valid bond termination request, the termination cannot be withdrawn. The termination will take effect on the date requested if that date is at least 15 business days after the date the notice is received by CBP. Where the requested date of termination is less than 15 business days from the date CBP received the notice, or where no termination date has been requested, the termination will take effect on the close of business on the fifteenth business day after the notice is received by CBP.

(c) *Effect of termination.* (1) After a bond is terminated, no new CBP transactions will be charged against the bond. A new bond in an appropriate amount on CBP Form 301 (or other form as designated by regulation), containing the appropriate bond conditions set forth in subpart G of this part, must be filed before further CBP activity may be transacted.

(2) Notwithstanding the above, when a principal intends to continue to engage in the same activity as that secured by a bond to be terminated pursuant to this section, and the principal has submitted a replacement bond to secure that continued activity,

no termination requested by a principal or surety will take effect or be effective until CBP has reviewed and approved the replacement bond.

**§ 113.32 [Amended]**

21. In § 113.32:

a. New introductory text is added to read as follows, “A partnership, including a limited partnership, means any business association recognized as such under the laws of the State where the association is organized.”;

b. Paragraph (a) is removed;

c. Existing paragraph (b) is redesignated as paragraph (a) and is amended by removing the word “shall” and adding in its place the word “must”; and

d. Existing paragraph (c) is redesignated as paragraph (b) and is amended, in the first sentence, by removing the word “shall” and adding in its place the word “will”, and by removing the second sentence.

22. Section 113.33 is amended by:

a. Revising the heading and paragraphs (a), (b), and (c);

b. In paragraph (d), removing the words “port director” and adding in their place the term “RD”, and removing the word “shall” each place that it appears and adding the word “must”; and

c. In paragraph (e), removing the words “shall be” and adding in their place the word “are”.

The revisions to § 113.33 read as follows:

**§ 113.33 Corporations (including Limited Liability Corporations) as principals.**

(a) *Name of corporation (including Limited Liability Corporation (LLC)) on bond.* The name of a corporation or LLC executing a CBP bond as a principal must be indicated on the bond.

(b) *Signature and seal of corporation (including Limited Liability Corporation (LLC)) on the bond.* Where the bond of a corporate or LLC principal is submitted to CBP on paper, it must be signed by an authorized officer or attorney of the corporation or LLC and the seal must be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25(a). Where the continuous bond of a corporate or LLC principal is submitted to the RD in an electronic format, the bond must contain the certification language set forth in § 113.11(e)(2) and, where applicable, the party executing the bond must retain a copy of the paper seal in accordance with § 113.25(b). CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the

bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

(c) *Bond executed by an officer of corporation (including Limited Liability Corporation (LLC)).* When a bond is executed by an officer of a corporation or LLC, the officer's signature constitutes *prima facie* evidence of that officer's authority to bind the corporation or LLC. CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

\* \* \* \* \*

#### § 113.34 [Amended]

23. Section 113.34 is amended by removing the word "shall" in the second sentence and adding in its place the word "may".

24. Section 113.35 is revised to read as follows:

#### § 113.35 Individual sureties.

(a) *Number required.* If individuals sign as sureties, there must be two sureties on the bond unless CBP is satisfied that one surety is sufficient to protect the revenue and insure compliance with the law and regulations.

(b) *Qualifications to act as surety—*  
(1) *Residency and citizenship.* Each individual surety on a CBP bond must be both a resident and citizen of the United States.

(2) *Granting of power of attorney.* Any individual, unless prohibited by law, may grant a power of attorney to sign as surety on CBP bonds. Unless the power is unlimited, all persons to whom the power relates must be named.

(3) *Property requirements.* For both single transaction and continuous bonds, each individual surety must have property available as security within the customs territory of the United States. The current market value of the property less any encumbrance must be equal to or greater than the amount of the bond. If one individual surety is accepted, the individual surety must have property the value of which, less any encumbrance, is equal to or greater than twice the amount of the bond.

(c) *Oath and evidence of solvency.* Before being accepted as a surety, the individual must:

(1) Take an oath on CBP Form 3579, setting forth:

(i) The amount of assets over and above all debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and location of one or more pieces of real estate owned within the customs territory of the United States, and the value thereof less any encumbrance.

(2) Produce such evidence of solvency and financial responsibility as CBP may require.

