

DEPARTMENT OF HOMELAND SECURITY**U.S. Customs and Border Protection****DEPARTMENT OF THE TREASURY**

19 CFR Parts 4, 10, 18, 19, 113, 122, 123, 141, 142, 143, 144, 146, 151, and 181

[USCBP–2012–0002]

RIN 1515–AD81

Changes to the In-Bond Process

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under the U.S. Customs and Border Protection (CBP) regulations, imported merchandise may be transported in-bond. This process allows imported merchandise to be entered at one U.S. port of entry without appraisal or payment of duties and transported by a bonded carrier to another U.S. port of entry provided all statutory and regulatory conditions are met. At the destination port, the merchandise is officially entered into the commerce of the United States and duties paid, or, the merchandise is exported. CBP is proposing various changes to the in-bond regulations to enhance CBP's ability to regulate and track in-bond merchandise and to ensure that the in-bond merchandise is properly entered and duties are paid or that the in-bond merchandise is exported. Among other things, the proposed changes would: eliminate the paper in-bond application (CBP Form 7512) and require carriers or their agents to electronically file the in-bond application; require additional information on the in-bond application including the six-digit Harmonized Tariff Schedule number, if available, and information relevant to the safety and security of the in-bond merchandise; establish a 30-day maximum time to transport in-bond merchandise between United States ports, for all modes of transportation except pipeline; require carriers to electronically request permission from CBP before diverting the in-bond merchandise from its intended destination port to another port; and require carriers to report the arrival and location of the in-bond merchandise within 24 hours of arrival at the port of destination or port of export. CBP also proposes various other changes, including the restructuring of the in-bond regulations, so that they are more

logical and better track the in-bond process. At this time, CBP is not proposing to change the in-bond procedures found in the air commerce regulations, except to change certain times periods to conform to the proposed changes in this document.

DATES: Comments must be received on or before April 23, 2012.

FOR FURTHER INFORMATION CONTACT: Gary Schreffler, Office of Field Operations, (202) 344–1535.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP–2012–0002.
- *Mail:* Border Security Regulations Branch, Office of Regulations and Rulings, U.S. Customs and Border Protection, Mint Annex, 799 9th Street NW., Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

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ABI	Automated Broker Interface
GAO	Government Accountability Office
IE	Immediate Exportation
IT	Immediate Transportation
T&E	Transportation and Exportation

SUPPLEMENTARY INFORMATION:**I. Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. U.S. Customs and Border Protection (CBP) also invites comments that relate to the economic, environmental or federalism effects that might result from this proposed rule. Comments that will provide the most assistance to CBP in developing these procedures will reference a specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

II. Background**A. The In-Bond System**

Generally, when a shipment of merchandise reaches the United States, the merchandise in the shipment may be entered for consumption, entered for warehouse, admitted into a foreign trade zone or entered for transportation in-bond to another port. The focus of this proposed rule is on merchandise that is entered for transportation in-bond. Transportation of merchandise in-bond is the movement of imported merchandise, secured by a bond, from one port to another prior to the appraisal of the merchandise and prior to the payment of duties. The transportation of merchandise in-bond is frequently referred to as an in-bond movement or shipment.

Currently, in-bond merchandise may be transported through the United States without appraisal or the payment of duties, provided the carrier or other appropriate party obtains a bond and files a transportation entry on a CBP

Form 7512. When the in-bond merchandise reaches its destination, it must be entered for consumption, entered for warehouse, or exported. The bond requires the bonded carrier to comply with all laws and regulations governing the receipt, safekeeping, and disposition of bonded merchandise. The transportation entry accounts for the movement of the merchandise during the in-bond process.

The in-bond system is widely used. According to a 2007 Report from the U.S. Government Accountability Office (GAO),¹ in-bond shipments represent 30 to 60 percent of all imports that move through U.S. ports. This in-bond system provides flexibility to importers and facilitates the flow of trade and commerce by allowing importers and other interested parties to choose when and where to enter imported merchandise into the commerce of the United States or when and where to warehouse or export the merchandise. This enables the importer to delay payment of applicable duties for imported merchandise. The in-bond system also allows merchandise to be transported and exported without the payment of duties and without having to meet all of the entry requirements necessary to enter the goods into the commerce of the United States.

B. Legal Authority

Subject to specified exceptions, 19 U.S.C. 1484 requires the “importer of record” to use reasonable care to make entry by filing appropriate entry documentation to enable CBP to determine whether such cargo may be released from CBP’s custody and to declare the value and classification and other relevant information to enable CBP to properly assess duties on the merchandise, collect accurate statistics, and determine whether any other applicable requirements of law are met.

Two of the specified exceptions in 19 U.S.C. 1484 concern merchandise entered for immediate transportation to another port (19 U.S.C. 1552) and merchandise entered for transportation and exportation (19 U.S.C. 1553). Pursuant to these sections, merchandise may be entered at a U.S. port of entry without appraisal or the payment of duties, for transportation to another port for entry into U.S. commerce or for exportation, provided that all statutory and regulatory conditions are met.

Specifically, merchandise may be entered without the payment of duties if the merchandise is transported by a bonded carrier to another U.S. port (the port of destination or the port of export). Upon arrival at the port of destination or export, several options are available regarding the in-bond merchandise. The merchandise may be, among other things, entered for consumption, entered for further transportation by a bonded carrier to another port, or exported to a foreign port. In addition, pursuant to 19 U.S.C. 1551a, bonded cartmen and lightermen are allowed to transport in-bond merchandise between certain specified ports.

Pursuant to 19 U.S.C. 1623 and 1624, the Secretary of the Treasury is authorized, by regulation or specific instruction, to require bonds as necessary for the protection of the revenue or to ensure compliance with applicable laws and regulations. Following the enactment of the Homeland Security Act of 2002 (107 Pub. L. 296, 116 Stat. 2135), on May 15, 2003, the Secretary of the Treasury delegated certain powers to perform customs revenue functions to the Secretary of Homeland Security. See Treasury Department Order 100–16.

The applicable regulations regarding the in-bond system issued under the above authorities are set forth in title 19 of the Code of Federal Regulations (19 CFR), Parts 18, 122, and 123. Part 18 covers “Transportation in bond and merchandise in transit;” part 122 covers “Air Commerce regulations;” and part 123 covers “Customs relations with Canada and Mexico.”

C. Types of In-Bond Entries

The CBP regulations provide for several types of in-bond entries. The most commonly used in-bond entries are: Immediate Transportation (IT), Transportation and Exportation (T&E), and Immediate Exportation (IE). An IT entry allows merchandise, upon its arrival at a U.S. port, to be transported to another U.S. port, where a subsequent entry must be filed. See 19 U.S.C. 1552 and 19 CFR 18.11. A T&E entry allows merchandise to be entered at a U.S. port for transit through the United States to another U.S. port, where the merchandise is exported without the payment of duties. See 19 U.S.C. 1553 and 19 CFR 18.20. An IE entry allows cargo that has arrived at a U.S. port to be immediately exported from that same port without the payment of duties. See 19 CFR 18.7 and 18.25.

D. The 2007 GAO Report on the In-Bond System

This Notice of Proposed Rulemaking (NPRM) addresses certain weaknesses in the in-bond system identified by the Government Accountability Office (GAO) in a report to Congress dated April 2007 (GAO Report).² The GAO concluded that CBP does not adequately monitor and track in-bond goods; in particular, CBP does not consistently reconcile the in-bond document issued at the port of first arrival with documents at the port of destination or port of export. The GAO found that this diminishes CBP’s ability to ensure that the cargo is either officially entered, with appropriate duties or quotas applied, or is in fact exported.³

The GAO observed that the in-bond regulations provide unusual flexibility for the trade community. For example, the GAO noted that the regulations currently allow carriers from 15 to 60 days, depending on the mode of shipment, to reach their final destination and allow carriers to change a shipment’s final destination without notifying CBP. The GAO also concluded that the in-bond system collects inadequate information about the in-bond merchandise, thus undermining CBP’s efforts to manage associated security risks and ensure proper targeting of inspections.⁴ The GAO identified the in-bond regulations as a major contributing factor to these weaknesses of the in-bond system, and stated that both CBP’s infrastructure and regulations had not kept pace with the dramatic increase in trade.⁵

In response to the GAO report, CBP conducted an internal audit, formed a working group comprised of CBP in-bond experts, and worked closely with the trade community to identify solutions to the in-bond system’s regulatory weaknesses. This NPRM reflects those deliberations and addresses the GAO’s concerns by proposing various amendments to the in-bond regulations. The specific changes to the regulations are discussed in Section III. In conjunction with the proposed regulatory changes, CBP is also in the process of expanding and modernizing the capabilities of its centralized commercial trade processing system, the Automated Commercial Environment (ACE). This expansion and modernization of ACE will facilitate the implementation of the proposed regulatory changes. To eliminate errors in reporting overdue in-bond

² *Id.*

³ *Id.* at 3.

⁴ *Id.*

⁵ *Id.*

¹ U.S. Government Accountability Office, Report to the Committee on Finance, U.S. Senate, International Trade: Persistent Weaknesses in the In-Bond Cargo System Impede Customs and Border Protection’s Ability to Address Revenue, Trade, and Security Concerns, GAO–07–0561 (Washington, DC April 17, 2007).

movements, CBP is modifying an existing in-bond module in ACE. In addition to these long and short term systemic changes, CBP is implementing changes in policy and oversight of the in-bond process to ensure that the trade community complies with the in-bond requirements and to improve the tracking of in-bond merchandise.

