

## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Parts 19, 113 and 144

[T.D. 97-19]

RIN 1515-AB86

## Duty-Free Stores

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

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations principally with respect to duty-free stores in order to reduce the overall paperwork burden for proprietors thereof as well as for Customs. In particular, for purposes of Customs audit of, and control over, such facilities, greater reliance is placed on the use of records generated and maintained by proprietors and importers in the ordinary course of business, instead of on the use of specially prepared Customs forms. The amendments provide benefits in this regard to other classes of Customs bonded warehouses as well.

**EFFECTIVE DATE:** May 5, 1997.

**FOR FURTHER INFORMATION CONTACT:** Steven T. Soggin, Program Officer, Office of Field Operations, (202-927-0765).

## SUPPLEMENTARY INFORMATION:

## Background

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

However, in letters dated October 6 and 13, 1992, a major trade association voiced a number of concerns with respect to the final rule. Prompted by this correspondence, and following lengthy study, Customs published a notice of proposed rulemaking in the **Federal Register** on June 6, 1996, 61 FR 28808, setting forth specific revisions to the duty-free store regulations. The proposed changes also provided some benefits to other classes of bonded warehouses, and were intended to reduce the overall paperwork burden both for warehouse proprietors and for Customs.

In brief, under the proposed rule, the following sections of the Customs Regulations were to be affected: §§ 19.1, 19.2, 19.4, 19.6, 19.11, 19.12, 19.35, 19.36, 19.37, 19.39, 113.63, 144.34, 144.36, 144.37, 144.39 and 144.41.

Seven commenters responded to the notice of proposed rulemaking. A description, together with Customs analysis, of the comments they made is set forth below.

## Discussion of Comments (Part 19)

*Comment:* Two commenters stated that the term "exclusively" in proposed § 19.1(a)(9) limits the operation of a warehouse to that of a duty-free store providing only conditionally duty-free merchandise to another duty-free store. It was requested that proposed § 19.1(a)(9) be amended by deleting "exclusively" to allow continued operations of multi-class warehouses.

*Customs Response:* The wording of § 19.1(a)(9) is correct. Section 19.1(a)(9) states: "All distribution warehouses used exclusively to provide individual duty-free sales locations and storage cribs with conditionally duty-free merchandise are also Class 9 warehouses." While the term "exclusively" in this context defines a warehouse solely distributing merchandise to a duty-free store as a Class 9 warehouse, this does not preclude a multi-class warehouse which distributes merchandise to duty-free stores from also conducting other functions of a different class for which it is approved.

*Comment:* One commenter suggested amending proposed § 19.2(a) to make specific provision for facilitating the approval of a common inventory and recordkeeping system in use at multiple storage locations. The commenter stated in this regard that Customs was required to approve a proprietor's inventory and recordkeeping system in every location, even though it might be the same system, which was redundant.

*Customs Response:* Customs believes that the commenter's concern is already addressed in § 144.34(c)(2), and that this matter need not specifically be addressed as well in § 19.2(a). Section 144.34(c)(2) allows a proprietor to file a single application with the director of the port in which the applicant's centralized inventory control system is located, with copies to all affected port directors. This procedure eliminates duplicative work for both Customs and the trade by initiating the Customs approval process solely at the port where the applicant's centralized inventory control system exists.

*Comment:* One commenter objected to the proposed elimination from § 19.2(g) of the cross-reference therein to § 19.3(f), which, as such, provided for an administrative hearing in the case of a decision by a port director to deny an initial application for a bonded warehouse. This commenter stated that

eliminating a hearing, though rarely needed, would increase the chance of costly and time-consuming litigation.

*Customs Response:* Customs disagrees, to the extent that the citation in § 19.2(g) to § 19.3(f) does arguably accord the right to an administrative hearing as well in the case of the denial of an application to bond a warehouse. Formal administrative hearings are themselves costly to the Government, often requiring the services of an administrative law judge. Customs believes that administrative resources for such a hearing are best limited to those instances involving the revocation or suspension of bonded warehouse status, as expressly provided for under § 19.3(f).

*Comment:* One commenter recommended that proposed § 19.4(b)(5) reducing the storage time from 5 years to 6 months for original duty-free sales tickets be amended to eliminate all time requirements for retention of original duty-free sales tickets.

*Customs Response:* Customs disagrees. The record retention period of 6 months is already a marked time reduction from the current sales ticket storage requirement of 5 years. Customs believes a 6-month time period for storage of original duty-free sales tickets is the minimum time necessary for both the trade and Customs to verify the accuracy of original sales ticket information with sales information generated by electronic or other approved alternative means.

*Comment:* One commenter suggested that proposed § 19.4(b)(7) delete the requirement to establish and maintain aisles in bonded warehouses. The commenter stated that space was a precious commodity, and proposed an alternative, whereby Customs would give a proprietor a reasonable time to produce merchandise subject to a spot check or audit.