(d) *Determination of financial responsibility.* An individual surety will not be accepted on a bond until CBP is satisfied as to the financial responsibility of the individual. CBP may request Immigration and Customs Enforcement (ICE) to conduct an immediate investigation to verify a surety's financial responsibility.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, CBP will require a new oath and determine the financial responsibility of each individual surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if deemed advisable.

#### § 113.36 [Amended]

25. Section 113.36 is amended by removing the word "shall" and adding in its place the word "will".

26. In § 113.37:

a. The second sentence in paragraph (a) is amended by removing the word "Customs" and adding in its place the term "CBP"; by removing the word "shall" where it appears after the word "corporation" and adding in its place the word "will"; and by removing the words "shall be for a greater amount than" and adding in their place the words "may exceed";

b. Paragraph (b) is revised;

c. Paragraph (c) is revised;

d. Paragraph (d) is amended by removing the word "shall" and adding in its place the word "must";

e. Paragraph (e) is revised;

f. Paragraph (f) is amended: by removing the word "shall" and adding in its place the word "must"; by removing the words "Bureau of Government Financial Operations" and adding in their place the words, "Financial Management Service"; by removing in the last paragraph of the "Corporate Sureties Agreement for Limitation of Liability" set forth under paragraph (f) the number "19" and adding in its place "20"; and by removing in the signature block the words "Port Director (Drawback Office)" and adding in their place the words "Authorized CBP officer"; and

g. Paragraph (g) is revised.

The revisions of § 113.37 read as follows:

#### § 113.37 Corporate sureties.

\* \* \* \* \*

(b) *Name of corporation on the bond.* The name of a corporation executing a CBP bond as a surety must be indicated on the bond.

(c) *Name of agent or attorney on the bond.* The full name of the agent or attorney acting for a corporate surety, as it appears on the bond, must be indicated on the bond.

\* \* \* \* \*

(e) *Signature and seal of the corporation on the bond.* Except where submitted in an electronic format, a bond executed by a corporate surety must be signed by an authorized officer or attorney of the corporation and the corporate seal must be affixed immediately adjoining the signature of the person executing the bond, as provided in § 113.25(a). Where a corporate surety submits a bond to the RD in an electronic format, the bond must contain the certification language prescribed by § 113.11(e)(2) and the corporate surety must retain a copy of the seal in accordance with § 113.25(b). CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

\* \* \* \* \*

(g) *Power of attorney for the agent or attorney of the surety.* Corporations may execute powers of attorney to act on their behalf in the following manner:

(1) *Execution and contents.* The corporate surety power of attorney must be executed on CBP Form 5297 and must contain the following information:

(i) Corporate surety name and number;

(ii) Name, address and Social Security number of agent or attorney;

(iii) Date of execution of power of attorney;

(iv) Seal of the corporate surety, either affixed to the CBP Form 5297 or, if submitted in an electronic format, the corporate surety must retain a copy of the seal in accordance with § 113.25(b).

(v) Signature of any two principal officers of corporation or, where the corporate surety power of attorney is submitted in an electronic format, the principal officers must submit the certification language prescribed in § 113.11(e)(2); and

(vi) Dollar amount of authorization.

(2) *Filing.* A corporate surety power of attorney executed on CBP Form 5297 must be filed at the RD via mail, fax, or in an electronic format pursuant to the terms prescribed by CBP (see the CBP Internet Web site located at <http://>

www.cbp.gov.) The RD will retain a copy of the original CBP Form 5297 and return a validated copy to the grantee.

(3) *Term and revocation.* Corporate surety powers of attorney will continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of a power of attorney must execute a revocation on CBP Form 5297 and submit this form to the RD. The revocation will take effect on the close of business on the date requested provided the CBP Form 5297 is received at least 5 business days before the date requested; otherwise, the revocation will take effect at the close of business 5 days after the request is received by the RD.

(4) *Change on the power of attorney.* The only changes permitted on the CBP Form 5297 after it has been approved by CBP are changes to the grantee's name and address. To make any other change to the power of attorney requires the submission of two separate CBP Form 5297s: The first revoking the previous power of attorney and the second containing a new grant of authority.

(5) *Presumption of proper execution.* CBP is entitled to presume, without verification, that submitted bond applications and related documentation, which include the bond, are properly executed, complete, accurate, and in full compliance with all applicable laws.

