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TITLE 19--CUSTOMS DUTIES

CHAPTER I--UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 146--FOREIGN TRADE ZONES--Table of Contents

Subpart B--Inventory Control and Recordkeeping System

Sec. 146.22 Admission of merchandise to a zone.

(a) Identification. All merchandise will be recorded in a receiving report or document using a zone lot number or unique identifier. All merchandise, except domestic status merchandise for which no permit for admission is required under Sec. 146.43, will be traceable to a Customs Form 214 and accompanying documentation.

(b) Reconciliation. 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 Sec. 146.37.

(c) Incomplete documentation. Merchandise received without complete Customs documentation or which is unacceptable to the inventory control and recordkeeping system will be recorded in a suspense account or record until documentation is complete or the system is capable of accepting the information, at which time it will be formally admitted to the zone under Sec. 146.32 or 146.40. The receiving report or document will provide sufficient information to identify the merchandise and distinguish it from other merchandise. The suspense account or record will be completely documented for Customs review to explain the differences noted and corrections made.

(d) Recordation. Merchandise received will be accurately recorded in the inventory system records from the receiving report or document using the zone lot number or unique identifier for traceability. The inventory record will state the quantity and date admitted, cost or value where applicable, zone status, and description of the merchandise, including any part or stock number.

(e) Harbor maintenance fee. When imported cargo is unloaded from a commercial vessel at a U.S. port and admitted into a foreign trade zone, the applicant for admission of that cargo into the zone may be subject to the harbor maintenance fee as set forth in Sec. 24.24 of this chapter.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 87-44, 52 FR 10211, Mar. 30, 1987; 52 FR 10970, Apr. 6, 1987]

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CHAPTER I--UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 146--FOREIGN TRADE ZONES--Table of Contents

Subpart C--Admission of Merchandise to a Zone

Sec. 146.32 Application and permit for admission of merchandise.

(a) Application on Customs Form 214 and permit. Merchandise may be admitted into a zone only upon application on a uniquely and sequentially numbered Customs Form 214 ('`Application for Foreign Trade Zone Admission and/or Status Designation'') and the issuance of a permit by the port director. Exceptions to the Customs Form 214 requirement are for merchandise temporarily deposited (Sec. 146.33), transiting merchandise (Sec. 146.34), or domestic merchandise admitted without permit (Sec. 146.43). The applicant for admission shall present the application to the port director and shall include a statistical copy on Customs Form 214-A for transmittal to the Bureau of Census, unless the applicant has made arrangements for the direct transmittal of statistical information to that agency.

(b) Supporting documents--(1) Commercial documentation. The applicant shall submit with the application two copies of an examination invoice meeting the requirements of subpart F, part 141, of

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this chapter, for any merchandise, other than that excepted in paragraph (a) of this section, to be admitted to a zone. The notation of tariff classification and value required by Sec. 141.90 of this chapter need not be made, unless the merchandise is to be admitted in privileged status.

(2) Evidence of right to make entry. The applicant for admission shall submit with the application a document similar to that which would be required as evidence of the right to make entry for merchandise in Customs territory under Sec. 141.11 or Sec. 141.12 of this chapter.

(3) Release order. Merchandise will not be authorized for delivery by Customs to a zone until a release order has been executed by the carrier which brought the merchandise to the port, unless the merchandise is released back to that same carrier for delivery to the zone (see Sec. 141.11 of this chapter). When a release order is required, it will be made on any of the forms specified in Sec. 141.111 of this chapter, or by the following statement attached to Customs Form 214:

Authority is hereby given to release the merchandise described in this application to _____

Name of Carrier _____

Signature and title of carrier
representative

A blanket or qualified release order may be authorized for the transfer of merchandise to a zone as provided for in Sec. 141.111 of this chapter.

(4) Application to unlade. For merchandise unladen in the zone directly from the importing carrier, the application on Customs Form 214 will be supported by an application to unlade on Customs Form 3171.