*Customs Response:* Customs agrees. The second sentence of § 19.4(b)(7) is changed to read as follows: "Doors and entrances shall be left unblocked for access by Customs officers and warehouse proprietor personnel." Also, to this end, § 19.4(b)(2) is changed to read as follows: "The warehouse proprietor shall permit access to the warehouse and present merchandise within a reasonable time after request by any Customs officer."

*Comment:* One commenter asked that the last sentence of § 19.4(b)(8)(ii) be amended to include the term "unique identifier", so that it would read as follows: "The proprietor must provide, upon request by a Customs officer, a record balance of goods, specifying the quantity in each storage location,

covered by any warehouse entry, general order, seizure, or unique identifier so a physical count can be made to verify the accuracy of the record balance."

*Customs Response:* Customs agrees, and the section is so changed.

*Comment:* One commenter stated that proposed § 19.4(b)(9) should be amended to delete the word "destruction", because miscellaneous requirements for destruction pertain only to a few classes of warehouses. The commenter further observed that, should general order merchandise remain in a warehouse beyond 6 months, responsibility should not rest with the warehouse to maintain destruction records.

*Customs Response:* Customs disagrees. The term "destruction" needs to remain in this section. An owner of merchandise in any warehouse may, at any time, lawfully request that merchandise be destroyed under Customs supervision. Requests for the destruction of merchandise in a warehouse must be accounted for by the warehouse proprietor.

*Comment:* Two commenters requested that proposed § 19.6(a)(1) granting a 5-day time limit within which to file a copy of any joint discrepancy report with the port director, be amended so as to allow warehouse proprietors a 30-day limit in which to do so. The commenters thought that this increased time extension would ease a restrictive time burden by allowing a month to prepare a discrepancy report for Customs.

*Customs Response:* Customs believes that the 5-day time requirement for filing a joint discrepancy report is not unduly burdensome. Indeed, this 5-day time limit itself represents a reasonable extension from the previous requirement in the Customs Regulations that such discrepancy reports be filed within 2 days. However, a 30-day time limit within which to submit these reports is too long. A joint discrepancy report involves sensitive custody transfers, and Customs believes the reasonably prompt reporting of discrepancies in this regard is essential.

*Comment:* One commenter called for the deletion of the requirement for a procedures manual in proposed § 19.12(b), on the basis that the preparation and maintenance of such a manual constituted an unjustified paperwork burden.

*Customs Response:* Customs disagrees. The proprietor's certification at the time of application to bond that a procedures manual describing the warehouse's inventory and recordkeeping system meets the

requirements of 19 CFR 19.12 plays a significant role in the license approval process. The importance of this requirement extends into the areas of compliance and audit activities. The manual serves as a critical tool to Customs by demonstrating the proprietor has established a methodology for inventory control and recordkeeping.

*Comment:* One commenter observed that proposed § 19.12(d)(2)(ii) would in effect require a warehouse proprietor to maintain as part of an inventory recordkeeping system the cost or value of general order merchandise, and that a proprietor would often have no idea as to the cost or value of such merchandise.

*Customs Response:* Customs agrees. Section 19.12(d)(2)(ii) is changed by adding at the beginning thereof the phrase, "Except for merchandise in general order;"

*Comment:* Two commenters recommended that Customs amend proposed § 19.12(d)(3) to allow the option of accelerated payment of revenue for non-extraordinary shortages prior to the filing of the annual CF 300 or certification of annual reconciliation.

*Customs Response:* Customs agrees. The last sentence of § 19.12(d)(3) is changed to allow a proprietor the option of submitting payment of duties and fees for non-extraordinary shortages any time prior to the annual filing of the CF 300 or certified annual reconciliation.

*Comment:* One commenter advocated, with respect to proposed § 19.12(d)(5), that there be no physical inventory requirement to account for merchandise, because non-government bonded warehouses did not have such a requirement. One commenter asserted that an annual reconciliation required in proposed § 19.12(h) need not be undertaken at the same time as the physical inventory.

*Customs Response:* The physical inventory requirement in § 19.12(d)(5) requires that a proprietor conduct at least one physical inventory during the year. This need not necessarily take place at the time of the annual reconciliation. Customs believes that an annual physical inventory is necessary to gauge the accuracy of the proprietor's inventory control system. Section 19.12(h) does not itself deal with the requirement for a physical inventory.

*Comment:* One commenter stated that proposed § 19.12(f)(3) prohibited the application of First-In-First-Out (FIFO) procedures to various types of merchandise, including quota and restricted merchandise. Specifically, the commenter declared that Headquarters Ruling 225837 exempted textile quota

requirements on merchandise for export; therefore, no basis existed to prohibit use of FIFO procedures to such merchandise subject to textile quotas.

