

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR PART 19

RIN 1515-AC41

#### Customs Bonded Warehouses

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

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Customs Regulations regarding the filing of certain inventory reports by bonded warehouse proprietors. Instead of requiring that these reports be filed with Customs, the document proposes that bonded warehouse proprietors maintain these inventory reports after their preparation. In some instances when the inventory report is prepared a letter must be submitted to Customs certifying that the report has been prepared. As proposed to be amended, the port director would be the Customs officer to whom certification letters must be submitted and to whom the annual report covering smelting or refining operations should be submitted. These proposed changes and other changes proposed in this document are intended to simplify inventory recordkeeping procedures for warehouse proprietors and are consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

**DATES:** Comments must be received on or before June 7, 1999.

**ADDRESSES:** Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** Edward Bowles, Senior Auditor,

Regulatory Audit Division, (202-927-0071).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document proposes several amendments to part 19, Customs Regulations (19 CFR part 19), concerning the submission to Customs of certain inventory reports covering merchandise in a bonded warehouse. Instead of requiring that certain reports be filed with Customs, the document proposes to amend the Customs Regulations to require that bonded warehouse proprietors maintain these inventory reports after their preparation. In certain instances, when the inventory report is prepared, a letter must be submitted to Customs certifying that the report has been prepared. As proposed to be amended, the port director would be the Customs officer to whom certification letters must be submitted and to whom the annual report covering smelting or refining operations should be submitted. These proposed changes and other changes proposed in this document are intended to simplify inventory recordkeeping procedures for warehouse proprietors and are consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182).

##### Warehouse Proprietor's Submission

The principal change proposed in this document concerns the Warehouse Proprietor's Submission on Customs Form (CF) 300. Currently, § 19.12(g) of the Customs Regulations requires certain bonded warehouse proprietors to file annually the CF 300 with the field director of regulatory audit within 45 days from the end of the proprietor's business year. The CF 300 describes all merchandise in the beginning and ending inventory and all merchandise covered by entries opened and closed during the year which do not appear in the beginning or ending inventory.

Section 19.12(g) also provides that these proprietors may submit an alternative format concerning the inventory information required on the CF 300 if the field director of regulatory audit first gives written approval to use an alternative format.

Section 19.12(d)(3) requires, with certain exceptions, that duties and taxes applicable to any non-extraordinary shortage of, or damage to, merchandise in a warehouse be paid when the CF 300 is due, or at any time prior to the annual filing of the CF 300 or certified annual reconciliation.

This document proposes to amend § 19.12(g) to no longer require the submission of the CF 300 by these warehouse proprietors. The proposed amendment would still require these warehouse proprietors to prepare the CF 300 within 45 calendar days from the end of these proprietors' business years; but instead of requiring these proprietors to submit it to Customs within that time frame, the proposed amendment would require these proprietors to retain the document and submit to the port director within 10 days of the preparation of the CF 300 a letter certifying that the CF 300 has been prepared, is available for Customs review, and is accurate.

The document also proposes to amend § 19.12(g) to provide that these warehouse proprietors would no longer need Customs permission in order to use an alternative format to the CF 300. Of course, under the proposed amendment, if an alternative format is used, a similar letter would need to be submitted to Customs within 10 days of the preparation of the alternate format certifying that the alternate to the CF 300 has been prepared, is available for Customs review and is accurate.

Section 19.12(d)(3) is proposed to be amended to provide that duties and taxes applicable to any non-extraordinary shortage of, or damage to, merchandise in a warehouse be reported to Customs no later than the date the letter is due to Customs certifying that the CF 300 or alternate has been prepared.

##### Annual Reconciliation Report

Section 19.12(h)(1) concerns the requirement of certain other warehouse proprietors to prepare an annual reconciliation report, rather than the CF 300, and establishes the date by which the report must be prepared. Section 19.12(h)(1) currently allows for these warehouse proprietors to apply to the field director of regulatory audit for an extension of time within which to prepare the report and § 19.12(h)(3) requires these proprietors to submit a letter to the field director of regulatory

audit certifying that the annual reconciliation report has been prepared.

This document proposes to amend § 19.12(h)(1) to make port directors, rather than field directors of regulatory audit, responsible for approving extensions of time within which reconciliation reports must be prepared. The document proposes to amend § 19.12(h)(3) to require that the certification letter be submitted to the port director.