27. In § 113.38:

a. The heading and text of paragraph (a) are amended by removing the word "Customs" each place it appears and adding the term "CBP";

b. The heading and text of paragraph (b) are amended by removing the word "Customs" each place it appears and adding the term "CBP";

c. The heading and text of paragraph (c)(1) are amended by adding the words "single transaction" before the word "bond", and by removing the language, "Director, Border Security and Trade Compliance Division" and adding in its place, "Executive Director, Regulations and Rulings, Office of International Trade, CBP";

d. Paragraph (c)(2) is revised;

e. Paragraph (c)(3) is amended by removing the word "Customs" and adding in its place the term "CBP"; and

f. Paragraph (c)(4) is revised.

The revisions to § 113.38(c)(2) and (c)(4) read as follows:

**§ 113.38 Delinquent sureties.**

\* \* \* \* \*

(c) \* \* \*

(2) *Nonacceptance of bond upon instruction by Commissioner of CBP or Director, Revenue Division.* The Commissioner of CBP, or the Director, Revenue Division (RD), may issue

instructions to CBP officers not to accept a bond secured by an individual or corporate surety who, without just cause, is significantly delinquent either in the number of outstanding bills or dollar amounts thereof.

\* \* \* \* \*

(4) *Review and final decision.* After a review of any submission made by the surety under paragraph (c)(3) of this section, if the Commissioner of CBP, the Director, RD, or a port director is still of the opinion bonds secured by the surety should not be accepted, written notice of the decision will be provided to the surety in person or by certified mail, return receipt requested, at least five days before the date that CBP will no longer accept the bonds of the surety. Copies of the notice will also be provided to the Executive Director, Regulations and Rulings, Office of International Trade and, if the notice does not originate from the RD, to the Director, RD. Notice will be given to the importing public by publishing the decision in the Customs Bulletin.

\* \* \* \* \*

**§ 113.39 [Amended]**

28. In § 113.39:

a. The introductory text is amended by removing the words "a port director or Fines, Penalties, and Forfeitures Officer is unsatisfied" and adding in their place the words "CBP is dissatisfied"; and by removing the words "port director may" and adding in their place the words "an authorized CBP officer may";

b. The introductory text to paragraph (a) is amended by removing the words "A port director or Fines, Penalties, and Forfeitures Officer shall" and adding in their place the words "An authorized CBP officer will";

c. Paragraph (a)(5) is amended by removing the words the "port director or Fines, Penalties, and Forfeitures Officer" and adding in their place the words "authorized CBP officer"; and

d. Paragraph (b) is amended: In the first sentence, by removing the words "The Director, Border Security and Trade Compliance Division, shall" and adding in their place the words "CBP Headquarters will"; in the second sentence, by removing the words "Bureau of Government Financial Operations" and adding in their place the words, "Financial Management Service"; and, in the last sentence, by removing the words "port director and Fines, Penalties, and Forfeitures Officer" and adding in their place the words "appropriate CBP officer and the Director, RD".

29. In § 113.40:

a. Paragraph (a) is revised;

b. Paragraph (b) introductory text is revised and the "Power of Attorney and Agreement (For Corporation)" form is amended by removing the designation "19" each place that it appears and adding "20" in its place;

c. Paragraph (c) is revised;

d. New paragraphs (d) through (g) are added in alphabetical order.

The revisions to § 113.40 read as follows:

**§ 113.40 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.**

(a) *General provisions.* In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of Homeland Security, the Secretary of the Treasury, or the Commissioner of CBP are authorized to enforce, the Director, Revenue Division (RD) may accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the face amount of the bond that would be required. The option to deposit cash or U.S. obligations in lieu of sureties is at the option of the importer. A CBP Form 301 designating the appropriate activity for the cash deposits or obligations in lieu of surety must also be filed. When cash or obligations in lieu of surety are accepted, it must be for a term of no more than one year. Additional cash deposits or obligations in lieu of surety may be required.

(b) *Authority to sell United States obligations on default.* At the time of deposit with the Director, Revenue Division (RD), of any obligation of the United States, other than United States money, the obligor must deliver a duly executed power of attorney and agreement authorizing the Director, RD, in the case of any default in the performance of any of the conditions of the bond, to sell the obligation so deposited and to apply the proceeds of the sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of default. The format of the power of attorney and agreement, when the obligor is a corporation, will be modified as appropriate when the obligor is either an individual or a partnership and reads as follows:

\* \* \* \* \*

(c) *Application of United States money or obligations on default.* If U.S. cash or obligations are deposited in lieu of surety on any bond, the appropriate CBP officer is authorized to apply the cash or money received from the

deposited obligation to satisfy any damages, demand, or deficiency arising from a default under the bond.