III. Proposed Amendments to the In-Bond Regulations

This document proposes to revise and modernize part 18 and some other parts of the regulations to change the in-bond process from a paper dependent entry process to an automated paperless process. In addition to modernizing the regulations to meet the realities of today's real time shipping environment, the proposed amendments are designed to provide CBP with the necessary tools to better track in-bond merchandise, which is vital to security and enforcing trade compliance. Among the various changes, CBP is proposing the following five major changes to the in-bond process: (1) Except for merchandise transported by pipeline, eliminate the paper in-bond application (CBP Form 7512) and require carriers or their agents to electronically file the in-bond application, (2) require additional information on the in-bond application including the six-digit Harmonized Tariff Schedule number, if available, and information relevant to the safety and security of the in-bond merchandise, (3) establish a 30-day maximum transit time to transport in-bond merchandise between United States ports, for all modes of transportation except pipeline, (4) require carriers to electronically request permission from CBP before diverting the in-bond merchandise from its intended destination port to another port, and (5) require carriers to report the arrival and location of the in-bond merchandise within 24 hours of arrival at the port of destination or port of export. At this time, CBP is not proposing to change the in-bond procedures found in the air commerce regulations at 19 CFR part 122, subparts J and L, except to change the specified maximum transit and export times to conform to the proposed changes in Part 18. Any other proposed changes to those subparts will be done in a separate rulemaking.

A. Elimination of CBP Form 7512

For merchandise to be transported in-bond, currently the carrier or designated person must obtain a bond and submit an entry document to the appropriate CBP official. *See* 19 CFR 18.2(b). This form is known as CBP Form 7512, or

“Transportation Entry and Manifest of Goods Subject to CBP Inspection and Permit.” The bonded carrier is responsible for initiating the in-bond shipment, describing the merchandise on the manifest, including the quantity to be delivered for transportation in-bond, and ensuring that the cargo is delivered to either the port of destination or the port of export within the prescribed periods, as detailed below.

Paper filing raises security issues because it impedes CBP's ability to consider relevant data about the in-bond merchandise and the in-bond movements on a real-time basis. After the CBP Form 7512 is submitted, a CBP officer must manually input the data into the computer system and then manually close the in-bond transaction records once the in-bond merchandise is entered or exported, a time consuming and costly process. In addition, the lack of information about in-bond movements on a real-time basis makes it difficult for CBP to adequately track what merchandise is moving in-bond, where the goods are, or whether any illegal diversions have occurred. The GAO found, and CBP agrees, that due to the large volume of records and CBP's limited resources, the use of the paper form impedes risk management. In addition, the current paper-based system makes it difficult to target and detect violators, thereby impeding CBP's ability to hold carriers accountable when they fail to adhere to the in-bond requirements. Although some in-bond applications are currently transmitted electronically through the Automated Commercial System (ACS), electronic filing is not mandatory.

To address these issues, CBP proposes to generally require carriers and other authorized persons to submit in-bond applications electronically using a CBP-approved electronic data interchange (EDI) system.⁶ Electronic filing of the in-bond application will facilitate automated screening of in-bond cargo and is necessary to increase security and to maximize CBP's use of limited resources. Electronic filing will also allow CBP to better utilize its enforcement resources to identify and penalize those in-bond filers who fail to adhere to the in-bond requirements. Accordingly, CBP proposes to amend 19 CFR part 18 to require the carriers or one of the parties named in the newly created 19 CFR 18.1(c) to electronically

submit the in-bond application to CBP via a CBP-approved EDI system.

ACS will not be able to support all the functionality required to implement the proposed new requirements for in-bond filers described in detail below, such as the requirements for in-bond filers to provide additional data and information on the in-bond application, to update the in-bond record, to submit and update all diversion requests and CBP's approval of the diversion requests, and to provide the location of the merchandise when reporting arrivals. Therefore, CBP intends to designate ACE as the CBP-approved EDI system for submitting the in-bond application and other information that is required to be submitted under this proposal via a CBP-approved EDI system.⁷

B. New Information Requirements for In-Bond Shipments

The current regulations generally require only limited information on the in-bond document (CBP Form 7512). In most cases, only a description and quantity of the merchandise are required. *See* 19 CFR 18.2(b). The exception to the general requirement is merchandise entered under an IT entry. The description for IT merchandise must be sufficiently detailed to enable CBP to estimate the duties and taxes that will be owed on the merchandise. *See* 19 CFR 18.11(h). If IT merchandise is subject to detention or supervision of a federal agency, then the description must be sufficient to enable the agency concerned to determine the contents of the shipment. *See* 19 CFR 18.11(e). Additionally, certain textile shipments being transported under an IT bond must be sufficiently described to allow CBP to estimate taxes and duties. *Id.*

The GAO found that the information that CBP collects on the CBP Form 7512 often lacks sufficient details pertaining to the imported merchandise. GAO noted that importers and shipping agents typically provide imprecise and vague descriptions of the cargo based on the information provided for insurance purposes. The GAO found that this diminishes CBP's ability to assess risks and monitor trade volume and value, and hampers CBP's ability to effectively target trade and revenue violations.

CBP agrees with GAO's observations and concerns. CBP is also of the view that the more detailed information on the in-bond application will enable CBP to better ascertain whether the merchandise to be transported in-bond presents any health, safety, or

⁶ Due to the unique circumstances related to pipeline shipments, in-bond applications for these shipments are not subject to electronic filing.

⁷ Electronic in-bond requests which are filed via ABI (ABI QP) will be supported in ACE. ABI QP is an electronic in-bond request filed via ABI.

conservation issues that need to be addressed. With the additional and more detailed information described below, CBP will be able to provide immediate feedback to carriers on whether their cargo will require additional inspection and screening and enable CBP to enforce other agencies' cargo restrictions on a real-time basis. The proposed requirements, reflected in the proposed amendments to 19 CFR 18.1(d), are listed below.

Description of the merchandise.

Under the proposed rule the carrier or other responsible party will be required to provide the six-digit Harmonized Tariff Schedule (HTS) number of the merchandise if it is available. (CBP will also accept the eight or ten-digit HTS number). If the HTS number is not available, then the carrier or other responsible party must provide a detailed description providing the exact nature of the merchandise in sufficient detail to allow CBP and/or another government agency to determine if the merchandise is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation. In either case, if the carrier or other responsible party knows that the merchandise to be transported in-bond is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation enforced by CBP or another government agency, the carrier or other responsible party must provide a statement to this effect on the in-bond application. The statement must include the rule, regulation, law, standard or ban to which the merchandise is subject, and the name of the government agency responsible for enforcing it.

Prohibited or restricted merchandise.

The carrier or other responsible party must identify merchandise that is prohibited or subject to restricted importation in the U.S.

Other identifying information. The carrier or other responsible party must provide the visa, permit, license or other similar number or identifying information related to the merchandise if such visa, permit, license or other similar information has been issued by the U.S. Government, a foreign government or some other issuing authority.

Container and seal number. The carrier or other responsible party must provide the container number in which the merchandise is to be transported in-bond and the seal number of the container.

This new information combined with the HTS number or the enhanced description, in the event the HTS number is not available, will enable CBP to better monitor the movement and

required disposition of in-bond merchandise. It will also enable CBP to accurately and timely identify other agencies' jurisdiction over the admissibility of the in-bond merchandise.

These new requirements are reflected in the proposed amendment to the regulations under 19 CFR 18.1(d), except for the container/conveyance seal requirement, which is reflected in section 18.4.

C. 30-Day Transit Times Between Ports

Under the current regulations, the time period to transport in-bond merchandise from the origination port to the destination port, or to the port of export, varies depending on the mode of transit. Currently, in-bond merchandise transported by truck must be delivered within 30 days. See 19 CFR 18.2(c)(2). In-bond merchandise arriving by air transit and traveling to a final port of destination in the U.S. by air must be delivered to the destination port within 15 days of arrival at the origination port. See 19 CFR 122.119(b). In-bond merchandise that is transported by air to another port for exportation, must be exported within 15 days from the date that it was received by the forwarding airline. See 19 CFR 122.120(c). Sea vessels must deliver their in-bond shipments within 60 days from the date that the forwarding carrier takes receipt of the merchandise. See 19 CFR 18.2(c)(2). Failure to deliver the merchandise within the prescribed time periods constitutes an irregular delivery and subjects the bonded carrier to liquidated damages claims.

CBP believes that having different time frames for each mode of transportation is confusing and burdensome to both CBP and the trade community. This is due to the fact that cargo is often transported through the in-bond system by more than one mode of transportation. In some cases, in-bond cargo is moved by air, sea, and truck. The set of varied time frames is confusing in this multi-modal environment and creates uncertainty as to which time frame applies. As a result, the required time frames are difficult to enforce. Moreover, the lengthy 60-day time period for sea vessels is not appropriate in today's environment where the supply chain relies on rapid deliveries. During this period, the in-bond shipments are often unaccounted for, and transactions are open for too long a period of time, hindering CBP's enforcement and targeting efforts. Therefore, CBP proposes to harmonize the time limits across all modes of transportation, except for pipeline

shipments, which will continue to have no time limit.