*Customs Response:* Customs agrees, to the extent that such merchandise is for export only. To this end, accordingly, the following sentence is added to § 19.12(f)(2): "Fungible textile and textile products which are withdrawn from a Class 9 warehouse may be accounted for using FIFO inventory procedures, inasmuch as such articles would be exempt from textile quotas." In this regard, a Class 9 warehouse (duty-free store) may only sell and deliver merchandise for export to individuals departing the Customs territory.

The Committee for the Implementation of Textile Agreements (CITA), U.S. Department of Commerce, has been consulted and agrees with Customs treatment of textiles in Class 9 bonded warehouses or duty-free stores as not being subject to quota and visa requirements.

However, it is understood that any textile articles exported from a Class 9 warehouse and thereafter reimported into the U.S. would be subject to the laws and regulations of the U.S. affecting imported merchandise, including any applicable quotas.

*Comment:* One commenter suggested that Customs amend proposed § 19.12(h)(2) to allow a proprietor to reconcile merchandise under an item's unique identifier number for annual reconciliation, instead of tracking by entry number. The commenter explained that it was not possible to comply with the proposed section under the FIFO inventory because units transferred to warehouses in other ports could not be posted or identified to an entry until disposed of.

*Customs Response:* All merchandise accounted for as sold, damaged, short, or otherwise disposed of, receive a designated entry number. For annual reconciliation of FIFO eligible merchandise not disposed of, a list of all open and closed warehouse entries shall be presented to Customs to account for merchandise.

*Comment:* One commenter requested that the address requirement be eliminated from proposed §§ 19.39(c)(5)(i) and 144.37(h)(2)(v) for Class 9 warehouses at airports. The commenter noted in this connection that few duty-free stores routinely obtained the address of a purchaser and that the address requirement had little utility in the context of airport duty-free store operations.

*Customs Response:* Customs agrees with this request. The risk of diversion

of goods purchased at an airport duty-free store is minimal. Hence, §§ 19.39(c)(5)(i) and 144.37(h)(2)(v) are changed to eliminate any requirement that an airport duty-free store submit to Customs upon request the address of a purchaser.

#### **Warehouse Withdrawals And Rewarehouse Entries**

*Comment:* One commenter asked that proposed § 144.34(c) be amended to permit all classes of warehouses to participate in alternative transfer procedures as opposed to only Class 2 and Class 9 warehouses. The commenter stated that as long as the warehouse is owned by the same legal entity maintaining a centralized inventory control system, and has the consent of the surety, such transfer operations could easily be controlled in the same manner as those for Class 2 and Class 9 warehouses.

*Customs Response:* Various custody transfer and liability issues are primary concerns preventing the extension of transfer procedures under § 144.34(c) to other classes of Customs bonded warehouses.

*Comment:* One commenter suggested that Customs delete the requirements in paragraphs (c)(4)(iv) and (c)(4)(vi) of proposed § 144.34, respectively, that a warehouse proprietor operating multiple storage locations under a centralized inventory system document all intracompany transfers of merchandise by means of the appropriate warehouse entry number, as well as maintain a subordinate permit file folder at all intracompany locations where merchandise is transferred. The commenter stated that under FIFO inventory procedures, units cannot be assigned an entry number, there being no withdrawal or rewarehouse entry made at the time of transfer to place in the subordinate permit file.

*Customs Response:* Customs disagrees. Customs does not require an assigned entry number at the time of transfer. Section 144.34(c)(4)(vi) allows up to 7 days to provide required warehouse entry documentation after transfer. Maintaining records in a subordinate permit file allows a proprietor to account for transactions such as shortages, overages, damages, and the like, resulting from intracompany movements. The documents required are set forth in § 19.12(d)(4).

*Comment:* Two commenters observed that proposed §§ 144.34(c)(6)(ii), 144.36(c)(2), and 144.41(c)(2) appeared to suggest that "restricted" merchandise could not be included in the alternative inventory control system. The

commenters believed that it was not intended to exclude alcoholic products from this privilege.

*Customs Response:* The commenters are correct that alcohol and tobacco products may be included as part of an approved alternative inventory control and transfer system. To make this clear, §§ 144.34(c)(6)(ii), 144.36(c)(2) and 144.41(c)(2) are revised to state: "With the exception of alcohol and tobacco products\* \* \*".

*Comment:* One commenter recommended that proposed § 144.34(c) include transfers of merchandise from a foreign trade zone to a Class 9 warehouse.

*Customs Response:* Customs has such a proposal under active consideration. Such proposal will be a subject of a separate publication, if Customs decides to proceed therewith.

#### **Conclusion**

In view of the foregoing, and following careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments with the modifications discussed above should be adopted.

In addition, § 19.35(e)(2) is changed to reflect current statutory law (19 U.S.C. 1555(b), as amended by sections 3(a)(8) and 29, Pub. L. 104-295), which permits merchandise purchased in a duty-free store, if thereafter returned to the United States, to be subject to the personal exemption of the arriving party under either item 9804.00.65, 9804.00.70 or 9804.00.72, Harmonized Tariff Schedule of the United States.