(d) *Application to the satisfaction of damages, demands or deficiencies*—(1) *Matters subject to protest.* When the time to protest duties, fees, taxes, charges or exactions as set forth in 19 U.S.C. 1514 expires and no timely protest has been filed, or when a timely protest is filed and is denied in whole or in part, CBP may collect against the cash deposit or obligation in lieu of surety and take any and all necessary steps to accomplish such collection.

(2) *User fees.* When the user fees required to be collected are not remitted to CBP in the time period prescribed by law or regulation, CBP may collect against the cash deposit or obligation in lieu of surety and take any and all necessary steps to accomplish such collection.

(3) *Matters subject to administrative petition*—(i) *No timely petition.* If no petition has been filed by the day after the expiration of the petitioning period provided by regulation or specific notice, CBP may collect against the cash deposit or obligation in lieu of surety and take any and all necessary steps to accomplish such collection. CBP may entertain untimely petitions and supplemental petitions and, if relief is granted and collection has been made, CBP will return to the established cash account the difference between the amount collected and the amount ultimately applied.

(ii) *Timely petition.* If CBP denies a petition, CBP may collect immediately against the cash deposit or obligation in lieu of surety and take any and all necessary steps to accomplish such collection. If CBP grants relief, CBP will return to the established cash account the difference between the amount posted and the amount ultimately applied after petitioning, taking all steps necessary to accomplish such collection.

(4) *No waiver of rights.* Forbearance or delay on the part of CBP in collection after it acquires the right to do so pursuant to the terms set forth in this section will not constitute a waiver of the Government's right to collect from the cash deposits or obligations in lieu of surety.

(e) *Additional security.* If, at any point prior to the expiration of the one-year maximum term for cash or obligations in lieu of a bond, CBP determines that the cash or obligations are not sufficient security, CBP possesses the right to require new, additional cash or obligations to be posted in lieu of surety. If new, additional cash or obligations are not timely posted, CBP

may as a matter of right take action to prevent the party from continuing the activity for which the initial cash or obligations was posted. CBP will continue to hold the initial cash or obligations as a matter of right subject to the provisions found in paragraph (f) of this section.

(f) *Return of cash or obligations and setoff*—(1) *Tenure of holding.* CBP will hold cash and obligations until such time as CBP is reasonably certain that no circumstances will arise where CBP will need to collect against it. When CBP determines that it is reasonably certain that no circumstances may arise where it would need to collect against the cash or obligations and that the cash or obligations can be returned, CBP will, pursuant to § 24.72 of this chapter, set off the cash or obligations against debt owed to CBP.

(2) *No interest to accrue on cash in lieu of surety.* Cash in lieu of surety does not earn interest while CBP holds it, and it may not be placed in an interest-bearing account, not even a low-interest, low-risk account, under any circumstances.

(g) *No limitation on an importer's liability for duty and no effect on the duration of that liability.* An importer is personally liable for duties, taxes, and charges found due in connection with an entry of merchandise. Furthermore, there is no statute of limitations governing an importer's liability for such duties, taxes, and charges. The fact that an importer posts cash or obligations in lieu of a bond does not alter or affect the two legal facts just described.

#### § 113.41 [Amended]

30. Section 113.41 is amended by: removing the word “shall” and adding in its place the word “must”; and removing the word “Customs” and adding in its place the term “CBP”.

#### § 113.42 [Amended]

31. Section 113.42 is amended by: removing from the first sentence the word “shall” and adding in its place the word “must”; removing the word “Customs” and adding in its place the term “CBP”; removing the reference to “§ 133.43(a)” and adding in its place a reference to “§ 113.43(a)”; and removing in the second sentence the word “shall” and adding in its place the word “will”.

#### § 113.43 [Amended]

32. In § 113.43:  
a. Paragraph (a) is amended by removing the words “of 2 months” and adding in their place the words “not to exceed 60 days”;  
b. Paragraph (b) is amended by: removing the word “shall” each place

that it appears and adding the word “will”; and removing the words “2 months” each place that they appear and adding the words “60 days”; and  
c. Paragraph (c) is amended by removing the word “shall” each place that it appears and adding the word “will”.