After consultations with members of the trade community and observing transportation patterns, CBP has concluded that the 30-day time limit now applicable to truck shipments is a reasonable time period that can be applied for all modes of transportation (except pipeline shipments) and that this time period addresses CBP's security concerns. Therefore, this document proposes to amend 19 CFR to harmonize the maximum time limits across all modes of transportation to 30 days. Under the proposal, subject to certain exceptions, the merchandise must be delivered to CBP at the port of destination or export within 30 days from the date CBP authorizes the in-bond movement. This is a change from the current regulations that measure the time frame for delivery from the date the merchandise was delivered to the forwarding carrier. This change will provide transparency and facilitate compliance. This uniform 30-day standard will enable CBP to better track in-bond shipments and will often enable CBP to ascertain at an earlier time point whether a shipment has been improperly diverted.

D. Diversion of In-Bond Cargo

Under the current regulations, in-bond merchandise that is in transit or that has reached the destination port or port of export may be diverted to a new destination port or port of export. With some exceptions, prior application and CBP approval of the diversion is not required. See 19 CFR 18.5(a).

The current diversion procedures make it virtually impossible for CBP to identify the ultimate destination of a diverted shipment and to determine whether the merchandise reaches that destination. This presents a security risk, a risk of circumvention of other agencies' admissibility requirements, and a risk that proper duties are not collected. In its report, the GAO noted several instances where in-bond merchandise was diverted without the payment of duties. For example, the GAO reported that "the United States experienced an estimated \$100 million loss in trade revenue due to more than 7,500 in-bond shipments of apparel that were diverted from Los Angeles to U.S. commerce, from September 1999 through September 2002."⁸ The GAO also observed that the current regulations undermine CBP's efforts to track in-bond shipments and ensure their proper disposition. The GAO noted that the current regulations allow

⁸ GAO report p. 1.

an importer or carrier to open an in-bond transaction to transport its cargo to one U.S. port, and then initiate an additional in-bond transaction to transport the same cargo to another U.S. port.⁹ As a result, the importer or carrier gains additional time to transport the cargo and the associated original in-bond transaction remains open after the cargo reaches its final destination. As the GAO noted, “an open in-bond record indicates risk that cargo could have been diverted into U.S. commerce without paying applicable duties or in violation of trade regulations or quotas.”¹⁰ GAO noted that CBP’s in-bond regulations that were intended to provide flexibility to business result in it being more difficult to track in-bond transactions.¹¹

CBP agrees that tighter control of cargo transiting between ports, including in-bond merchandise that will be diverted to a different port, is critical to security and is necessary to ensure the proper collection of duties, and to protect the health and safety of consumers.

To address these issues, CBP proposes to amend section 18.5 to require in-bond carriers and other applicable parties to electronically request permission from CBP prior to diverting the imported merchandise to another port. CBP will run the diversion request through its systems to verify other agency requirements and to assess risk. The requestor will receive an electronic response from CBP either authorizing the diversion or, if it is not authorized, indicating the reason for the denial of the diversion request.

CBP also proposes to amend sections 18.2 and 18.5 to close a loophole regarding in-transit times. Under the current regulations, the filing of a new transportation entry has the effect of allowing the carrier additional time to transport the cargo. Under the proposed amendments, neither diversion to another port nor the filing of a new in-bond application extends the transit time. In either case, the movement of diverted merchandise must be completed within the original 30 day period.

E. Report of Arrival

The current regulations require the carrier to report to CBP the arrival of any portion of the in-bond shipment promptly, but no more than two working days after the arrival of the merchandise at the port of destination or the port of export. The carrier

generally must manually surrender the in-bond document, CBP Form 7512, to the port director, as notice of arrival of the merchandise. See 19 CFR 18.2(d).

To allow for better tracking, CBP proposes to amend sections 18.2, 18.7 and 18.20 to require the delivering carrier to report the arrival of each in-bond shipment within 24 hours of the arrival of the merchandise at the port of destination or the port of export and to require the delivering carrier to transmit the notice of arrival electronically via a CBP-approved EDI system.

CBP is also proposing to amend the regulations at 19 CFR 18.1 by adding paragraph (j) to require the carrier, at time of arrival at the port of destination or the port of export, to electronically provide CBP with the physical location of the in-bond merchandise within the port. This will enable CBP to better monitor cargo in a high volume environment, and thus, to better enforce the in-bond requirements.

To ensure that bond principals and sureties are sufficiently informed of the bond conditions and limitations arising out of the above noted proposed change, CBP proposes to amend 19 CFR 113.63, paragraph (c)(1) to provide that the arrival of the merchandise must be reported within 24 hours after the arrival of the merchandise.

F. Change to the Immediate Exportation (IE) Rules

Entry for Immediate Exportation (IE) is often used when merchandise is unloaded from one conveyance and loaded onto a different conveyance for direct exportation from the U.S. CBP is proposing to amend section 18.25 to require that shipments arriving at a United States port by truck, for which an immediate exportation entry is presented as the sole means of entry, will be denied a permit to proceed and the truck may be turned back to the country from which it came or, at the discretion of the port director, the truck may be allowed to file a new entry. CBP is proposing this change due to the heavy volume of truck shipments arriving in the U.S. from a foreign destination that are entered as for immediate exportation and then promptly exported back to the country from where the shipment originated. This practice has led to a serious problem with congestion at certain ports and has monopolized CBP’s limited targeting and enforcement resources at the most congested ports. In some cases, these IE entries were utilized to engage in fraudulent activities and to circumvent international trade laws. This proposed change conforms the

regulations to current CBP policy prohibiting this practice.

G. Sealing of Conveyances and Report of Seal Number to CBP

This document proposes to amend section 18.4 to clarify the rules concerning sealing of conveyances by removing the underutilized and obsolete seal options that are no longer commercially necessary or operationally feasible and adding new requirements.

Specifically, CBP proposes to amend 19 CFR 18.4 to: (1) Require the carrier or other authorized party to seal the containers and/or conveyance with seals pursuant to 19 CFR 24.13 and 24.13a and to ensure that the seals remain intact until the cargo arrives at the port of destination or port of export; (2) require the carrier or other authorized party to transmit the container/conveyance seal numbers to CBP as part of the in-bond application pursuant to section 18.1(d); (3) provide for the assessment of liquidated damages against the carrier or other authorized party for any unauthorized removal of the seals; and (4) specify that only CBP may waive the seal requirement.

H. Changes Necessitated by the Proposal To Require Electronic Filing

CBP is proposing to update or remove certain provisions in 19 CFR that will no longer be relevant when electronic filing is required.

For example, CBP proposes to delete paragraph 19 CFR 18.1(a)(1) from the regulations. This paragraph generally requires carriers to take receipt of the merchandise within 5 working days after presentation of an entry. For in-bond entries filed by paper, this time limit permits CBP officers to more easily verify the receipt of the merchandise by the carrier. Electronic filing will render this provision obsolete.

CBP also proposes to delete paragraphs 19 CFR 18.2(a)(2), (3), and (4), each of which generally requires a CBP officer to supervise the lading of merchandise delivered to a bonded carrier. Paragraph 18.2(a)(2) applies to merchandise delivered to a bonded carrier for transportation in-bond; paragraph 18.2(a)(3) pertains to merchandise delivered from a warehouse to a bonded carrier; and paragraph (a)(4) pertains to merchandise from a Foreign Trade Zone (FTZ) to a bonded carrier. CBP officers no longer physically supervise each lading. CBP has centralized its operations to reflect the great increase in trade volume that has transpired since these regulations were last amended. Under current policy, should a CBP officer wish to examine merchandise, a hold is placed

⁹ GAO report p. 23.

¹⁰ GAO report p. 21.

¹¹ GAO report p. 21–22.

on the merchandise so that the shipment and its contents can be reviewed.

CBP also proposes to amend the regulations pertaining to splitting up a shipment for exportation. Under the current regulations, the splitting up of a shipment for exportation is permitted in specified instances: When exportation of a shipment in its entirety is not possible by reason of the different destinations to which portions of the shipment are destined; when the exporting vessel cannot properly accommodate the entire quantity; or in other similar circumstances. The regulations impose no time limits for the exportation of split shipments. The lack of a time limit combined with paper filing of the in-bond application make it virtually impossible for CBP to properly oversee the export of split shipments and to know whether split shipments are properly exported. To address this issue, CBP proposes to amend 19 CFR 18.24(b), to require that all split shipments must be initiated within two days of the date that the split shipment is authorized. The electronic filing of the in-bond application will also help CBP track split shipments.

I. Miscellaneous Changes to Parts 18 and 19

CBP proposes to add a new section 18.0 that will describe the scope of part 18 and define terms that are regularly used in part 18. The defined terms are: Common carrier, Origination port, Port of destination, Port of diversion, and Port of export.

CBP also proposes several amendments to part 18 to ensure that the regulations are consistent with other existing provisions or current CBP policy, to address security concerns, and for clarification purposes.

For example, there is an inconsistency in the regulations regarding what kinds of transportation entries may be used to transport explosives. Although current section 18.11(a) generally prohibits the movement of explosives via an IT entry, section 18.21(d) allows for the movement of explosives via an IT entry provided the importer has first obtained a license or permit from the proper government agency.¹² CBP is proposing to delete the prohibition of explosives via an IT entry from section 18.11(a) and to add a new provision (section 18.1(l)(2)(iv)) that allows for the

movement of explosives via IT, T&E, and IE entries, provided the importer has first obtained the appropriate license or permit from the proper government agency. Because the new provision will duplicate current section 18.21(d), CBP proposes to delete that paragraph.