(5) Other documentation. The port director may require additional information or documentation as needed to conduct an examination of merchandise under Customs selective entry processing criteria, or to determine whether the merchandise is admissible to the zone.

(c) Conditions for issuance of a permit. The port director will issue a permit for admission of merchandise to a zone when:

(1) The application is properly executed and includes the zone status desired for the merchandise, as provided in subpart D of this part;

(2) The operator's approval appears either on the application or in a separate specific or blanket approval;

(3) The merchandise is retained for examination at the place of unloading, the zone, or other location designated by the port director, except for merchandise for direct delivery to a zone under Secs. 146.39 and 146.40. The merchandise may be examined as if it were to be entered for consumption or warehouse; and

(4) All requirements have been fulfilled.

(d) Blanket application for admission of merchandise. Merchandise may be admitted to a zone under blanket application upon presentation of a Customs Form 214 covering more than one shipment of merchandise. A blanket application for admission is for:

(1) Shipments which arrive under one transportation entry as described in Sec. 141.55 of this chapter, or

(2) Shipments which are destined to the same zone applicant on a single business day, in which case the applicant shall:

(i) Present the examination invoices required by paragraph (b) of this section to the port director before the merchandise is admitted into the zone,

(ii) Have been approved for the direct transmittal of statistical trade information to the Bureau of Census under an agreement with that agency; and

(iii) Have examination invoices containing a unique identifier to trace the shipment to the manifest of the carrier that brought the merchandise to the port having jurisdiction over the zone, as well as to the inventory control and recordkeeping system of the operator as described in subpart B.

Application. Each application for this status will be made on Customs Form 214 at the time of filing the application for admission of the merchandise into a zone or at any time thereafter before the merchandise has been manipulated or manufactured in the zone in a manner which has effected a change in tariff classification. (c) Supporting documentation. Each applicant for this status shall submit to the port director, with the application, an invoice notated as provided for in Sec. 141.90 of this chapter. (d) Determination of duties and taxes. Upon receipt of the application and accompanying invoice, the port director may examine the merchandise to determine whether to approve the application. The merchandise will be subject to classification and valuation as provided in Sec. 146.65. (e) Status as privileged foreign merchandise binding. A status as privileged foreign merchandise cannot be abandoned and remains applicable to the merchandise even if changed in form by manipulation or manufacture, except in the case of recoverable waste (see Sec. 146.42(b)), as long as the merchandise remains within the purview of the Act. However, privileged foreign merchandise may be exported or withdrawn for supplies, equipment, or repair material of vessels or aircraft without the payment of taxes and duties, in accordance with Secs. 146.67 and 146.69.

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TITLE 19--CUSTOMS DUTIES

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PART 146--FOREIGN TRADE ZONES--Table of Contents

Subpart D--Status of Merchandise in a Zone

Sec. 146.44 Zone-restricted status.

(a) General. Merchandise taken into a zone for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage will be given zone-restricted status on proper application. That status may be requested at any time the merchandise is located in a zone, but cannot be abandoned once granted. Merchandise in zone-restricted status may not be removed to Customs territory for domestic consumption except where the Board determines the return to be in the public interest.

(b) Application. Application for zone-restricted status will be made on Customs Form 214.

(c) Merchandise considered exported--(1) For Customs purposes. If the applicant desires a zone-restricted status in order that the merchandise may be considered exported for the purpose of any Customs law, all pertinent Customs requirements relating to an actual exportation shall be complied with as though the admission of the merchandise into zone constituted a lading on an exporting carrier at a port of final exit from the U.S. Any declaration or form required for actual exportation will be modified to show the merchandise has been deposited in a zone in lieu of actual exportation, and a copy of the approved Customs Form 214 may be accepted in lieu of any proof of shipment required in cases of actual exportation.

(2) For other purposes. If the merchandise is to be considered exported for the purpose of any Federal law other than the Customs laws,

the port director shall be satisfied that all pertinent laws, regulations, and rules administered by the Federal agency concerned have been complied with before the Customs Form 214 is approved.