#### § 113.44 [Amended]

33. In § 113.44, paragraph (b) is amended by removing the word “shall” and adding in its place the word “must”.

#### § 113.45 [Amended]

34. Section 113.45 is amended by: removing the word “shall” and adding in its place the word “must”; and removing the word “entry” each place that it appears and adding the word “transaction”.

#### § 113.51 [Amended]

35. Section 113.51 is amended by removing the word “Customs” and adding in its place the term “CBP”.

#### § 113.52 [Amended]

36. Section 113.52 is amended by: removing the word “Customs” and adding in its place the term “CBP”; removing the symbols “§§” and adding in their place the symbol “§”; removing the words “is unsatisfied” and adding in their place the words “has not been satisfied”; and removing the word “shall” and adding in its place the word “will”.

#### § 113.53 [Amended]

37. In § 113.53:  
a. The section heading is amended by removing the word “Customs” and adding in its place the term “CBP”;  
b. Paragraph (a) is amended by: removing in the paragraph heading the word “Customs” and adding in its place the term “CBP”; removing in the introductory text the word “Customs” each place that it appears and adding the term “CBP”; and adding in paragraph (a)(3) after the word “Commissioner” the words “of CBP”; and  
c. Paragraph (b) is amended by: adding in the paragraph heading, after the word “director”, the words “or other authorized CBP officer”; removing, in the text, the word “Customs” and adding in its place the term “CBP”; adding after the word “director” the words “or other authorized CBP officer”; and removing the word “shall” and adding in its place the word “will”.

c. Paragraph (b) is amended by: adding in the paragraph heading, after the word “director”, the words “or other authorized CBP officer”; removing, in the text, the word “Customs” and adding in its place the term “CBP”; adding after the word “director” the words “or other authorized CBP officer”; and removing the word “shall” and adding in its place the word “will”.

#### § 113.55 [Amended]

38. In § 113.55:  
a. Paragraph (c) is amended by: removing in the introductory text the

word “shall” each place that it appears and adding the word “must”; removing the word “Customs” and adding in its place the word “customs”; removing in paragraph (c)(1) the word “shall” and adding in its place the word “will”; and removing in paragraph (c)(3) the word “Customs” and adding in its place the term “CBP”; and

b. Paragraph (d) is removed.

#### Subpart G—CBP Bond Conditions

39. The subpart G heading is revised to read as set forth above.

#### § 113.61 [Amended]

40. Section 113.61 is amended, in the first sentence, by removing the upper case word “Customs” and adding in its place the lower case word “customs”; and in the second sentence, by removing the word “Customs” and adding in its place the term “CBP”.

41. In § 113.62:

a. The introductory text is amended by: removing the word “shall” and adding in its place the word “must”; and by removing the words “single entry” and adding in their place the words “single transaction”;

b. Paragraphs (a)(1), (a)(1)(ii), and (a)(2) are amended by: removing the word “Customs” each place that it appears and adding the term “CBP”; and in paragraph (a)(1)(i), by adding after the word “regulation” the words “and including payments made via periodic monthly statement”;

c. Paragraph (a)(3) is amended by removing the words “the port director” and adding in their place the term “CBP”;

d. The introductory text to paragraph (b) and paragraph (b)(1) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

e. Paragraph (c) is amended by removing the word “Customs” and adding in its place the term “CBP”;

f. Paragraph (d) introductory text is amended by removing the word “Customs” wherever it appears and adding in each place the term “CBP”;

g. Paragraph (f) introductory text and paragraph (f)(2) are amended by removing the word “Customs” wherever it appears and adding in each place the term “CBP”;

h. Paragraph (f)(3) is revised;

i. Paragraph (g)(1) is amended by removing the word “Customs” and adding in its place the term “CBP”;

j. Paragraph (h)(2) is revised;

k. Paragraphs (h)(3) and (h)(4) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

l. The heading and text of paragraph (i) are amended by removing the words “Customs Regulations” each place that they appear and adding the words “CBP regulations”; and by removing the words “Customs security” each place that they appear and adding the words “CBP security”;

m. Paragraphs (m)(2) and (m)(4) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”; and by removing the word “shall” each place that it appears and adding the word “will”.

The revisions to § 113.62 read as follows:

#### § 113.62 Basic importation and entry bond conditions.

\* \* \* \* \*

(f) \* \* \*

(3) Keep any customs seal or cording on the merchandise intact until the merchandise is examined by CBP.