CBP is also proposing to move paragraph 19 CFR 18.5(g), currently in the section on diversions, to its own section 19 CFR 18.46. This provision was added to the regulations as part of the Importer Security Filing and Additional Carrier Requirements rulemaking, commonly known as 10+2. That rule was published in the **Federal Register** as an interim final rule on November 25, 2008. (See 73 FR 71780). Pursuant to the 10+2 rulemaking, importers and carriers are required to provide CBP with certain data elements via an importer security filing (ISF) before cargo is brought into the United States by vessel. The required information is necessary to improve CBP's ability to identify high-risk shipments. The effective date of the rule was January 26, 2009.

Current paragraph 18.5(g) addresses the procedures to be followed when merchandise which, at the time of the transmission of the ISF, was intended to be entered as an immediate exportation (IE) or transportation and exportation (T&E), is entered instead as a consumption entry. It also addresses the procedures for the diversion of the in-bond merchandise. Under the regulation, if the in-bond movement will be diverted to a port other than the port of destination or export, or the IE or T&E is changed to a consumption entry, permission is needed from the port director at the port of origin which may only be granted upon receipt by CBP of a complete ISF filing.¹³ CBP has received feedback from the trade community that the placement of this provision in the in-bond diversion section is confusing because its scope exceeds diversion situations. CBP agrees and is proposing to move this provision to new section 18.46, entitled: Changes to Importer Security Filing Information. Additionally, CBP is proposing to delete the language requiring permission of the port director at the port of origin to divert merchandise to a new port, as this requirement will now be included in section 18.5.

CBP is proposing to amend 19 CFR 18.7, 18.12, 18.20, 18.25, and 18.26 to clarify the time limit for exporting or

entering in-bond merchandise that has arrived at the port of destination or port of export. This will make it easier for CBP to verify that the in-bond merchandise was in fact either exported or entered. Specifically, CBP is proposing that in-bond merchandise that has arrived at the port of export or destination port must be exported, entered for consumption, or entered under another form of entry, no more than 15 days after the report of the arrival of the merchandise was submitted to CBP. Failure to enter or export the merchandise will result in the merchandise being subject to general order requirements under 19 CFR 4.37, 122.50, and 123.10, as applicable, and the assessment of liquidated damages as appropriate. In accordance with these changes section 18.12(a) is being amended to remove the provision requiring merchandise that has not been entered or exported within six months to be entered for consumption.

CBP is proposing to amend sections 18.7, 18.20, 18.25 and 18.26 to require the bonded carrier to update the in-bond record to reflect that merchandise has been exported and to specify that the port director may require evidence of exportation in accordance with the requirements of 113.55.

CBP is also proposing to remove the clause and legend in paragraph (f) of section 19.15 relating to flour exports to Cuba because the original basis for the provision, to facilitate compliance with the Cuban Reciprocity Treaty of 1902, is no longer applicable due to the termination of the treaty on August 21, 1963.

J. Non-Substantive Changes

This document also proposes non-substantive amendments to 19 CFR to reflect the nomenclature changes made necessary by the transfer of the legacy U.S. Customs Service of the Department of the Treasury to the Department of Homeland Security (DHS) and DHS's subsequent renaming of the agency as U.S. Customs and Border Protection (CBP) on March 31, 2007. See 72 FR 20131, dated April 23, 2007. As a consequence of these changes, this document proposes to update the regulations at 19 CFR part 18 to refer to the agency as CBP. Additionally, this document proposes to restructure the in-bond regulations contained in part 18 so that they are more logical and more consistently track the in-bond process. This document further proposes to amend part 18, so that all the in-bond entry types have the same requirements, when applicable. Finally, in an effort to make the regulations more user friendly and to make it easier to locate relevant

¹² By **Federal Register** notice published April 5, 1984 (49 FR 13491), 19 CFR 18.21(d) was amended to permit the entry for transportation and/or exportation under a transportation and exportation, or an immediate transportation entry if the importer first obtains a license or permit from the proper governmental agency.

¹³ Under 19 CFR part 149, shipments intended to be transported in-bond as an immediate exportation or transportation and exportation are subject to ISF requirements different than those applicable to shipments intended to be entered for consumption.

provisions, each paragraph has been given a title.

K. List of Proposed Changes

Section 4.82 is amended by removing the reference to the manifest and Customs Form 7512 and replacing those terms with a reference to part 18.

Section 10.60 is amended by replacing the requirement to file a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 12.5 is amended by removing the reference to the Customs carrier's manifest and Customs Form 7512 and requiring that the shipment be processed pursuant to part 18.

Section 12.11 is amended by removing the reference to the Customs Form 7512, in-bond seals, and customs seals, and replacing those terms with a reference to part 18.

Section 18.0 is created to provide the scope of part 18 and to define terms that are commonly used in the in-bond environment. The scope includes the requirements and procedures pertaining to the transportation of merchandise in-bond except as provided in parts 122 (air commerce regulations) and 123 (CBP relations with Canada and Mexico). The defined terms are: Common carrier, Origination port, Port of destination, Port of diversion, and Port of export. This is a new provision.

Section 18.1 is revised to provide the general requirements for filing in-bond entries that are currently set forth in 18.2. The current section 18.1 is redesignated as section 18.2. The new section 18.1 contains the following provisions:

- Paragraph (a) is new and mandates the filing of an in-bond entry in order to transport merchandise in-bond.

- Paragraph (b) lists the types of transportation entries and withdrawals and is derived from current section 18.10(a).

- Paragraph (c) states who can file an in-bond application and is derived from current section 18.11(b).

- Paragraph (d) requires the submission of an in-bond application via a CBP-approved EDI system for in-bond entry types and is derived from the current section 18.2(b).

- Paragraph (d)(1) lists what information must be contained in the in-bond application.

- Paragraph (d)(1)(i) requires the description of the merchandise, consisting of the six-digit tariff number, if available. CBP will also accept the eight or ten-digit HTS number. If the six digit HTS number is not available, then a detailed description that includes the

exact nature of the merchandise with sufficient detail to allow CBP and other government agencies to determine if the merchandise is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation, must be provided.

- Paragraph (d)(1)(ii) requires that if the carrier or other responsible party submitting the in-bond application knows that the merchandise is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation enforced by CBP or another government agency, a statement providing the rule, regulation, law, standard or ban to which the merchandise is subject to and the name of the government agency responsible for enforcing the rule, regulation, law, standard or ban, must be provided.

- Paragraph (d)(1)(iii) requires that merchandise that is prohibited or subject to restricted importation in the U.S. must be identified accordingly.

- Paragraph (d)(1)(iv) requires that certain textile articles be described in sufficient detail to allow CBP to estimate duties and taxes. This provision is derived and moved from current section 18.11(e).

- Paragraph (d)(1)(v) requires that the description contain other identifying information such as a visa, permit, license, entry number, or other number, that has been issued by the U.S. government, foreign government or other issuing authority. This is a new requirement.

- Paragraph (d)(1)(vi) requires that the quantity of the merchandise, to the smallest piece count, be provided. This is derived from current section 18.2(b).

- Paragraph (d)(1)(vii) requires that the container and/or seal number be provided. This is a new requirement.

- Paragraph (d)(1)(viii) requires that the ultimate destination, either in the U.S. or abroad, be provided. This is a new requirement.

- Paragraph (d)(2) requires that the in-bond application be electronically transmitted to CBP via a CBP-approved EDI system and also requires that an in-bond application be filed for each conveyance transporting the shipment. This provision eliminates the option of filing a CBP Form 7512.

- Paragraph (d)(3) requires that all in-bond applications be submitted before the merchandise departs the origination port named in the in-bond application. This is a new provision.

- Paragraph (d)(4) provides that the initial bonded carrier, by filing the in-bond application, asserts that there is no discrepancy between the quantity of goods received from the importing carrier and the quantity of goods

delivered to the initial bonded carrier. This provision is derived from the current section 18.2(b).

- Paragraph (e) requires a custodial bond on a CBP Form 301, containing the bond conditions set forth in 19 CFR 113.63, to transport merchandise in-bond. Currently, this requirement is included only in the section on direct exportation (section 18.25(b)). This new paragraph (e) applies to all types of in-bond entries.

- Paragraph (f) requires CBP authorization before merchandise can be transported in-bond and provides that movement authorization will be transmitted via a CBP-approved EDI system. This is a new provision.

- Paragraph (g)(1) provides CBP discretion to supervise the lading of merchandise delivered to a bonded carrier. This provision is derived from the current section 18.2(a)(2) and eliminates the requirement that CBP supervise the lading of in-bond merchandise, except in certain circumstances, and gives CBP the authority to exercise its supervision authority as necessary.

- Paragraph (g)(2) requires that the quantity of goods transported in-bond from a CBP bonded warehouse will be accounted for pursuant to 19 CFR 19.6. This requirement is contained in the current section 18.2(a)(3).

- Paragraph (g)(3) requires merchandise being delivered from a foreign trade zone to a bonded carrier for transportation in-bond to be supervised in accordance with the procedure set forth in section 146.71(a) of this chapter.

- Paragraph (h) provides that the in-bond filer or any party provided for in paragraph (c), with the permission of the in-bond filer, may update or amend the in-bond record using a CBP-approved EDI system. This is a new provision.