### **Smelting and Refining Warehouses**

This document also proposes two changes regarding the submission of inventory reports by bonded smelting and refining warehouses. One proposed change concerns the filing of a monthly report and the other concerns the filing of an annual report.

Section 19.17(g) currently provides that where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall monthly statement of inventory and bond charges must be filed by the principal named in the bond with each involved Field Director, Regulatory Audit, showing the inventory at each plant covered by the bond. Furthermore, § 19.17(g) provides that each port director at whose port a plant or plants are located is responsible for determining the correctness of the inventory report covering merchandise at those plants under his jurisdiction.

As proposed to be amended by this document, § 19.17(g) would no longer require the proprietor named as principal in the bond to file the monthly statement with any Field Director, Regulatory Audit, but would instead require the proprietor to maintain the monthly statement after its preparation. In addition, § 19.17(g) would be changed to make clear, as is currently the case, that if the warehouses covered by an overall statement are located in more than one port, each port director may choose to verify the accuracy of the inventory report only with respect to that portion of the report that relates to amounts held at a plant that is located within that port director's jurisdiction.

Section 19.19(b) currently requires that an annual report covering the smelting or refining operations conducted by each manufacturer be submitted to the Field Director, Regulatory Audit. As proposed to be amended by this document, the regulations would no longer require the annual report to be submitted to the Field Director, Regulatory Audit. Instead, the annual report would be filed with the port director.

### **Other Amendments**

Section 19.12(d)(3) currently refers to the filing of the annual reconciliation when the filing of the annual reconciliation is not required. Accordingly, this document proposes to remove the reference to the filing of the annual reconciliation from that paragraph.

Also, § 19.12(d)(3) currently includes a cross-reference to paragraph (f) of that section in relation to the annual reconciliation report. However, the annual reconciliation report is dealt with in paragraph (h) of that section, not paragraph (f). Accordingly, this document proposes to replace the cross-reference to paragraph (f) in § 19.12(d)(3) with a cross-reference to paragraph (h).

### **Comments**

Before adopting the proposal, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C.

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

The proposed amendments are intended to simplify inventory recordkeeping procedures for warehouse proprietors and be consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the proposed rule, if adopted, will 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 and 604. Nor does the proposed rule result in a "significant regulatory action" under E.O. 12866.

### **Paperwork Reduction Act**

The collections of information contained in this notice of proposed rulemaking have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned the following OMB control numbers: 1515-0093 for bonded warehouse proprietor's submission; 1515-0121 for information to be supplied by owner or lessee in support of application to establish a bonded warehouse facility; 1515-0127 for application by manufacturer to bond (or discontinue a previously bonded) establishment engaged in the smelting or refining of metal-bearing materials; and 1515-0135 for record of smelting or refining operation showing receipt and disposition of each shipment of material. This document restates the collections of information without substantive change.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Although this document restates the collections of information without substantive change, comments are specifically requested concerning: (a) Whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) how to enhance the quality, utility, and clarity of the information to be collected; (c) how to minimize the burden of complying with the collections of information, including through the application of automated collection techniques or other forms of information technology; and (d) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2-C, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Comments should be submitted within the same time frame that comments are due regarding the substance of the proposal.

**List of Subjects in 19 CFR Part 19**

Customs duties and inspection,  
Exports, Freight, Imports, Reporting and  
recordkeeping requirements,  
Warehouses.

**Proposed Amendments to the Regulations**

It is proposed to amend part 19,  
Customs Regulations (19 CFR part 19),  
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 relevant sectional  
authority citation, would continue to  
read as follows:

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

\* \* \* \* \*

Sections 19.17–19.25 also issued under 19  
U.S.C. 1312;

\* \* \* \* \*

2. It is proposed to amend § 19.12 by  
revising the seventh and eighth  
sentences of paragraph (d)(3), by  
revising the first sentence of paragraph  
(g), adding a sentence thereafter, and  
revising the last sentence of paragraph  
(g), and by revising the first sentence,  
respectively, of paragraphs (h)(1) and  
(h)(3), to read as follows:

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

\* \* \* \* \*

(d) *Accountability for merchandise in  
a warehouse.* \* \* \*

(3) *Theft, shortage, overage or  
damage.* \* \* \* The proprietor must also  
record all shortages and overages as  
required in the Customs Form 300 or  
annual reconciliation report under  
paragraph (g) or (h) of this section, as  
appropriate. Duties and taxes applicable  
to any non-extraordinary shortage or  
damage and not required to be paid  
earlier must be reported and submitted  
to the port director no later than the  
date the certification of preparation of  
Customs Form 300 is due or at the time  
the certification of preparation of the  
annual reconciliation report is due, as  
prescribed in paragraph (g) or (h) of this  
section. \* \* \*