Also, § 19.12(d)(3) is changed to provide that the amount of duty, taxes, and any interest applicable to each warehouse entry involved in multiple shortages detected in a warehouse must be separately specified, even though such duty and taxes may have been tendered in one consolidated payment. This provision is needed because such duty may be claimed for drawback, and Customs must have this information in order to process the claim.

Furthermore, for the sake of editorial clarity, the last two sentences of § 19.12(d)(5) are moved to § 19.12(d)(3), and a cross reference to § 19.4(b)(8)(ii) is added thereto, in order to properly reflect the fact that the terms "unique identifier" and "inventory category" are interrelated. Also, for editorial clarity and consistency, the term "specific identifier, wherever it appeared in the document, is changed to "unique identifier".

#### **Regulatory Flexibility Act and Executive Order 12866**

This final rule document is intended to simplify recordkeeping requirements for duty-free stores and other Customs bonded warehouses. To this end, greater reliance is placed on the use of records generated and maintained by proprietors and importers in the ordinary course of business, instead of on the use of specially prepared Customs forms. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this rule does not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604. Nor does the rule result in a "significant regulatory action" under E.O. 12866.

#### **Paperwork Reduction Act**

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

The collection of information contained in this final rule document has already been approved by the Office of Management and Budget (OMB) under 1515-0005. The estimated average annual burden associated with this collection is 10 hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

#### **Drafting Information**

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

#### **List of Subjects**

##### *19 CFR Part 19*

Customs duties and inspection, Imports, Exports, Warehouses.

**19 CFR Part 113**

Customs bonds.

**19 CFR Part 144**

Customs duties and inspection,  
Imports, Warehouses.

**Amendments to the Regulations**

Parts 19, 113 and 144, Customs  
Regulations (19 CFR parts 19, 113 and  
144) are amended as set forth below.

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

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

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

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

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

\* \* \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

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

**§ 19.1 Classes of customs warehouses.**

(a) \* \* \*

(9) \* \* \* All distribution warehouses  
used exclusively to provide individual  
duty-free sales locations and storage  
cribs with conditionally duty-free  
merchandise are also Class 9  
warehouses.

\* \* \* \* \*

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

**§ 19.2 Applications to bond.**

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

(b) \* \* \*

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

\* \* \* \* \*

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

4. Section 19.4 is revised to read as  
follows:

**§ 19.4 Customs and proprietor  
responsibility and supervision over  
warehouses.**

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

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

(2) *Customs access.* The warehouse  
proprietor shall permit access to the  
warehouse and present merchandise  
within a reasonable time after request by  
any Customs officer.

(3) *Safekeeping of merchandise and  
records.* The proprietor is responsible

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

(4) *Records maintenance.*—(i)

*Maintenance.* The proprietor shall:

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

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

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

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

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

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

(ii) *Retention of reproductions.* The  
proprietor shall retain and keep  
available an original and one duplicate

of each microfilm, microfiche, cd ROM (compact disk, Read-Only Memory), or other storage medium used, for five years from the date of the final withdrawal under the entry number to which these records pertain. Duty-free store operators must keep alternate storage media containing sales tickets for five years from the date of the final withdrawal or five years from the date of the sale, whichever is shorter.

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

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

(v) *Revocation of alternative record storage method.* Failure to maintain the records in accordance with these conditions and requirements will constitute a breach of the proprietor's

bond and may result in the revocation by Customs of the privilege of maintaining records in a form other than the original format.

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

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

(8) *Manner of storage.* Packages shall be received in the warehouse and recorded in the proprietor's inventory and accounting records according to their marks and numbers. Packages containing weighable or gaugeable merchandise not bearing shipping marks and numbers shall be received under the weigher's or gauger's numbers. Packages with exceptions due to damage or loss of contents, or not identical as to quantity or quality of contents shall be stored separately until the discrepancy is resolved with Customs. Merchandise received in the warehouse shall be stored in a manner directly identifying the merchandise with the entry, general order, or seizure number; using a unique identifier for inventory categories composed of fungible merchandise accounted for on a First-In-First-Out (FIFO) basis; or using a unique identifier for inventory categories composed of fungible merchandise accounted for using another approved alternative inventory method.