(d) Merchandise entered for warehousing transferred to a zone. Merchandise entered for warehousing and transferred to a zone, other than temporarily for manipulation and return to Customs territory as provided for in Sec. 146.33, will have the status of zone-restricted merchandise when admitted into the zone. The application on Customs Form 214 will state that zone-restricted status is desired for the merchandise.

Code of Federal Regulations] [Title 19, Volume 2] [Revised as of April 1, 2003] From the U.S. Government Printing Office via GPO Access [CITE: **19CFR146.52**] [Page 107-108] TITLE 19--CUSTOMS DUTIES CHAPTER I--UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY PART 146--FOREIGN TRADE ZONES--Table of Contents Subpart E--Handling of Merchandise in a Zone Sec. 146.52 Manipulation, manufacture, exhibition or destruction; Customs Form 216. (a) Application. Prior to any action, the operator shall file with the port director an application (or blanket application) on Customs Form 216 for permission to manipulate, manufacture, exhibit, or destroy merchandise in a zone. After Customs approves the application (or blanket application), the operator will retain in his recordkeeping system the approved application. (b) Approval. (1) The port director shall approve the application unless (i) the proposed operation would be in violation of law or regulation; (ii) the place designated for its performance is not suitable for preventing confusion of the identity or status of the merchandise, or for safeguarding the revenue; (iii) the port director is not satisfied [[Page 108]] that the destruction will be effective; or (iv) the Executive Secretary of the Board has not granted approval of a new manufacturing operation. (2) The port director is authorized to approve a blanket application for a period of up to one year for a continuous or repetitive operation. The port director may disapprove or revoke approval of any application, or may require the operator to file an individual application. (c) Appeal of adverse ruling. If an approved application is subsequently rescinded by the port director for any reason, the applicant or grantee may appeal the adverse ruling pursuant to the hearing provisions of Sec. 146.82(b)(2). The rescission shall remain in effect pending the decision on the appeal. (d) Report results--(1) Separate application. The operator shall report on Customs Form 216 the results of an approved manipulation, manufacture, exhibition, or certification of destruction (other than by a blanket application), unless the port director chooses physically to supervise the operation. (2) Blanket application. The operator shall maintain a record of an approved manipulation, manufacture, exhibition, or certification of destruction, in its inventory control and recordkeeping system so as to provide an accounting and audit trail of the merchandise through the approved operation. (e) Destruction. The port director may permit destruction to be done outside the zone, in whole or in part and at the risk and expense of the applicant, and under such conditions as are necessary to protect the revenue, if proper destruction cannot be accomplished within the zone. Any residue from the destruction within a zone, which is determined to be without commercial value, may be removed to Customs territory for disposal.

Code of Federal Regulations] [Title 19, Volume 2] [Revised as of April 1, 2003] From the U.S. Government Printing Office via GPO Access [CITE: **19CFR146.53**] [Page 108-109] TITLE 19--CUSTOMS DUTIES CHAPTER I--UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY PART 146--FOREIGN TRADE ZONES--Table of Contents Subpart E--Handling of Merchandise in a Zone Sec. 146.53 Shortages and overages. (a) Report required. The operator shall report, in writing, to the port director upon identification, as such, of any: (1) Theft or suspected theft of merchandise; (2) Merchandise not properly admitted to the zone; or (3) Shortage of one percent (1%) or more of the quantity of merchandise in a lot or covered by a unique identifier, if the missing merchandise would have been subject to duties and taxes of \$100 or more upon entry into the Customs territory. The operator shall record upon identification all shortages and overages, whether or not they are required to be reported to the port director at that time, in its inventory control and recordkeeping system. The operator shall record all shortages and overages as required in the annual reconciliation report under Sec. 146.25. (b) Certain domestic merchandise. Except in a case of theft or suspected theft, the operator need not file a report with the port director, or note in the annual reconciliation report, any shortage or overage concerning domestic status merchandise for which no permit is required. (c) Shortage--(1) Operator responsibility. The operator is responsible