\* \* \* \* \*

(h) \* \* \*

(2) If a fishing vessel, to present the original approved application to CBP within 24 hours on each arrival of the vessel in the customs territory of the United States from a fishing voyage;

\* \* \* \* \*

42. In § 113.63:

a. The introductory paragraph is amended by removing the word “shall” each place that it appears and adding the word “must”;

b. Paragraphs (a)(2) and (a)(3) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”; and paragraph (a)(3) is further amended by adding the term “CBP” immediately before the word “regulations”;

c. Paragraph (a)(5) is amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

d. Paragraphs (b)(2) and (b)(3) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

e. Paragraphs (c)(1), (c)(2), (c)(3) and (c)(4) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

f. Paragraph (d) is amended by removing in the paragraph heading and text the word “Customs” each place that it appears and adding the term “CBP”;

g. Paragraph (e) is amended by removing the words “Customs laws and regulations” and adding in their place the words “customs laws and CBP regulations”;

h. The heading and text of paragraph (f) are amended by removing the words “Customs Regulations” each place that

they appear and adding the words “CBP regulations”, and by removing the words “Customs security” each place that they appear and adding the words “CBP security”;

i. Paragraphs (h)(1), (h)(2) and (h)(5) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

j. Paragraph (i)(2) is amended by removing the word “shall” and adding in its place the word “will”; and by removing the word “Customs” and adding in its place the term “CBP”; and

k. Paragraph (i)(3) is amended by removing the word “Customs” and adding in its place the term “CBP”.

43. In § 113.64:

a. The introductory paragraph is amended by: removing the word “shall” and adding in its place the word “must”; and by removing the word “entry” and adding in its place the word “transaction”;

b. Paragraph (a) is amended by removing the second sentence;

c. Existing paragraphs (b) through (k) are redesignated as paragraphs (c) through (l);

d. A new paragraph (b) is added;

e. Newly redesignated paragraph (c) is amended by removing the word “Customs” each place that it appears and adding the term “CBP”; and in the third sentence by removing the word “shall” and adding in its place the word “will”;

f. The heading and text of newly redesignated (j) are amended by removing the words “Customs Regulations” each place that they appear and adding the words “CBP regulations”; and by removing the words “Customs security” each place that they appear and adding the words “CBP security”; and

g. Newly redesignated paragraphs (l)(1) and (l)(2) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”.

The revisions to § 113.64 read as follows:

#### § 113.64 International carrier bond conditions.

\* \* \* \* \*

(b) *Agreement to pay liquidated damages—(1) Passenger processing fees:* If the principal (carrier) fails to pay passenger processing fees to CBP no later than 31 days after the close of the calendar quarter in which they were required to be collected pursuant to § 24.22(g) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the passenger processing fees which were



required to be collected but not timely remitted to CBP, regardless of whether such fees were in fact collected from passengers, as prescribed by regulation.

(2) *Railroad car processing fees*: If the principal (carrier) fails to pay railroad car processing fees to CBP no later than 60 days after the close of the calendar month in which they were collected pursuant to § 24.22(d) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the railroad car processing fees which have not been timely paid to CBP as prescribed by regulation.

(3) *Reimbursement fees payable by express consignment carrier and centralized hub facilities*. If the principal (carrier) fails to timely pay the reimbursement fees payable to CBP by express consignment carrier facilities and centralized carrier facilities pursuant to the terms set forth in § 24.23(b)(4) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the fees which have not been timely paid to CBP as prescribed by that section.

\* \* \* \* \*

#### § 113.65 [Amended]

44. In § 113.65:

a. The introductory paragraph is amended by: removing the word “shall” and adding in its place the word “must”; and by removing the word “entry” and adding in its place the word “transaction”; and

b. Paragraphs (a)(3) and (a)(4) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”.

45. In § 113.66:

a. The introductory paragraph is amended by removing the word “shall” each place that it appears and adding the word “must”;

b. Paragraph (a) introductory text and paragraph (a)(1) are revised;

c. Paragraph (b)(3) is amended by removing the word “Customs” and adding in its place the term “CBP”;

d. Paragraph (c)(2) is amended by removing the word “Customs” and adding in its place the term “CBP”;

e. Paragraph (d)(2) is amended by: removing the word “shall” and adding in its place the word “will”; and by removing the word “Customs” and adding in its place the term “CBP”; and

f. Paragraph (d)(3) is amended by removing the word “Customs” and adding in its place the term “CBP”.