- Paragraph (i) provides the time frame for the transportation of merchandise being transported in-bond.

- Paragraph (i)(1) requires merchandise being transported in-bond to be delivered to CBP at the port of destination or export within 30 days from the date CBP provides movement authorization to the in-bond applicant. This 30-day requirement is applicable to all in-bond movements, except pipeline movements. Under this provision, neither the diversion to another port nor the filing of a new in-bond application will extend the in-transit time. This requirement is derived from current section 18.2(c)(2). See discussion in III.C. above for a more detailed explanation.

○ Paragraph (i)(2) provides for an extension of the 30-day requirement in cases where it is anticipated that a shipment will not be capable of completing its transit within 30 days. It also provides that CBP may extend the in-transit period if delays are caused due to the examination or inspection of the merchandise by CBP or another government agency or for some other reason.

○ Paragraph (i)(3) provides that CBP or any other government agency with jurisdiction over the merchandise may shorten the in-transit time to less than 30 days and that notice of the shortened in-transit time will be provided with the movement authorization transmitted by CBP.

• Paragraph (j) mandates the delivering carrier to report, via a CBP-approved EDI system, the arrival of any portion of an in-bond shipment within 24 hours of arrival at the port of destination or port of export and subjects the carrier to liquidated damages and other applicable claims for failure to do so. It also requires the delivering carrier to notify CBP of the physical location of the merchandise within the port. This provision is derived from current section 18.2(d), but the 24-hour time period and the requirement to report the location of the merchandise is new.

• Paragraph (k) specifies that in-bond merchandise that has arrived at the port of destination or the port of export must be entered or exported within 15 calendar days from the date of arrival at the port of destination or port of export. On the 16th day it will become subject to general order requirements. This is a new provision.

• Paragraph (l) provides the requirements for processing merchandise that is regulated for purposes of health, safety and conservation, and merchandise that is restricted and prohibited, including narcotics and non-narcotics, explosives, and other prohibited articles. This paragraph is mostly comprised of provisions currently contained in part 18. This provision is applicable to all types of in-bond shipments.

○ Paragraph (l)(1) is a new provision that applies to all merchandise that is regulated for purposes of health, safety or conservation. It allows for the release of merchandise not in compliance with an applicable rule, regulation, law, standard, or ban relating to health, safety, or conservation, for transportation or exportation only upon the authorization of the government agency administering the rule, regulation, law, standard or ban, applicable to the merchandise.

○ Paragraph (l)(2)(i) is derived from the current section 18.21(a).

○ Paragraph (l)(2)(ii) is derived from current section 18.21(b).

○ Paragraph (l)(2)(iii) is derived from current section 18.21(c).

○ Paragraph (l)(2)(iv) is derived from current section 18.21(d) and allows for explosives to be entered for immediate transportation, for transportation and exportation, or for immediate exportation, as specified by the approving government agency. The in-bond entry of explosives is permissible pursuant to Treasury Decision 84-77. See 49 FR 13490, April 5, 1984.

○ Paragraph (l)(2)(v) is derived from current section 18.11(d).

Section 18.2 provides the bonding requirements for carriers, cartmen and lightermen. These provisions are currently located in section 18.1. The definition of “common carrier” that is currently located in paragraph (a) is removed and placed in the new section 18.0. Section 18.2(b) is amended to specifically name the ports between which merchandise can be transported in-bond by cartmen and lightermen.

Section 18.3 provides the procedures for the transshipment of merchandise from one conveyance to another conveyance, and for carriers to notify CBP of the transshipment using a CBP-approved EDI system. Additionally, paragraph (d) provides notification requirements for the transshipment of merchandise in emergency situations and the notification requirements concerning the breaking of seals. This provision is derived from the current section 18.3.

Section 18.4 provides the seal requirements for in-bond merchandise. It requires the carrier (not CBP) to seal the merchandise unless CBP authorizes a waiver; removes the references to the specific types of high security seals and refers instead to the requirements of section 19 CFR 24.13 and 24.13a; requires carriers to transmit the seal number to CBP; and provides that liquidated damages will be assessed against the carrier or other authorized party for any unauthorized removal of the seals. Additionally, former section 18.4a has been incorporated into section 18.4.

Section 18.4a is deleted.

Section 18.5 provides the procedures and requirements for diverting in-bond merchandise. As explained in III.D., the proposed section 18.5 requires CBP permission to divert in-bond merchandise and if permission is granted, requires the merchandise to be delivered to the port of diversion within thirty days from the date that CBP first authorized the in-bond movement. In

addition to these changes, the proposed section 18.5 contains a new paragraph (e) prohibiting the diversion of merchandise subject to a law, regulation, rule, standard or ban that requires authorization from another government agency, without the authorization of that agency. Additionally, it deletes the current paragraph (f), requiring permission to divert certain textile products because all diversions will require CBP approval.

Section 18.6 provides the procedures and requirements for the handling of short shipments, shortages, entry and allowance. The proposed changes require that CBP be notified of a short shipment using a CBP-approved EDI system, and also require that a new in-bond application be filed in order to transport short shipped merchandise to the port of destination or port of export.

Section 18.7 provides the requirements and procedures for the verification and lading of merchandise for exportation. It requires the report of arrival to be filed pursuant to section 18.1(i) within 24 hours after the arrival of the merchandise instead of within two working days. It requires that the merchandise be exported within 15 days after the report of arrival was filed with CBP. Otherwise, it will become subject to general order requirements. It also requires the bonded carrier to update the in-bond record within 24 hours of exportation to reflect that the merchandise has been exported and specifies that the port director may require evidence of exportation. Additionally, the proposed amendments would remove the requirement that CBP occasionally verify entries and withdrawals against the exporting carrier's records and instead gives CBP discretion to verify as needed.

Section 18.8 provides the consequences for not meeting the requirements of part 18 and other conditions of the bond, including shortages, irregular delivery or nondelivery. The proposed amendment clarifies that the party whose bond is obligated on the transportation entry, generally the initial carrier, will be liable for the payment of liquidated damages and for the payment of all taxes, duties, fees and charges. This document provides that CBP will consider appropriate commercial or government documentation for determining whether proper delivery occurred.

Section 18.9 which currently governs the examination by inspectors of trunk line associations or agents of the Surface Transportation Board of merchandise transported by rail is deleted and is

replaced with a provision derived from the current section 18.5(c). Portions of the current provision relate to associations that no longer exist and therefore are obsolete. Additionally, the provision relating to the Surface Transportation Board (STB) is duplicative of existing STB legal authority and is therefore unnecessary.

Section 18.10. This section currently governs certain in-bond entries and procedures. Current paragraph (a), which lists the types of in-bond entries, is now contained in proposed section 18.1. Current paragraph (b) on procedures is deleted. Proposed section 18.10 is derived from current section 18.10a, entitled Special Manifest, which governs the processing of merchandise for which no other type of in-bond movement is appropriate. Proposed section 18.10 requires the in-bond filer to follow the filing requirements of section 18.1.

Section 18.10a is deleted.

Section 18.11 regarding IT shipments is significantly amended in this document with many of the current provisions being moved to section 18.1 and being made applicable to all in-bond shipments.

- Paragraph (a) is derived from the current paragraph (c). The proposed paragraph (a) is separated into two paragraphs, the first allowing for the depositing of IT merchandise outside the port limits, and the second providing the procedures for doing so. The provisions of the current paragraph (a) are now encompassed in proposed sections 18.1(l)(2)(iv) and 18.1(l)(1).

- Paragraph (b) is derived from the current paragraph (f). The provisions in current paragraph (b) are now encompassed by proposed section 18.1(c).

- Paragraph (c) is derived from current paragraph (f).

- Current paragraph (d) concerning livestock is deleted because this provision is now encompassed in section 18.1a(l)(2)(v).

- Current paragraph (e) is deleted because this provision is now encompassed in sections 18.1(d)(1)(ii) and 18.1(l)(1) and (2).

- Current paragraph (h) is deleted.

- Current paragraph (i) is deleted.

Section 18.12 regarding the entry procedures at the port of destination is amended by deleting the second portion of paragraph (a). That paragraph pertains to merchandise that hasn't been entered at the port of arrival within six months from the date the merchandise was imported into the origination port. This is now covered in section 18.1 regarding the arrival and disposition of merchandise.

Section 18.13 regarding the shipment of baggage in-bond is amended by deleting the requirement that the baggage be tagged and by requiring filing in accordance with the provisions of section 18.1.

Section 18.14 regarding the shipment of baggage in transit to foreign countries is amended by deleting the requirement that the baggage be tagged.

Section 18.20 regarding the general requirements for transportation and exportation entries is amended by requiring the filing of the in-bond entry pursuant to section 18.1. Additionally, paragraph (c) requires the reporting of the arrival of merchandise at the port of export within 24 hours of arrival, and new paragraph (e) exempts certain merchandise from Electronic Export Information (EEI) filing requirements. A new paragraph (f) is added to require that the in-bond merchandise be exported within 15 calendar days from the date of arrival at the port of export. On the 16th day, the merchandise will become subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable. A new paragraph (g) is added to require the bonded carrier to update the in-bond record within 24 hours of exportation to reflect the exportation and to specify that the port director may require evidence of exportation. Current paragraph (c) is deleted.