(i) *Direct identification.* The warehouse proprietor shall mark all shipments for identification, showing

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

(ii) *FIFO.* A proprietor may account for fungible merchandise on a First-In-First-Out (FIFO) basis instead of specific identification by warehouse entry number, provided the merchandise meets the criteria for fungibility and the recordkeeping requirements contained in § 19.12 of this part are met. As of the beginning date of FIFO procedures, each kind of fungible merchandise in the warehouse under FIFO shall constitute a separate inventory category. Each inventory category shall be assigned a unique number or other identifier by the proprietor to distinguish it from all other inventory categories under FIFO. All of the merchandise in a given inventory category shall be physically placed so as to be segregated from merchandise under other inventory categories or merchandise accounted for under other inventory methods. The unique identifier shall be marked on the merchandise, its container, or the location where it is stored so as to clearly show the inventory category of each article under FIFO procedures. Merchandise covered by a given unique identifier may be stored in multiple locations within the warehouse if the proprietor's inventory control system specifically identifies all locations where merchandise for a specific unique identifier is stored and the quantity in each location. The proprietor must provide, upon request by a Customs officer, a record balance of goods, specifying the quantity in each storage location, covered by any warehouse entry, general order, seizure, or unique identifier so a physical count can be made to verify the accuracy of the record balance.

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

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

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

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

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

\* \* \* \* \*

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

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

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

(C) The personal or official use of personnel of foreign governments and international organizations set forth in subpart I, part 148 of this chapter; or

(D) A combination of the foregoing.

(ii) Blanket permits to withdraw may be used only for delivery at the port where withdrawn and not for transportation in bond to another port, except for a withdrawal for transportation to another port by a duty-free sales enterprise which meets the requirements for exemption as stated in § 144.34(c) of this chapter. Blanket permits to withdraw may not be used for delivery to a location for retention or splitting of shipments under the provisions of § 18.24 of this chapter. A withdrawer who desires a blanket permit shall state in capital letters on the warehouse entry, or on the

warehouse entry/entry summary when used as an entry, that "Some or all of the merchandise will be withdrawn under blanket permit per section 19.6(d), C.R." Customs acceptance of the entry will constitute approval of the blanket permit. A copy of the entry will be delivered to the proprietor, whereupon merchandise may be withdrawn under the terms of the blanket permit. The permit may be revoked by the port director in favor of individual applications and permits if the permit is found to be used for other purposes, or if necessary to protect the revenue or properly enforce any law or regulation Customs is charged with administering. Merchandise covered by an entry for which a blanket permit was issued may be withdrawn for purposes other than those specified in this paragraph if a withdrawal is properly filed as required in subpart D, part 144, of this chapter.

(2) *Withdrawals under blanket permit.*

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

\* \* \* \* \*

(4) *Withdrawals under blanket permit for aircraft or vessel supplies.* Multiple withdrawals under a blanket permit for aircraft or vessel supplies, if consigned to the same daily aircraft flight number or vessel sailing, may be filed on one Customs Form 7512; however, an attachment form, developed by the warehouse proprietor and approved by the port director may be used for all withdrawals. This attachment form shall provide a sufficient summary of the goods being withdrawn, and shall include the warehouse entry number, the quantity and weight being withdrawn, the Harmonized Tariff Schedule of the United States number(s), the value of the goods, import and export lading information, the duty rate and amount, and any applicable Internal Revenue tax calculation, for each warehouse entry being withdrawn. A copy of Customs Form 7512 and the summary attachment must be attached to each permit file folder unless the warehouse proprietor qualifies for the permit file folder exemption under § 19.12(d)(4)(iii) of this part.

\* \* \* \* \*

6. Section 19.11 is amended by revising paragraph (h) to read as follows:

**§ 19.11 Manipulation in bonded warehouses and elsewhere.**

\* \* \* \* \*

(h) Merchandise which has been entered for warehouse and placed in a

Class 9 warehouse (duty-free store) may be unpacked into its smallest irreducible unit for sale without a prior permit issued by the port director. The port director may issue a blanket permit to a duty-free store for up to one year permitting the destruction of merchandise covered by any entry and found to be nonsaleable, if the merchandise to be destroyed is valued at less than 5 percent of the value of the merchandise at time of entry or \$1,250, whichever is less, in its undamaged condition. Such permit may be revoked in favor of a permit for each entry and/or destruction whenever necessary to assure proper destruction and protection of the revenue. The proprietor shall maintain a record of unpacking merchandise into saleable units and destruction of nonsaleable merchandise in its inventory and accounting records.

7. Section 19.12 is revised to read as follows:

**§ 19.12 Inventory control and recordkeeping system.**

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

(1) Accounting for all merchandise transported, deposited, stored, manipulated, manufactured, smelted, refined, destroyed in or removed from the bonded warehouse and all merchandise collected by a proprietor or his agent for transport to his warehouse. The records shall provide an audit trail from deposit through manipulation, manufacture, destruction, and withdrawal from the bonded warehouse either by specific identification or other Customs authorized inventory method. The records to be maintained are those which a prudent businessman in the same type of business can be expected to maintain. The records are to be kept in sufficient detail to permit effective and efficient determination by Customs of the proprietor's compliance with these regulations and correctness of his annual submission or reconciliation;

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

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

(b) *Procedures manual.* (1) The proprietor shall have available at the warehouse an English language copy of

its written inventory control and recordkeeping systems procedures manual in accordance with the requirements of this part.