The revisions to § 113.66(a) read as follows:

#### § 113.66 Control of containers and instruments of international traffic bond conditions.

(a) *Agreement to Enter Any Diverted Instrument of International Traffic*. If the principal brings in and takes out of the customs territory of the United States an instrument of international traffic without entry and without payment of duty, as provided by the CBP regulations and section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322(a)), the principal agrees to:

(1) Report promptly to CBP when the instrument is diverted to point-to-point local traffic in the customs territory of the United States or when the instrument is otherwise withdrawn in the customs territory of the United States from its use as an instrument of international traffic.

\* \* \* \* \*

#### § 113.67 [Amended]

46. In § 113.67:

a. The introductory text to paragraph (a) is amended by removing the word “shall” each place that it appears and adding the word “must”;

b. Paragraphs (a)(1) introductory text, (a)(1)(i), and (a)(1)(iii) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”;

c. Paragraph (a)(2)(iii) is amended by: removing the word “shall” and adding in its place the word “will”; and by removing the word “Customs” where it appears and adding in each place the term “CBP”.

d. The introductory text to paragraph (b) is amended by removing the word “shall” each place that it appears and adding the word “must”; and

e. Paragraphs (b)(1), (b)(1)(i), (b)(1)(iii), and (b)(2)(iii) are amended by removing the word “Customs” each place that it appears and adding the term “CBP”.

#### § 113.68 [Amended]

47. In § 113.68:

a. The introductory text is amended by: removing the word “shall” each place that it appears and adding the word “must”; and by removing the word “entry” and adding in its place the word “transaction”;

b. Paragraph (a) is amended by removing the word “Customs” and adding in its place the term “CBP”; and

c. The second sentence of paragraph (b) is amended by removing the word “shall” and adding in its place the word “will”; and by removing the word “Customs” and adding in its place the term “CBP”.

#### § 113.69 [Amended]

48. In § 113.69:

a. The introductory text is amended by: removing the word “shall” each place that it appears and adding the word “must”; and by removing the word “entry” and adding in its place the word “transaction”; and

b. The introductory paragraph in the “Production of Bill of Lading Bond Conditions” is amended by removing the word “Customs” and adding in its place the term “CBP”.

#### § 113.70 [Amended]

49. In § 113.70:

a. The introductory paragraph is amended by: removing the word “shall” each place that it appears and adding the word “must”; and by removing the word “entry” and adding in its place the word “transaction”; and

b. The first sentence in the “Bond Condition to Indemnify United States for Detention of Copyrighted Material” is amended by removing the word “Customs” and adding in its place the term “CBP”.

#### § 113.71 [Amended]

50. In § 113.71, the introductory text is amended by: removing the word “shall” each place that it appears and adding the word “must”; and by removing the word “entry” and adding in its place the word “transaction”.

#### § 113.72 [Amended]

51. In § 113.72, the introductory text is amended by: removing the word “shall” each place that it appears and adding the word “must”; and by removing the word “entry” and adding in its place the word “transaction”.

#### § 113.73 [Amended]

52. In § 113.73:

a. The introductory text is amended by removing the word “shall” each place that it appears and adding the word “must”;

b. Paragraph (a)(1) is amended by removing the word “Customs” and adding in its place the term “CBP”;

c. Paragraph (a)(2) is amended by: removing the word “Customs” each place that it appears and adding the term “CBP”; and by removing the word “shall” in the third sentence and adding in its place the word “will”;

d. Paragraph (b) is amended by: removing the word “shall” and adding in its place the word “will”; and by removing the word “Customs” and adding in its place the term “CBP”;

e. Paragraph (d)(2) is amended by removing the phrase “Customs officer” and adding in its place the term “CBP Officer”; and

f. Paragraph (e) is amended by removing the word “Customs” and adding in its place the term “CBP”.

**§ 113.74 [Amended]**

53. Section 113.74 is amended by removing the word “entry” and adding in its place the word “transaction”.

**Appendix A to Part 113—[Amended]**

54. Appendix A to Part 113 is amended by removing:

a. In the Appendix heading, the title of the bond, and the text of the bond, the words “Customs security” each place that they appear and adding the words “CBP security”; and

b. In the text of the bond, the number “19” where it appears and adding the number “20”; the words “Customs airports” and adding the words “CBP airports”; and the words “Customs Regulations” and adding the words “CBP regulations”.