Section 18.21, regarding restricted and prohibited merchandise, is deleted and reserved because these requirements are encompassed in proposed 18.1(l).

Section 18.22 regarding the procedures for transfers and express shipments at the port of exportation is amended by removing the reference to vessels, thereby making it applicable to all modes of transportation.

Section 18.23 regarding a change in the port of foreign destination is amended by requiring the carrier or other responsible party to notify CBP of a change of foreign destination within 24 hours of learning of the change, via a CBP-approved EDI system. It is further amended by rewording paragraph (b) to more clearly provide that the merchandise is subject to all the conditions that pertain to merchandise entered at a port of first arrival.

Section 18.24 concerns the retention of goods within port limits and the splitting of shipments.

- Paragraph (a) regarding the retention of goods on a dock is amended so that it is applicable to merchandise within the port limits, and not just merchandise on a dock. It is also amended by requiring an in-bond application to retain in-transit

merchandise at the port to be filed via a CBP-approved EDI system and by allowing the consent of the owner of the premises to be provided by email or other electronic means. Additionally, it is amended by deleting the sentence stating that the port director may take possession of the merchandise at any time and replacing it with a sentence that addresses what happens when the merchandise remains on the dock beyond the time period authorized by CBP. It provides that merchandise which remains in the port limits without authorization is subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

- Paragraph (b) regarding split shipments is amended by requiring the application to be filed via a CBP-approved EDI system.

Section 18.25 covers direct exportations.

- Paragraph (a) is derived from the current paragraph (a) and addresses the immediate exportation of prohibited merchandise and carnets. It replaces the reference to Form 7512 with in-bond application.

- Paragraph (b) is new and provides that shipments arriving at a U.S. port by truck, for which an immediate exportation entry is presented as the sole means of entry, will be denied a permit to proceed. It further provides that the truck may be turned back to the country from which it came or, at the discretion of the port director, may be allowed to file a new entry.

- Paragraph (c) requires in-bond merchandise entered for immediate exportation or transportation and exportation to be exported within 15 calendar days from the date of arrival at the port of export.

- Paragraph (d) is derived from the current paragraph (c) and is amended to reflect the changes in 15 CFR part 30 concerning the filing of Electronic Export Information.

- Paragraph (e) is derived from the current paragraph (d) and is largely unchanged.

- Paragraph (f) is derived from the current paragraph (e) and is amended to require the bonded carrier to update the in-bond record within 24 hours of exportation to reflect the exportation.

- Paragraph (g) is derived from the current paragraph (f) and is largely unchanged.

- Paragraph (h) is a new provision and provides that the transfer of articles by express shipment must be in accordance with the procedures set forth in section 18.22.

Section 18.26 concerns the procedures for indirect exportations.

- Paragraph (a) is derived from the first three sentences of the current paragraph (a) and replaces the reference to Customs Form 7512 with an in-bond application. The current paragraph (b), which states that the merchandise shall be forwarded in accordance with the general provisions for transportation in bond, sections 18.1 through 18.8 is deleted because the new section 18.0 regarding the scope of part 18 makes this provision unnecessary.

- Paragraph (b) is derived from the last three sentences of the current paragraph (a) and replaces the reference to Customs Form 7512 with in-bond application.

- Paragraph (c) includes some minor wording changes.

- Paragraph (d) is revised to require that the bonded carrier cause the merchandise to be exported within 15 calendar days from the date of arrival at the port of export. (The current requirement is 30 days).

- Paragraph (e) is a new provision to require the bonded carrier to update the in-bond record within 24 hours of exportation to reflect the exportation and to specify that the port director may require evidence of exportation.

Section 18.27 concerning port marks is amended by replacing Customs with CBP.

Section 18.31 concerning pipeline transportation of bonded merchandise is amended by providing that the in-bond application will be made by submitting a CBP Form 7512. It is also amended by removing the requirement that the document of receipt be submitted with the in-bond document and requiring instead that the document of receipt be submitted with the in-bond application. Additional nomenclature changes are made.

Section 18.41 remains unchanged.

Section 18.42 remains unchanged.

Section 18.43 is largely unchanged other than to provide headings for each of the paragraphs.

Section 18.44 remains unchanged.

Section 18.45 remains unchanged.

Section 18.46 is a new provision and is derived from the current section 18.5(g) governing changes to Importer Security Filing information. This change is explained in more detail in the discussion above in III.I. regarding diversion.

Section 19.15 concerning procedures for the withdrawal for exportation of articles manufactured in-bond is amended by replacing the requirement to file a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter and by deleting the clause and

legend in paragraph (f) relating to flour exports to Cuba.

Section 113.63 concerning bond conditions is amended by adding language in paragraph (c) to require the principal, if a bonded carrier, to report in-bond arrivals in the manner and in the time prescribed by regulation and to export in-bond merchandise in the time periods prescribed by regulation.

Section 122.118 concerning exports from the port of arrival is amended by changing the requirement to export transit air cargo within 10 days to 15 days.

Section 122.119 concerning the transportation of transit air cargo to a final port of destination in the United States, is amended by changing the time in which cargo must be delivered to CBP at the port of destination from 15 days to 30 days.

Section 122.120 concerning the transportation of transit air cargo to another port for exportation, is amended by changing the time in which cargo must be delivered to CBP at the port of exportation from 15 days to 30 days, and by increasing the time in which cargo listed on a transit air cargo manifest must be accounted for from 40 to 45 days. The 45-day time period represents the sum of the proposed 30 days for delivering the cargo to the port of exportation and the proposed 15 days to export the cargo.

Section 123.31 concerning merchandise in transit through the United States from point to point in Canada or Mexico is amended by adding a reference to section 18.1.

Section 123.32 concerning merchandise in transit through the United States from point to point in Canada or Mexico is amended by replacing the requirement to file three copies of a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 123.42 concerning truck shipments transiting the United States from point to point in Canada is amended by requiring the filing of an in-bond application, the reporting of arrival at the U.S. port of export, and the notation by CBP of the waiver of sealing.

Section 123.52 concerning commercial samples transported by automobile through the United States from point to point in Canada is amended to update the section references to conform with the other changes in this proposal.

Section 123.64 concerning baggage in transit through the United States between ports in Canada or Mexico is amended by adding a reference to

section 18.1 in paragraph (a) and removing paragraphs (b), (c) and (d).

Section 141.61 concerning completion of statistical information relating to entry and entry summary documentation is amended by changing the reference to CBP Form 7512 to the in-bond application filed pursuant to part 18 of this chapter.

Section 142.18 concerning the exportation of prohibited merchandise is amended by replacing the requirement to file a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 142.28 concerning the withdrawal of prohibited merchandise is amended by replacing the requirement to file a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 143.1(c) concerning the use of the Automated Broker Interface (ABI) to transmit certain information to CBP is amended by removing the provision allowing ABI to be used to transmit forms relating to in-bond movements (CBP Form 7512).

Section 144.22 concerning the transfer of the right to withdraw merchandise is amended by replacing the reference to Customs Form 7512 with a reference to the in-bond application pursuant to part 18 of this chapter.

Section 144.36 concerning withdrawals for transportation is amended by replacing all the references to Customs Form 7512 with references to the in-bond application pursuant to part 18 of this chapter and by changing the reference in section 144.36(g)(4) from section 18.5(d) to section 18.9.

Section 144.37 concerning withdrawal for exportation is amended by replacing all the references to Customs Form 7512 with references to the in-bond application pursuant to part 18 of this chapter and updating the various references to the section in part 18 to conform with the other part 18 changes in this proposal.

Section 146.62 concerning the entry of merchandise into foreign trade zones is amended by replacing the requirement to submit a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 146.66 concerning the transfer of merchandise from one zone to another is amended by replacing the various references to Customs Form 7512 with references to the in-bond application pursuant to part 18 of this chapter and by replacing the words "Customs Form" with "CBP Form" throughout.

Section 146.67 concerning the transfer of merchandise for exportation is amended by replacing the requirement to submit a Customs Form 7512 with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 146.68 concerning the use of weekly permits for the transfer of merchandise from a zone is amended by replacing the requirement to use the Customs Form 7512, with the requirement to file an in-bond application pursuant to part 18 of this chapter.

Section 151.9 concerning immediate transportation entry delivered outside port limits is amended by updating the section 18 reference to conform with this proposal.

Section 181.47(b)(2)(ii)(E) concerning completion of a drawback claim for merchandise which is examined at one port but exported through border points outside of that port is amended by replacing “Customs Form 7512” with “In-bond application submitted pursuant to part 18 of this chapter.”

IV. Regulatory Analyses

A. Executive Order 12866—Regulatory Planning and Review

Executive Order 12866 (Regulatory Planning and Review; September 30, 1993) requires Federal agencies to conduct economic analyses of significant regulatory actions as a means to improve regulatory decision-making. Significant regulatory actions include those that may “(1) [h]ave an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal

governments or communities; (2) [c]reate a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) [m]aterially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) [r]aise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.” It has been determined that this rule is not a significant regulatory action.