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

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

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

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

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

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

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

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

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

(3) *Theft, shortage, overage or damage.* Any theft or suspected theft or overage or any extraordinary shortage or damage (equal to one percent or more of the value of the merchandise in an entry or covered by a unique identifier; or if the missing merchandise is subject to duties and taxes in excess of \$100) shall be immediately brought to the attention of the port director, and confirmed in

writing within five business days after the shortage, overage, or damage has been brought to the attention of the port director. An entry for warehouse must be filed for all overages by the person with the right to make entry within five business days of the date of discovery. The applicable duties, taxes and interest on thefts and shortages so reported shall be paid by the responsible party to Customs within 20 calendar days following the end of the calendar month in which the shortage is discovered. The port director may allow the consolidation of duties and taxes applicable to multiple shortages into one payment; however, the amount applicable to each warehouse entry is to be listed on the submission and shall specify the applicable duty, tax and interest. These same requirements shall apply when cumulative thefts, shortages or overages under a specific entry or unique identifier total one percent or more of the value of the merchandise or if the duties and taxes owed exceed \$100. Upon identification, the proprietor shall record all shortages and overages in its inventory control and recordkeeping system, whether or not they are required to be reported to the port director at the time. The proprietor shall also record all shortages and overages as required in the Customs Form 300 or annual reconciliation report under paragraphs (f) or (g) of this section, as appropriate. Duties and taxes applicable to any non-extraordinary shortage or damage and not required to be paid earlier shall be submitted to the port director at the time the Warehouse Proprietor's Submission, Customs Form 300 is due or at the time the certification of preparation of the annual reconciliation report is due, as prescribed in paragraphs (g) and (h) of this section, or at any time prior to the annual filing of the CF 300 or certified annual reconciliation. Discrepancies found in a Class 9 warehouse with integrated locations as set forth in § 19.35(c) will be the net discrepancies for a unique identifier (see § 19.4(b)(8)(ii) of this part) such that overages within one sales location will be offset against shortages in another location that is within the integrated location. A Class 9 proprietor who transfers merchandise between facilities in different ports without being required to file a rewarehouse entry in accordance with § 144.34 of this chapter may offset overages and shortages within the same unique identifier for merchandise located in stores in different ports (see § 19.4(b)(8)(ii) of this part).

(4) *Permit file folders.*—(i) *Maintenance.* Permit file folders shall be maintained and kept up to date by filing all receipts, damage or shortage reports, manipulation requests, withdrawals, removals and blanket permit summaries within five business days after the event occurs. The permit file folders shall be kept in a secure area and shall be made available for inspection by Customs at all reasonable hours.

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

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

(iv) *Exemption to submission requirement.* At the discretion of the port director, a proprietor may be allowed to furnish formal notification of final withdrawal in lieu of the



requirement to submit the permit file folder or entry activity summary within 30 calendar days of each final withdrawal. If approved to use this procedure the proprietor could be required by the port director to submit permit file folders or entry activity summaries on a selective basis. Failure to promptly provide the permit file folder or entry activity summary upon request by the port director or the field director of regulatory audit could result in withdrawal of this privilege.

(5) *Physical inventory.* The proprietor shall take at least an annual physical inventory of all merchandise in the warehouse, or periodic cycle counts of selected categories of merchandise such that each category is counted at least once during the year, with prior notification of the date(s) given to Customs so that Customs personnel may observe or participate in the inventory if deemed necessary. If the proprietor of a Class 2 or Class 9 warehouse has merchandise covered by one warehouse entry, but stored in multiple warehouse facilities as provided for under § 144.34 of this chapter, the facility where the original entry was filed must reconcile the on-hand balances at all locations with the record balance for those entries with merchandise in multiple locations. The proprietor shall notify the port director of any discrepancies, record appropriate adjustments in the inventory control and recordkeeping system, and make required payments and entries to Customs, in accordance with paragraph (d)(3) of this section.

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

(f) *Special provisions for use of FIFO inventory procedures.*—(1) *Notification.* A proprietor who wishes to use FIFO procedures for all or part of the merchandise in a bonded warehouse shall provide the port director a written certification that: The proprietor has read and understands Customs FIFO procedures set forth in this section; the proprietor's procedures are in accordance with Customs FIFO procedures, and the proprietor agrees to abide by those procedures; and the proprietor of a public warehouse will obtain the written consent of any importer using the warehouse before applying FIFO procedures to their merchandise.