under its Foreign Trade Zone Operator's Bond for any loss of merchandise or for any merchandise which cannot be located or otherwise accounted for (except domestic status merchandise for which no permit is required), unless the port director is satisfied that the merchandise was: (i) Never received in the zone; (ii) Removed from the zone under proper permit; (iii) Not removed from the zone; or (iv) Lost or destroyed in the zone through fire or other casualty, evaporation, spillage, leakage, absorption, or similar cause, and did not enter the commerce of the U.S. (2) Liability for duty and taxes. Upon demand of the port director, the operator shall make entry for and pay duties and taxes applicable to merchandise which is missing or otherwise not accounted for. (d) Overage. The person with the right to make entry shall file, within 5 days after identification of an overage, an application for admission of the merchandise to the zone on Customs Form 214 or file a Customs entry for the merchandise. If a Customs Form 214 or a Customs entry is not timely filed, and the port director has not [[Page 109]] granted an extension of the time provided, the merchandise shall be sent to general order. (e) Damage. The liability of the operator under its Foreign Trade Zone Operator's Bond may be adjusted for the loss of value resulting from damage to merchandise occurring in the zone. The operator shall segregate, mark, and otherwise secure damaged merchandise to preserve its identity as damaged merchandise.

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PART 146--FOREIGN TRADE ZONES--Table of Contents

Subpart F--Transfer of Merchandise From a Zone

Sec. 146.66 Transfer of merchandise from one zone to another.

(a) At the same port. A transfer of merchandise to another zone with a different operator at the same port (including a consolidated port) will be by a licensed cartman or a bonded carrier as provided for in Sec. 112.2(b) of this chapter or by the operator of the zone for which the merchandise is destined under an entry for immediate transportation on Customs Form 7512 or other appropriate form with a Customs Form 214 filed at the destination zone. A transfer of merchandise between zone sites at the same port having the same operator may be made under a permit on CF 6043 or under a local control system approved by the port director wherein any loss of merchandise between sites will be treated as if the loss occurred in the zone.

(b) At a different port. A transfer of merchandise from a zone at one port of entry to a zone at another port will be by bonded carrier under an entry for immediate transportation on Customs Form 7512. All copies of the entry must bear a notation that the merchandise is being transferred to another zone designated by its number.

(c) Forwarding of merchandise history; documentation. When merchandise is transferred under the provisions of this section, the operator of the transferring zone shall provide the operator of the destination zone with the documented history of the merchandise being transferred.

(1) The following documentation must accompany merchandise

maintained under a lot inventory control system:

- (i) A copy of the original Customs Form(s) 214 with accompanying invoices for admission of the merchandise and all components thereof;
- (ii) A copy of any Customs Form 214 filed subsequent to admission to change the status of the merchandise or its components; and

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(iii) A copy of any Customs Form 216 to manipulate or manufacture the merchandise.

(2) The following documentation must accompany merchandise not under a lot system, and not manufactured in a zone:

- (i) A copy of the original Customs Form(s) 214 with accompanying invoices for admission of the merchandise as attributed under the particular zone inventory method;
- (ii) A copy of any Customs Form 214 filed subsequent to admission to change the status of the merchandise as attributed under the particular zone inventory method; and
- (iii) A copy of any Customs Form 216 to manipulate the merchandise as attributed under the particular zone inventory method.

(3) If the documents specified in paragraph (c)(2) of this section are not presented, the operator of the transferring zone shall submit the following:

- (i) A statement of the zone value, dutiable value, quantity, description, unique identifier, and zone status (showing any changes of status after admission and whether the merchandise was manipulated so as to change its tariff classification) of all the merchandise in the shipment covered by the transportation entry; and
- (ii) A certification that the statement in paragraph (c)(3)(i) of this section, is true and that the information contained therein is contained in the inventory control and recordkeeping system of the transferring zone.