B. Regulatory Flexibility Act

Under the requirements of the Regulatory Flexibility Act of 1980 as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (RFA/SBREFA) and E.O. 13272, titled “Proper Consideration of Small Entities in Agency Rulemaking,” agencies must consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. CBP is required to prepare a regulatory flexibility analysis and take other steps to assist small entities, unless the Agency certifies that a rule will not have a “significant economic impact on a substantial number of small entities.”¹⁴ The U.S. Small Business Administration (SBA) provides guidelines on the analytical process to assess the impact of a particular rulemaking.¹⁵ The

¹⁴Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 601 *et seq.*

¹⁵U.S. SBA, Office of Advocacy, “A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act, Implementing the President’s Small Business Agenda and Executive Order 13272,” May 2003.

following summary presents impact of this rule on small entities.¹⁶

The types of entities subject to the rule’s requirements include originating or bonded carriers, brokers, and other supply chain entities (e.g., exporters, manufacturers and suppliers, cargo consolidators, freight forwarders, 3PLs, and CFS) involved in the transaction filing, conveyance, and arrivals reporting of in-bond goods. If the initial screening analysis (discussed below) indicates that the rule might significantly affect a substantial number of small entities, CBP is required to conduct an Initial Regulatory Flexibility Analysis (IRFA) to further assess these impacts.

Based on FY 2007 in-bond shipment data, we estimate at least 6,180 trade entities could be affected by the rule, including 5,081 non-air carriers (sea vessel, rail, and truck carriers), between 212 and 221 air carriers, and possibly at least 870 other entities (e.g., freight forwarders, cargo consolidators, 3PLs, brokers, and CFS). The specific requirements of the rule (file in-bond transactions electronically, report in-bond arrivals electronically, provide additional data elements, request diversions, and meet allowable in-bond transit times) will affect all of these entities in some way. CBP lacks the data necessary to quantify the incremental cost of the rule or differentiate these costs by entity type, including size and nationality (many of the entities affected are likely foreign). Instead, we discuss these costs qualitatively. The following exhibit lists various alternatives CBP considered in developing this rule and characterizes their costs.

¹⁶The complete “Regulatory Flexibility Analysis and IRFA” can be found in the docket for this rulemaking: <http://www.regulations.gov>.

EXHIBIT 3—RELATIVE COSTS OF REGULATORY ALTERNATIVES

Regulatory alternative	Proposed requirements	Relative cost
1 (Chosen alternative)	<ol style="list-style-type: none"> 1. File all in-bond application forms electronically 2. Submit additional in-bond shipment data and information. 3. Maximum in-bond transit time of 30 days. 4. Request permission prior to diverting in-bond cargo electronically. 5. Report in-bond arrivals electronically within 24 hours. 	<p style="text-align: center;">Highest</p> <p>All of the proposed requirements or changes to the in-bond regulations are implemented. Entities filing in-bond forms and/or reporting in-bond arrivals by paper only (582 non-air carriers plus an unknown number of air carriers and other filers) would have to obtain electronic access to CBP or retain a third party agent or service provider. All entities (5,081 non-air carriers plus an unknown number of air carriers and other filers) would have to obtain and provide additional in-bond shipment data to CBP by reprogramming their existing business and information systems and processes, using a third-party service provider, or relying on their trade partners. Those entities reporting arrivals (4,388 non-air carriers plus an unknown number of air carriers and other filers) would have to reprogram their existing business and information systems and processes or use a third party service provider to electronically report arrivals within 24 hours with the location of the merchandise.</p>
2	<ol style="list-style-type: none"> 1. File all in-bond application forms electronically 3. Maximum in-bond transit time of 30 days. 4. Request permission prior to diverting in-bond cargo electronically. 5. Report in-bond arrivals electronically within 24 hours. 	<p style="text-align: center;">Lower</p> <p>Costs are lower than Alternative #1 because the costs associated with obtaining and providing the additional in-bond shipment data and information would not be incurred, which could be significant for the most frequent filers. However, overall costs could still be significant to comply with the requirement of reporting arrivals within 24 hours.</p>
3	<ol style="list-style-type: none"> 1. File all in-bond application forms electronically 3. Maximum in-bond transit time of 30 days 4. Request permission prior to diverting in-bond cargo electronically. 	<p style="text-align: center;">Lowest</p> <p>Costs are lowest of the three regulatory alternatives because only a relatively small number of entities that currently file in-bond forms by paper only (537 non-air carriers plus an unknown number of air carriers and other filers) would be affected. These entities must obtain electronic access to CBP or retain a third party agent or service provider.</p>

To determine whether a substantial number of small entities would be affected by the rule, we ideally would have employment and revenue information and data for all affected entities. The SBA defines entities as “small” if they fall below certain size standards in their industry (as defined by a North American Industry Classification System (NAICS) Code), such as the number of employees or average annual receipts.¹⁷ However, we do not have this information, as well as information identifying all of the entities that may be affected.¹⁸ Other available descriptive data such as in-bond shipment or transaction volume, transaction type, and whether an entity files in-bond transactions or report in-bond arrivals are unreliable since they

may not necessarily be related to entity size.

As a result, we use national data on entities in the affected industries from the SBA to determine whether a substantial number of small entities are likely to be affected by the rule. Use of these data is imperfect because not all entities included in the SBA data set participate in the processing and movement of in-bond goods. Based on these data, nearly all of the entities in all industry groups likely to be affected by the proposed rule are small. CBP concludes, therefore, that a substantial number of small entities are likely to be affected by the proposed rule. CBP has characterized but can not estimate the potential costs to entities of complying with the rule as proposed. As a result, we cannot quantify the impact on small entities. We, therefore, conclude that the rule may significantly affect a substantial number of small entities, and provide a summary of the IRFA prepared to further assess these impacts.

Summary IRFA

The description of the proposed requirements, the legal basis for the proposed rule, and the number and types of entities affected have been described elsewhere in this preamble and are not repeated here.

The reporting and recordkeeping skills needed are professional skills necessary for preparation of electronic in-bond transactions, arrivals notifications, and diversion requests. These include basic administrative, recordkeeping, and information technology skills used to manage data transaction, shipment, manifest, security, and other data used in the commercial supply chain environment, along with a working knowledge of import shipment arrangements, brokerage, conveyance/shipping, consolidation, and customs procedures and regulation.

CBP is unaware of other relevant Federal rules that may duplicate, overlap or conflict with the proposed rule.

¹⁷ U.S. SBA, Summary of Size Standards by Industry, as viewed at <http://www.sba.gov/contractingopportunities/officials/size/summaryofssi/index.html> on July 28, 2010.

¹⁸ We only have limited data on 5,081 unique non-air carriers, which comprise at most about 82 percent of all affected entities.

CBP does not at this time identify any significant regulatory alternatives to the rule that specifically address small entities while also meeting the rule's objective, which is to improve CBP's ability to regulate, track, and control in-bond cargo and to ensure that proper duties are paid or that the in-bond merchandise is exported. As described above, we evaluated three regulatory alternatives to consider changes in the in-bond requirements, including those that minimize the incremental cost burden to carriers, brokers, and agents, including small entities.

Though we cannot determine the precise number of small entities affected by the rule, we conclude that the number will be substantial, including small carriers, brokers, and other entities involved in the transaction filing, conveyance, and arrivals reporting of in-bond goods. However, based on the data limitations discussed in this chapter and the sources of uncertainty discussed below, we are uncertain whether the costs borne by these small entities (e.g., filing in-bond transactions electronically, providing additional in-bond shipment data and information, requesting diversions electronically, reporting in-bond arrivals electronically within 24 hours) will be significant. Therefore, based on the results of this analysis, CBP believes that the rule may have a significant economic impact on a substantial number of small entities. As a result, CBP has prepared an IRFA and seeks comments on this conclusion. The complete "IFRA" can be found in the docket for this rulemaking: <http://www.regulations.gov>.

C. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA) requires agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule is exempt from these requirements under 2 U.S.C. 1503 (Exclusions) which states that UMRA "shall not apply to any provision in a bill, joint resolution, amendment, motion, or conference report before Congress and any provision in a proposed or final Federal regulation that is necessary for the national security or the ratification or implementation of international treaty obligations."¹⁹

D. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13,

44 U.S.C. 3507) the collections of information for this NPRM are included in an existing collection for CBP Form 7512 and 7512A (OMB control number 1651-0003). An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The estimated burden hours related to CBP Form 7512 and 7512A for OMB Control number 1651-0003 are as follows:

Estimated Number of Respondents: 6,200.

Estimated Number of Responses: 5,400,000.

Estimated Time per Response: 10 minutes (0.166 hours).

Estimated Total Annual Burden Hours: 896,400.

The burden hours in this collection have been updated to reflect revised and updated estimates of filers of CBP Form 7512. These most recent data available are also used in the Regulatory Assessment summarized above.

V. Signing Authority

This proposed regulation is being issued in accordance with 19 CFR 0.1(a)(1) pertaining to the Secretary of the Treasury's authority (or that of his delegate) to approve regulations related to certain customs revenue functions.

Proposed Regulatory Amendments

List of Subjects

19 CFR Part 4

Customs duties and inspection, Exports, Freight, Harbors, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 10

Caribbean Basin initiative, Customs duties and inspection, Exports, Reporting and recordkeeping requirements.

19 CFR Part 12

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 18

Common carriers, Customs duties and inspection, Exports, Freight, Penalties, Reporting and recordkeeping requirements, and Surety bonds.

19 CFR Part 19

Customs duties and inspection, Exports, Freight, Reporting and recordkeeping requirements, Surety bonds, Warehouses, Wheat.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 122

Common carriers, Customs duties and inspection, Exports, Freight, Penalties, Reporting and recordkeeping requirements, and Security measures.