(2) *Qualifying merchandise.* FIFO inventory procedures may be used only for fungible merchandise. For purposes of this section, "fungible merchandise" means merchandise which is identical and interchangeable for all commercial purposes. While commercial interchangeability is usually decided between buyer and seller or between proprietor and importer, Customs is the final arbiter of fungibility in bonded warehouses. The criteria for determining whether merchandise is fungible include, but are not limited to, Governmental and recognized industrial standards, part numbers, tariff classification, value, brand name, unit of quantity (such as barrels, gallons, pounds, pieces), model number, style and same kind and quality. Fungible textile and textile products which are withdrawn from a Class 9 warehouse may be accounted for using FIFO inventory procedures, inasmuch as such articles would be exempt from textile quotas.

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

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

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

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

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

(v) Merchandise with different trademarks;

(vi) Merchandise of different grades or qualities;

(vii) Merchandise with different importers of record;

(viii) Damaged or deteriorated merchandise;

(ix) Restricted merchandise; or

(x) General order, abandoned or seized merchandise.

(4) *Maintenance of FIFO.* FIFO procedures used for merchandise in any inventory category, must be used consistently throughout the warehouse storage and recordkeeping practices and procedures for the merchandise. For example, merchandise may not be added to inventory by FIFO but

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

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

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

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

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



identifiers will be deducted from their respective warehouse entries on a FIFO basis when the resultant product is withdrawn.

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

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

(h) *Annual reconciliation.*—(1) *Report.* Instead of filing Customs Form 300 as required under paragraph (g) of this section, the proprietor of a class 2, importers' private bonded warehouse, and proprietors of classes 4, 5, 6, 7, 8, and 9 warehouses if the warehouse proprietor and the importer are the same party, shall prepare a reconciliation report within 90 days after the end of the fiscal year unless the field director authorizes an extension for reasonable cause. The proprietor shall retain the annual reconciliation report for 5 years from the end of the fiscal year covered by the report. The report must be available for a spot check or audit by Customs, but need not be furnished to Customs unless requested. There is no

form specified for the preparation of the report.

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

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

(i) *System review.* The proprietor shall perform an annual internal review of the inventory control and recordkeeping system and shall prepare and maintain on file a report identifying any deficiency discovered and corrective action taken, to ensure that the system meets the requirements of this part.

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

8. Section 19.13 is amended by revising the fourth sentence of paragraph (g) to read as follows:

**§ 19.13 Requirements for establishment of warehouses.**

\* \* \* \* \*

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

\* \* \* \* \*

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

**§ 19.13a Recordkeeping requirements.**

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

\* \* \* \* \*

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

\* \* \* \* \*

10. Section 19.35 is amended by revising the introductory text of paragraph (c) and by revising paragraphs (c)(2), (e)(2) and (f) to read as follows:

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

\* \* \* \* \*

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

\* \* \* \* \*

(2) The recordkeeping system is centralized up to the point where a sale is made so as to automatically reduce the sale quantity by location from centralized inventory or inventory records must be updated no less

frequently than at the end of each business day to reflect that day's activity.

\* \* \* \* \*

(e) \* \* \*

(2) If brought back to the United States must be declared and is subject to U.S. Federal duty and tax with personal exemption; and,

\* \* \* \* \*

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

\* \* \* \* \*

11. Section 19.36 is amended by revising the last sentence of paragraph (e) and the third sentence of paragraph (g) to read as follows:

**§ 19.36 Requirements for duty-free store operations.**

\* \* \* \* \*

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

\* \* \* \* \*

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

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

**§ 19.37 Crib operations.**

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

the return to the storage area of goods remaining unsold.

\* \* \* \* \*

13. Section 19.39 is amended by removing the last three sentences of paragraph (c)(2); § 19.39 is further amended by revising the first sentence of paragraph (c)(3), by redesignating paragraphs (c)(4)(ii), (c)(4)(iii) and (c)(4)(iv), as (c)(4)(iii), (c)(4)(iv) and (c)(4)(v), respectively, and adding a new paragraph (c)(4)(ii), and by revising paragraphs (c)(5) and (e), to read as set forth below:

**§ 19.39 Delivery for exportation.**

\* \* \* \* \*

(c) \* \* \*

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

(4) *Unit-load delivery.* \* \* \*

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

\* \* \* \* \*

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

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

\* \* \* \* \*

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

\* \* \* \* \*

**PART 113—CUSTOMS BONDS**

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

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

\* \* \* \* \*

2. Section 113.63 is amended by redesignating paragraph (a)(4) as (a)(5) and adding a new paragraph (a)(4), by removing the word "and" from the end of paragraph (b)(2), and by adding the word "and" at the end of paragraph (b)(3), by adding a new paragraph (b)(4), and by revising the first sentence of paragraph (d), to read as follows:

**§ 113.63 Basic custodial bond conditions.**

(a) \* \* \*

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

\* \* \* \* \*

(b) \* \* \*

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

\* \* \* \* \*

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

\* \* \* \* \*

**PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS**

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

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

\* \* \* \* \*

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

2. Section 144.34 is amended by adding a new paragraph (c) to read as follows:

**§ 144.34 Transfer to another warehouse.**

\* \* \* \* \*

(c) *Transfers between integrated bonded warehouses—*(1) *Eligibility.* (i) Only an importer who will transfer warehoused merchandise among Class 2 and 9 warehouses listed on the

application in paragraph (c)(2) of this section is eligible to participate.