(4) The following documentation must accompany merchandise not under a lot system, but manufactured in a zone:

- (i) A statement by the transferring zone operator of the zone value, dutiable value, quantity, description, unique identifier, and zone status of all the merchandise (and components thereof, where applicable) covered by the transportation entry. The statement will also show any change in zone status in the transferring zone and whether the merchandise has been manufactured or manipulated in the zone so as to change its tariff classification; and
- (ii) A certification by the operator of the transferring zone that the statement in paragraph (c)(4)(i) of this section is true and the information therein is contained in the inventory control and recordkeeping system of the zone.

(5) The operator of the transferring zone shall transmit the historical documentation of the merchandise to the receiving zone within 10 working days after it has been delivered to the bonded carrier for transportation. The documentation will be referenced to the I.T. number covering the merchandise.

(d) Arrival at destination zone. Upon arrival of the merchandise at the destination zone, it will be admitted under the procedure provided for in Sec. 146.32, except that no invoice or Customs examination will be required. When the historical documentation is received, the operator of the destination zone shall associate it with the Customs Form 214 for admission of the merchandise and incorporate that information into the zone inventory control and recordkeeping system.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 94-81, 59 FR 51497, Oct. 12, 1994]

Code of Federal Regulations] [Title 5, Volume 3] [Revised as of January 1, 2003] From the U.S. Government Printing Office via GPO Access [CITE: 5CFR1320.6] [Page 154-155] TITLE 5--ADMINISTRATIVE PERSONNEL CHAPTER III--OFFICE OF MANAGEMENT AND BUDGET PART 1320--CONTROLLING PAPERWORK BURDENS ON THE PUBLIC--Table of Contents Sec. 1320.6 Public protection. (a)

Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to the requirements of this part if: (1) The collection of information does not display, in accordance with Sec. 1320.3(f) and Sec. 1320.5(b)(1), a currently valid OMB control number assigned by the Director in accordance with the Act; or (2) The agency fails to inform the potential person who is to respond to the collection of information, in accordance with Sec. 1320.5(b)(2), that such person is not required to respond to the collection of information unless it displays a currently valid OMB control number. (b) The protection provided by paragraph (a) of this section may be raised in the form of a complete defense, bar, or otherwise to the imposition of such penalty at any time during the agency administrative process in which such penalty may be imposed or in any judicial action applicable thereto. (c) Whenever an agency has imposed a collection of information as a means for proving or satisfying a condition for the receipt of a benefit or the avoidance of a penalty, and the collection of information does not display a currently valid OMB control number or inform the potential persons who are to respond to the collection of information, as prescribed in Sec. 1320.5(b), the agency shall not treat a person's failure to comply, in and of itself, as grounds for withholding the benefit or imposing the penalty. The agency shall instead permit respondents to prove or satisfy the legal conditions in any other reasonable manner. (1) If OMB disapproves the whole of such a collection of information (and the disapproval is not overridden under Sec. 1320.15), the agency shall grant the benefit to (or not impose the penalty on) otherwise qualified persons without requesting further proof concerning the condition. (2) If OMB instructs an agency to make a substantive or material change to such a collection of information (and the instruction is not overridden under Sec. 1320.15), the agency shall permit respondents to prove or satisfy the condition by complying with the collection of information as so changed. (d) Whenever a member of the public is protected from imposition of a penalty under this section for failure to comply with a collection of information, such penalty may not be imposed by an agency directly, by an agency through judicial process, or by any [[Page 155]] other person through administrative or judicial process. (e) The protection provided by paragraph (a) of this section does not preclude the imposition of a penalty on a person for failing to comply with a collection of information that is imposed on the person by statute--e.g., 26 U.S.C. Sec. 6011(a) (statutory requirement for person to file a tax return), 42 U.S.C. Sec. 6938(c) (statutory requirement for person to provide notification before exporting hazardous waste).