\* \* \* \* \*

(g) *Warehouse proprietor submission.*  
Except as otherwise provided in  
paragraph (h) of this section or  
§ 19.19(b) of this part, the warehouse  
proprietor must prepare a Warehouse  
Proprietor's Submission on Customs  
Form (CF) 300 within 45 calendar days  
from the end of the business year and

maintain the Submission on file for 5  
years from the end of the business year  
covered by the Submission. The  
proprietor must submit to the port  
director, within 10 business days after  
preparation of the CF 300, a letter  
signed by the proprietor certifying that  
the CF 300 has been prepared, is  
available for Customs review, and is  
accurate. \* \* \* An alternative format  
may be used for providing the  
information required on the CF 300.

(h) *Annual reconciliation.* \* \* \*

(1) *Report.* Instead of preparing  
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, must prepare a reconciliation  
report within 90 days after the end of  
the fiscal year unless the port director  
authorizes an extension for reasonable  
cause. \* \* \*

\* \* \* \* \*

(3) *Certification.* The proprietor must  
submit to the port director 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. \* \* \*

\* \* \* \* \*

3. It is proposed to amend § 19.17 by  
revising the first and second sentences  
of paragraph (g) to read as follows:

**§ 19.17 Application to establish  
warehouse; bond.**

\* \* \* \* \*

(g) *Statement of inventory and bond  
charges.* Where two or more smelting or  
refining warehouses are included under  
one blanket smelting and refining bond,  
an overall statement must be prepared  
and maintained by the principal named  
in the bond by the 28th of each month,  
showing the inventory as of the close of  
the preceding month, of all metals on  
hand at each plant covered by the  
blanket bond and the total of bonded  
charges for all plants. If the warehouses  
covered by an overall statement are  
located in more than one port, each port  
director may choose to verify the  
accuracy of the inventory report only  
with respect to that portion of the report  
that relates to amounts held at a plant  
that is located within that port director's  
jurisdiction. \* \* \*

4. It is proposed to amend § 19.19 by  
revising the first sentence of paragraph  
(b) to read as follows:

**§ 19.19 Manufacturers' records; annual  
statement.**

\* \* \* \* \*

(b) Every manufacturer engaged in  
smelting or refining, or both, must  
prepare and submit to the port director  
at the port nearest which the plant is  
located an annual statement for the  
fiscal year for the plant involved not  
later than 60 days after the termination  
of that fiscal year. \* \* \*

**Raymond W. Kelly,**

*Commissioner of Customs.*

Approved: March 12, 1999.

**John P. Simpson,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 99–8517 Filed 4–6–99; 8:45 am]

BILLING CODE 4820–02–P

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****23 CFR Part 777**

[FHWA Docket No. FHWA–97–2514; 96–8]

RIN 2125–AD78

**Mitigation of Impacts to Wetlands and  
Natural Habitat**

**AGENCY:** Federal Highway  
Administration (FHWA), DOT.

**ACTION:** Supplemental notice of  
proposed rulemaking (SNPRM); request  
for comments.

**SUMMARY:** The FHWA is further  
supplementing its June 17, 1996, notice  
of proposed rulemaking (NPRM),  
Mitigation of Impacts to Wetlands, and  
June 18, 1997, supplemental notice of  
proposed rulemaking (SNPRM) on the  
same subject, as described in the  
**SUPPLEMENTARY INFORMATION.** This  
SNPRM also updates the FHWA's  
wetlands regulation to conform with  
wetland and natural habitat mitigation  
provisions contained in the recently  
enacted Transportation Equity Act for  
the 21st Century (TEA–21).

**DATES:** Comments must be received on  
or before June 7, 1999.

**ADDRESSES:** All signed, written  
comments must refer to the docket  
number appearing at the top of this  
document. Submit all comments to the  
Docket clerk, U.S. DOT Dockets, Room  
PL–401, 400 Seventh Street, SW.,  
Washington, DC 20590–0001. All  
comments received will be available for  
examination at the above address  
between 10 a.m. and 5 p.m., e.t.,  
Monday through Friday, except Federal  
holidays. Those desiring notification of  
receipt of comments must include a self-  
addressed, stamped envelope or  
postcard.