(ii) The importer must have a centralized inventory control system that shows the location of all of the warehoused merchandise at all times, including merchandise in transit.

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

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

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

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

(4) *Inventory control requirements.* The records required to be maintained must include a centralized inventory control system and supporting

documentation which meets the following requirements:

(i) Provide Customs upon demand with the proper on-hand balance of each inventory item in each warehouse facility and each storage location within each warehouse;

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

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

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

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

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

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

(5) *Waiver of permit file folder requirements.* The permit file folder requirements of paragraphs (c)(3)(v) and (c)(3)(vi) of this section may be waived if the proprietor's recordkeeping and inventory control system qualifies under the requirements of § 19.12(d)(4)(iii) of this chapter at all locations where bonded merchandise is stored.

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

(ii) *Restricted merchandise.* With the exception of alcohol and tobacco products, merchandise subject to a restriction on release such as covered by a licensing, quota or visa requirement, is not eligible.

3. Section 144.36 is amended by revising paragraphs (c) and (f), by removing the word "or" from the end of paragraph (g)(4), and by adding the word "or" at the end of paragraph (g)(5) and adding a new paragraph (g)(6) thereafter, to read as follows:

**§ 144.36 Withdrawal for transportation.**

\* \* \* \* \*

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

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

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

\* \* \* \* \*

(f) *Forwarding procedure.* The merchandise shall be forwarded in accordance with the general provisions for transportation in bond (§§ 18.1 through 18.8 of this chapter). However, when the alternate procedures under § 144.34(c) are employed, the merchandise need not be delivered to a bonded carrier for transportation, and an entry for transportation (Customs Form 7512) and a rewarehouse entry will not be required.

(g) *Procedure at destination.* \* \* \*

(5) \* \* \*; or

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

\* \* \* \* \*

4. Section 144.37 is amended by revising paragraph (h)(2)(v), and by revising the fourth sentence and the last sentence in the concluding text of paragraph (h)(3), to read as follows:

**§ 144.37 Withdrawal for exportation.**

\* \* \* \* \*

(h) \* \* \*

(2) \* \* \*

(v) The full name and address of the purchaser. However, the port director may waive the address requirement for all merchandise except for alcoholic beverages in quantities in excess of 4 liters and cigarettes in quantities in excess of 3 cartons. Also, the address requirement is not applicable with respect to purchasers at airport duty-free enterprises; and

\* \* \* \* \*

(3) *Sales ticket register.* \* \* \*

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

5. Section 144.39 is amended by revising its first sentence to read as follows:

**§ 144.39 Permit to transfer and withdraw merchandise.**

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

6. Section 144.41 is amended by revising paragraph (c) to read as follows:

**§ 144.41 Entry for rewarehouse.**

\* \* \* \* \*

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

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

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

\* \* \* \* \*

Approved: March 5, 1997.

**George J. Weise,**

*Commissioner of Customs.*

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 97-8447 Filed 4-2-97; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 117**

[CGD07-96-069]

RIN 2115-AE47

**Drawbridge Regulations; St. Johns River, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Coast Guard is changing the regulations governing the operation of the Fuller Warren (I10/I95) drawbridge, located in Jacksonville,

Florida, by limiting the number of openings during certain periods. This change is being made because of complaints of delays to vehicular traffic on Interstate 95. This action is necessary to accommodate the needs of vehicular traffic flow and still provide for the reasonable needs of navigation.

**DATES:** This rule is effective April 3, 1997. Comments must be received on or before June 2, 1997.

**ADDRESSES:** Comments may be mailed to the Commander (oan), Seventh Coast Guard District, Bridge Section, Brickell Plaza Federal Building, 909 S.E. First Avenue, Miami, Florida 33131-3050, or may be delivered to room 406 at the same address between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (305) 536-4103.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary D. Pruitt, Project Manager, Seventh Coast Guard District, Bridge Section, at (305) 536-7331.

**SUPPLEMENTARY INFORMATION:** This rule is being published as an interim rule and is being made effective on the date of publication. This rule is being promulgated without an NPRM because this proposed regulation change is needed immediately due to the large increase on highway traffic on Interstate 95 and the greater number of bridge openings being caused by increased vessel traffic along this reach of the St. Johns River. This interim rule was tested by a ninety day temporary deviation with request for comments (62 FR 3461, January 23, 1997) from November 8, 1996, through February 8, 1997. The change in opening schedules helped to relieve traffic congestion without unreasonably impacting navigation. The Coast Guard did not receive any objections to the temporary deviation during the test period. The interim rule has not changed from the previously tested temporary deviation.

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD07-96-069) and the specific section of this rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.