

store under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn for exportation and transferred to or through such facility unless the operator of the duty-free store demonstrates to the port director that the concession or approval required for the enterprise has been obtained.

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15839, Apr. 3, 1997; T.D. 00-33, 65 FR 31261, May 17, 2000]

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

(a) *Withdrawals.* Merchandise withdrawn under the sales ticket procedure in §144.37(h) of this chapter may be delivered only to individuals departing from the Customs territory for exportation or to persons and organizations for use as specified in subpart I, part 148, of this chapter. Withdrawals of other kinds may be made from Class 9 warehouses, but only through separate withdrawals (or withdrawals under blanket permit for vessel or aircraft supplies) under an approved permit of the port director as provided in §144.39 of this chapter.

(b) *Procedures required.* Each duty-free store shall establish, maintain, and follow written procedures to provide reasonable assurance to the port director that conditionally duty-free merchandise purchased therein will be exported from the Customs territory. A copy of any change in the procedure will be provided to the port director before it is implemented. However, receipt by Customs of the procedures of any change thereto shall not be construed as approval by Customs of the procedures. The port director is responsible for ensuring that each enterprise has established guidelines with Customs and is complying with those guidelines, giving assurance that proper supervision exists when delivery is made to the purchaser at or before the exit point. The port director may at any time require any change in the procedures deemed necessary for assurance of exportation.

(c) *Personal-use restrictions.* Any duty-free store which delivers conditionally duty-free merchandise to purchasers at an airport exit point shall establish,

maintain, and enforce written restrictions on the sale of conditionally duty-free merchandise to any one individual to personal-use quantities. Personal-use quantities means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others. Proprietors will not knowingly sell or deliver conditionally duty-free merchandise in any quantity to any individual for the purpose of resale. A copy of the restrictions and of any change thereto shall be provided to the port director prior to implementation. However, receipt of the written restrictions by Customs shall not be construed as approval by Customs of the restrictions. The port director may require any change in the restrictions deemed necessary to conform to the personal-use quantity restriction of this section.

(d) *Reimported merchandise.* Merchandise purchased in a duty-free store is not eligible for exemption from duty, or tax where applicable, under chapter 98, subchapter IV, Harmonized Tariff Schedule, if it is brought back to the United States after exportation. To enforce this restriction, the port director may require the proprietor to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate the items were sold in a U.S. duty-free store, if a pattern is disclosed in which such items are being brought back to the United States without declaration. A pattern of undeclared reimportations means a number of instances over a period of time and not isolated instances of unrelated violations. Any such marking required by the port director will be inconspicuous to the purchaser and will not detract from the value of the merchandise. The marking requirement will be limited to the items or types of merchandise noted in the pattern, and will not be extended to all merchandise of the responsible store proprietor unless all or most items are part of the pattern.

(e) *Merchandise eligible for warehousing.* Only conditionally duty-free merchandise may be placed in a bonded storage area of a Class 9 warehouse. However, domestic merchandise and merchandise which was previously

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entered or withdrawn for consumption, may be brought into the bonded sales or crib area of a Class 9 warehouse for display and sale, and in the case of a crib, for delivery to purchasers. 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.

(f) *Sale of merchandise.* Conditionally duty-free merchandise for exportation at airport or seaport exit points may be sold and delivered only to purchasers who display valid tickets, or in the case of chartered or for-hire flights that have not issued tickets, other proof of impending departure from the Customs territory, and to crewmembers who have been engaged for a flight or voyage departing directly from the Customs territory with no intermediate stops in the U.S.

(g) *Inventory procedure.* Duty-free store proprietors shall maintain, at the duty-free store or at another location approved by the port director, a current inventory separately for each storage area, crib, and sales area containing conditionally duty-free merchandise by warehouse entry, or by unique identifier where permitted by the port director. Proprietors shall assure that Customs has ready access to those records, and that the records are stored in such a way as to keep transactions of multiple facilities separated. 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. Proprietors are subject also to the recordkeeping requirements of other paragraphs of §19.12, as well as those of §§19.6(d), 19.37(d), 19.39(d) of this part, and 144.37(h)(3) of this chapter.

[T.D. 92-81, 57 FR 37698, Aug. 20, 1992, as amended by T.D. 97-19, 62 FR 15840, Apr. 3, 1997]

### § 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.

It shall be located beyond the exit point, unless exception has been made under §19.39 (a) and (b) of this part. The crib may be a permanent location or a mobile facility which is periodically moved to a location beyond the exit point. 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.

(b) *Delivery and removal of merchandise.* Conditionally duty-free merchandise shall be delivered to the crib, or removed from the crib for return to the storage area, 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. If delivery is made by licensed cartman, cartage vehicles shall be conspicuously marked as provided in §112.27 of this chapter.

(c) *Delivery vehicles.* Vehicles, including mobile cribs, containing conditionally duty-free merchandise for delivery to or from a crib shall carry a listing of the articles contained therein. The proprietor shall provide, upon request by Customs, a transfer document sufficient to account for each movement of inventory among its locations. The merchandise in the vehicles shall be subject to inspection by Customs.

(d) *Retention of records.* Class 9 warehouse proprietors shall maintain records of conditionally duty-free merchandise transported beyond the exit point and returned therefrom, and Customs permits for such movements, for not less than 5 years after exportation of the articles. Such records need not be placed in permit file folders but must be filed by date of movement, destination site and warehouse entry number or by unique identifier where