**Appendix B to Part 113—[Amended]**

55. Appendix B to Part 113 is amended by removing the word “Customs” each place that it appears and adding the term “CBP”.

**Appendix C to Part 113—[Amended]**

56. Appendix C to Part 113 is amended by removing the word “Customs” each place that it appears and adding the term “CBP”.

**PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS**

57. The general and specific authority citations for part 133 continue to read as follows:

**Authority:** 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Sections 133.21 through 133.25 also issued under 15 U.S.C. 1124, 19 U.S.C. 1526.

58. Section 133.21(d) is revised to read as follows:

**§ 133.21 Articles bearing counterfeit trademarks.**

(d) *Samples available to the trademark owner.* At any time following seizure of the merchandise, CBP may provide a sample of the subject merchandise to the owner of the trademark for examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. To obtain a sample under this section, the trademark/trade name owner must furnish CBP with a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. CBP may demand the return of the sample at any time. The owner must return the sample to CBP

upon demand or at the conclusion of the examination, testing or other use in pursuit of a related private civil remedy for trademark infringement. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark owner, the owner must, in lieu of return of the sample, certify to CBP that: “The sample described as [insert description] and provided pursuant to 19 CFR 133.21(d) was (damaged/destroyed/lost) during examination, testing or other use.”

59. Section 133.25(c) is revised to read as follows:

**§ 133.25 Procedure on detention of articles subject to restriction.**

(c) *Samples available to the trademark or trade name owner.* At any time following presentation of the merchandise for CBP’s examination, but prior to seizure, CBP may provide a sample of the suspect merchandise to the owner of the trademark or trade name for examination or testing to assist in determining whether the article imported bears an infringing trademark or trade name. To obtain a sample under this section, the trademark/trade name owner must furnish CBP with a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. CBP may demand the return of the sample at any time. The owner must return the sample to CBP upon demand or at the conclusion of the examination or testing. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark or trade name owner, the owner must, in lieu of return of the sample, certify to CBP that: “The sample described as [insert description] and provided pursuant to 19 CFR 133.25(c) was (damaged/destroyed/lost) during examination or testing for trademark infringement.”

60. In § 133.42, paragraph (e) is amended by: revising the second sentence; removing the word “Customs” where it appears and adding in each place the term “CBP”; and, in the last sentence, removing the word “shall” and adding in its place the word “must”.

The revision to § 133.42(e) reads as follows:

**§ 133.42 Infringing copies or phonorecords.**

(e) *Samples available to the copyright owner.* \* \* \* To obtain a sample under

this section, the copyright owner must furnish to CBP a single transaction bond in the form and amount specified by the port director or a continuous bond in the form and amount specified by the Director, Revenue Division. \* \* \*

Approved: December 14, 2009.

**Jayson P. Ahern,**

*Acting Commissioner, U.S. Customs and Border Protection.*

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. E9–30920 Filed 1–4–10; 8:45 am]

**BILLING CODE 9111–14–P**

**POSTAL SERVICE****39 CFR Part 111****Restricting the Mailing of Replica or Inert Explosive Devices**

**AGENCY:** Postal Service™.

**ACTION:** Proposed rule; revised.

**SUMMARY:** The Postal Service proposes to revise Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®) to clarify that a proposed new standard to allow for the mailing of replica or inert explosive devices, such as grenades, be sent by Registered Mail™ only.

**DATES:** Submit comments on or before February 4, 2010.

**ADDRESSES:** Mail or deliver written comments to the Manager, Mailing Standards, U.S. Postal Service, 475 L’Enfant Plaza SW., Room 3436, Washington, DC 20260–3436. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L’Enfant Plaza SW., 11th Floor N, Washington, DC between 9 a.m. and 4 p.m., Monday through Friday. E-mail comments, containing the name and address of the commenter, may be sent to: [MailingStandards@usps.gov](mailto:MailingStandards@usps.gov), with a subject line of “Inert Munitions” Faxed comments are not accepted.

**FOR FURTHER INFORMATION CONTACT:**

Mary J. Collins 202–268–5440 or Evans King, 202–268–4982.

**SUPPLEMENTARY INFORMATION:** The Postal Service published a **Federal Register** proposed rule (73 FR 12321) on March 7, 2008 to prohibit replica and inert munitions from the mail. Upon further review and in consideration of respondents’ comments, we are revising our proposal to:

1. More specifically identify these items as “replica or inert explosive devices” rather than “replica or inert munitions” and,