

(2) *Class 2.* Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it shall be known as a private bonded warehouse.

(3) *Class 3.* Public bonded warehouses used exclusively for the storage of imported merchandise.

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk. If the port director deems it necessary, the yards shall be enclosed by substantial fences with entrances and exit gates capable of being secured by the proprietor's locks. The inlets and outlets to tanks shall be secured by means of seals or the proprietor's locks.

(5) *Class 5.* Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions shall be effectively separated from the rest of the building.

(6) *Class 6.* Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.

(7) *Class 7.* Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.

(8) *Class 8.* Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under Customs supervision and at the expense of the proprietor.

(9) *Class 9.* Bonded warehouse, known as "duty-free stores", used for selling, for use outside the Customs territory, conditionally duty-free merchandise owned or sold by the proprietor and delivered from the Class 9 warehouse to an airport or other exit point for exportation by, or on behalf of, individuals

departing from the Customs territory for destinations other than foreign trade zones. Pursuant to 19 U.S.C. 1555(b)(8)(C), "Customs territory", for purposes of duty-free stores, means the Customs territory of the U.S. as defined in §101.1(e) of this chapter, and foreign trade zones (see part 146 of this chapter). 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.

(10) [Reserved]

(11) *Class 11.* Bonded warehouses, known as "general order warehouses," established for the storage and disposition exclusively of general order merchandise as described in §127.1 of this chapter.

(b) *Manipulation.* The whole or a part of any warehouse of class 1, 2, 3, 4, 5, 6, 7, or 11 may be designated a constructive manipulation (class 8) warehouse when the exigencies of the service so require.

(c) *General order.* General order merchandise as described in §127.1 of this chapter may be stored and disposed of in a class 11 warehouse or a warehouse of class 3, 4, or 5, provided the class 3, 4, or 5 warehouse has also been certified by the port director as meeting the criteria for a class 11 warehouse, following an application under §19.2. So far as such warehouses are used for the purpose of handling general order goods, they will also be considered general order (class 11) warehouses. If there is no space at a warehouse of any of these classes available, the proprietor of such a warehouse, with the approval of the port director of the port nearest to where the warehouse is located, may rent or lease additional suitable premises for the storage of general order merchandise.

[T.D. 76-277, 41 FR 42649, Sept. 28, 1976, as amended by T.D. 82-204, 47 FR 49368, Nov. 1, 1982; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 92-81, 57 FR 37696, Aug. 20, 1992; T.D. 97-19, 62 FR 15834, Apr. 3, 1997; T.D. 02-65, 67 FR 68032, Nov. 8, 2002]

GENERAL PROVISIONS

§ 19.2 Applications to bond.

(a) *Application.* An owner or lessee desiring to establish a bonded warehouse

facility shall make written application to the director of the port nearest to where the warehouse is located, describing the premises, giving its location, and stating the class of warehouse desired. If required by the port director, the applicant shall provide a list of names and addresses of all officers and managing officials of the warehouse and all persons who have a direct or indirect financial interest in the operation of the warehouse facility. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse facility is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse facility is to be operated as a private bonded warehouse, the application also shall state the general character of the merchandise to be stored therein, and provide an estimate of the maximum duties and taxes which will be due on all merchandise in the bonded warehouse at any one time. A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouses facilities. 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) The applicant shall submit evidence of fire insurance coverage on the proposed warehouse. If the applicant does not have fire insurance for the proposed warehouse, he shall submit a certificate signed by an officer or agent of each of two insurance companies stating that the building is acceptable for fire-insurance purposes. The appli-

cation shall also be accompanied by a blueprint showing measurements, openings, etc., of the building or space to be bonded. If the warehouse to be bonded is a tank, the blueprint shall show all outlets, inlets, and pipe lines and shall be certified as correct by the proprietor of the tank. A gauge table showing the capacity of the tank in United States gallons per inch or fraction of an inch of height, certified by the proprietor to be correct, shall accompany the application. When a part or parts of a building are to be used as the warehouse, there shall be given a detailed description of the materials and construction of all partitions. When the proprietor is the lessee of the premises covered by the application and bond, he shall furnish a stipulation concurred in by the sureties, agreeing that, prior to the expiration of the lease covering the premises without renewal thereof, he will transfer any merchandise remaining in the bonded warehouse to an approved bonded warehouse, pay all duties, charges, or exactions due on such merchandise, or otherwise dispose of such merchandise in accordance with the Customs laws and regulations. If the application is for a Class 9 warehouse (duty-free store), the applicant shall furnish the following documents:

(1) A map showing the location of the facilities to be bonded in respect to the port of entry and distances to all exit points of purchasers of conditionally duty-free merchandise;

(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;

(3) If an airport duty-free store, a description of the store's procedures for restricting sales of conditionally duty-free merchandise to personal-use quantities; and

(4) A statement by an authorized official of the appropriate state, local or

other governmental authority administering the exit point facility that the applicant duty-free store is authorized to deliver conditionally duty-free merchandise to purchasers at or through that exit point facility. A separate statement shall be required for each government's authority having jurisdiction over exit point facilities through which the duty-free store intends to deliver merchandise to purchasers. If the merchandise will be delivered through an exit point which is not under the jurisdiction of a governmental authority, the applicant will provide a statement to that effect.

(c) On approval of the application to bond a warehouse of any class, except class 1, a bond shall be executed on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter.

(d) An applicant desiring to establish a general order warehouse may need to establish, as a condition of approval of the application, that the warehouse will meet minimum space requirements imposed by the port director to accommodate the storage of general order merchandise. Any space requirements will be posted by written notice at the customs house and on the appropriate Customs-authorized electronic data interchange system. An applicant will not be subject to any minimum space requirements that are posted after the filing of his application.

(e) Any proprietor of a bonded warehouse may be required on 10 days' notice from the port director to furnish a new bond on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter; and if he fails to do so, no more goods shall be sent to the warehouse and those therein shall be removed at the expense of such proprietor. A new bond is required if the bonded warehouse is substantially altered or rebuilt.

(f) As a condition of approval of the application, the port director may order an inquiry by a Customs officer into the qualification, character, and experience of the applicant (e.g. personal history, financial and business data, credit and personal references), and into the security, suitability, and fitness of the facility. The port director may require an individual applicant to

submit fingerprints on form FD 258 or electronically at the time of filing the application, or in the case of applications from a business entity, may require the fingerprints, on form FD 258 or electronically, of all employees of the business entity.

(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.

[28 FR 14763, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §19.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 19.3 Bonded warehouses; alterations; relocation; suspensions; discontinuance.

(a) *Alterations or relocation.* Alterations to or relocation of a warehouse may be made with the permission of the director of the port nearest to where the facility is located.

(b) *Suspensions.* The use of all or part of a bonded warehouse or bonded floor space may be temporarily suspended by the port director of a period not to exceed one year on written application of the proprietor if there are no bonded goods in the area. Upon written application of the proprietor and upon the removal of all nonbonded goods, if any, the premises may again be used for the storage of bonded goods. If the application is approved, the port director shall indicate the approval by endorsement on the application. Rebonding will not be necessary as long as the original bond remains in force.

(c) *Discontinuance.* If a proprietor wishes to discontinue the bonded status of the warehouse, he shall make written application to the port director. The port director shall not approve the application until all goods in the warehouse are transferred to another bonded warehouse without expense to the Government. To reestablish the bonded warehouse, application shall be made and approved under the provision of §19.2 of this chapter.