19 CFR Part 123

Canada, Customs duties and inspection, Freight, International boundaries, Mexico, Motor carriers, Railroads, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 141

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 142

Canada, Customs duties and inspection, Mexico, Reporting and recordkeeping requirements.

19 CFR Part 143

Customs duties and inspection, Reporting and recordkeeping requirements.

19 CFR Part 144

Customs duties and inspection, Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 146

Administrative practice and procedure, Customs duties and inspection, Exports, Foreign trade zones, Penalties, Petroleum, Reporting and recordkeeping requirements.

19 CFR Part 151

Cigars and cigarettes, Cotton, Customs duties and inspection, Fruit juices, Laboratories, Metals, Oil imports, Reporting and recordkeeping requirements, Sugar.

19 CFR Part 181

Administrative practice and procedure, Canada, Customs duties and inspection, Exports, Imports, Mexico, Reporting and recordkeeping requirements, Trade agreements.

Proposed Amendments to the Regulation

For the reasons set forth in the preamble, it is proposed to amend parts 4, 10, 18, 113, 122, 123, 141, 142, 143, 144, 146, 151, and 181 of title 19 of the Code of Federal Regulations as set forth below.

¹⁹ "Unfunded Mandates Reform Act of 1995 (UMRA)," 2 U.S.C. 1503.

19 CFR CHAPTER 1—AMENDMENTS**PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES**

1. The general authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

2. In § 4.82, revise paragraph (b) to read as follows:

§ 4.82 Touching at foreign port while in coastwise trade.

* * * * *

(b) The master must also present to the port director a coastwise Cargo Declaration in triplicate of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It must describe the merchandise and show the marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The port director will certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a transportation entry pursuant to part 18 of this chapter is not to be shown on the coastwise Cargo Declaration.

* * * * *

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

3. The general authority citation for part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

4. In § 10.60, revise paragraphs (a) and (d) to read as follows:

§ 10.60 Forms of withdrawals; bond.

(a) Withdrawals from warehouse shall be made on CBP Form 7501. Each withdrawal must contain the statement prescribed for withdrawals in § 144.32 of this chapter and all of the statistical information as provided in § 141.61(e) of this chapter. Withdrawals from continuous CBP custody elsewhere than in a bonded warehouse must be made by filing an in-bond application pursuant to part 18 of this chapter, except as provided for by paragraph (h) of this section. When a withdrawal of supplies or other articles is made which may be used on a vessel while it is proceeding in ballast to another port as provided for by § 10.59(a)(3), a notation of this fact shall be made on the withdrawal and the name of the other port given if known.

* * * * *

(d) Except as otherwise provided in § 10.62b, relating to withdrawals from warehouse of aircraft turbine fuel to be used within 30 days of such withdrawal as supplies on aircraft under § 309, Tariff Act of 1930, as amended, when the supplies are to be laden at a port other than the port of withdrawal from warehouse, they shall be withdrawn for transportation in bond to the port of lading by filing an in-bond application pursuant to part 18 of this chapter. The procedure shall be the same as that prescribed in 144.37 of this chapter.

* * * * *

PART 12—SPECIAL CLASSES OF MERCHANDISE

5. The general authority citation for part 12 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

6. Revise § 12.5 to read as follows:

§ 12.5 Shipment to other ports.

When imported merchandise, the subject of § 12.1, is shipped to another port for reconditioning or exportation, such shipment must be made in the same manner as shipments in bond in accordance with the requirements of part 18 of this chapter.

7. In § 12.11, revise paragraph (b) to read as follows:

§ 12.11 Requirements for entry and release.

* * * * *

(b) Where plant or plant products are shipped from the port of first arrival to another port or place for inspection or other treatment by a representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs and all CBP requirements for the release of the merchandise have been met, the merchandise must be forwarded as an in-bond shipment pursuant to part 18 of this chapter to the representative of the Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs at the place at which the inspection or other treatment is to take place. No further release by the port director will be required.

* * * * *

8. Revise part 18 to read as follows:

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT**Subpart A—General Provisions**

Sec.

18.0 Scope; definitions.

- 18.1 In-bond application and entry; general rules.
- 18.2 Carriers, cartmen and lightermen.
- 18.3 Transshipment; transfer by bonded cartmen.
- 18.4 Sealing conveyances and compartments; labeling packages.
- 18.5 Diversion.
- 18.6 Short shipments; shortages; entry and allowance.
- 18.7 Lading for exportation, verification.
- 18.8 Liability for not meeting in-bond requirements; liquidated damages; payment of taxes, duties, fees, and charges.
- 18.9 New in-bond movement for forwarded or returned merchandise.
- 18.10 Special Manifest.

Subpart B—Immediate Transportation Without Appraisalment

- 18.11 General Rules.
- 18.12 Entry at port of destination.

Subpart C—Shipment of Baggage In-Bond

- 18.13 Procedure; manifest.
- 18.14 Shipment of baggage in transit to foreign countries.

Subpart D—Transportation and Exportation

- 18.20 General rules.
- 18.21 [Reserved].
- 18.22 Transfer and express shipment procedures at port of exportation.
- 18.23 Change of foreign destination; change of entry.
- 18.24 Retention of goods within port limits; splitting of shipments.

Subpart E—Immediate Exportation

- 18.25 Direct exportation.
- 18.26 Indirect exportation.
- 18.27 Port marks.

Subpart F—Merchandise Transported by Pipeline

- 18.31 Pipeline transportation of bonded merchandise.

Subpart G—Merchandise Not Otherwise Subject to Customs Control Exported Under Cover of a TIR Carnet

- 18.41 Applicability.
- 18.42 Direct exportation.
- 18.43 Indirect exportation.
- 18.44 Abandonment of exportation.
- 18.45 Supervision of exportation.

Subpart H—Importer Security Filings

- 18.46 Changes to Importer Security Filing information.

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624; Section 18.1 also issued under 19 U.S.C. 1484, 1557, 1490; Section 18.2 also issued under 19 U.S.C. 1551a; Section 18.3 also issued under 19 U.S.C. 1565; Section 18.4 also issued under 19 U.S.C. 1322, 1323; Section 18.7 also issued under 19 U.S.C. 1490, 1557; 1646a; Section 18.11 also issued under 19 U.S.C. 1484; Section 18.12 also issued under 19 U.S.C. 1448, 1484, 1490; Section 18.13 also issued under 19 U.S.C. 1498(a); Section 18.14 also issued under 19 U.S.C. 1498. Section 18.25 also issued under 19 U.S.C. 1490. Section

18.26 also issued under 19 U.S.C. 1490.
Section 18.31 also issued under 19 U.S.C. 1553a.

Subpart A—General Provisions

§ 18.0 Scope; definitions.

(a) *Scope.* Except as provided in parts 122 and 123 of this chapter, this part sets forth the requirements and procedures pertaining to the transportation of merchandise in-bond, as authorized by sections 551, 552, and 553 of the Tariff Act of 1930, as amended (19 U.S.C. 1551, 1552, and 1553).

(b) *Definitions.* As used in this part, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

Common carrier. “Common carrier” means a common carrier of merchandise owning or operating a railroad, steamship, pipeline, truck line, or other transportation line or route.

Origination port. “Origination port” is the U.S. port in which the transportation of merchandise in-bond commences.

Port of destination. “Port of destination” is the U.S. port at which merchandise is entered after being shipped in-bond from the origination port where it was entered as an immediate transportation entry.

Port of diversion. “Port of diversion” is the U.S. port to which merchandise is diverted while in transit from the origination port to the port of destination or the port of export.

Port of export. “Port of export” is the U.S. port at which in-bond merchandise entered for transportation and exportation or for immediate exportation is exported from the U.S.

§ 18.1 In-bond application and entry; general rules.

(a) *General requirement.* In order to transport merchandise in-bond, an in-bond application as described in paragraph (d) of this section is required. An in-bond application consists of a transportation entry and a manifest. A transportation entry as described in paragraph (b) may be made for any imported merchandise upon its arrival at a port of entry, subject to the prohibitions and restrictions provided in this part.

(b) *Types of transportation entries and withdrawals.* The following types of transportation entries and withdrawals may be made for merchandise to be transported in-bond:

(1) Entry for immediate transportation (IT).

(2) Warehouse or rewarehouse withdrawal for immediate transportation.

(3) Warehouse or rewarehouse withdrawal for immediate exportation or for transportation and exportation.

(4) Entry for transportation and exportation (T&E).

(5) Entry for immediate exportation (IE).

(6) Entry of vessel and aircraft supplies for immediate exportation (IE) or for transportation and exportation (T&E).

(7) Entry of vessel and aircraft supplies for transportation and exportation (T&E).

(c) *Who may file.* A transportation entry may be made by:

(1) The carrier that brings the merchandise to the origination port;

(2) The carrier that is to accept the merchandise under its bond or a carnet for transportation to the port of destination or the port of export; or

(3) Any person who has a sufficient interest in the merchandise as shown by the bill of lading or manifest, a certificate of the importing carrier, or by any other document satisfactory to CBP.

(d) *In-bond application.* An in-bond application consisting of a transportation entry and manifest must be transmitted to CBP in order to transport merchandise in-bond.

(1) *Contents.* The in-bond application must contain the following information:

(i) *Description of the merchandise.*

The six-digit Harmonized Tariff Schedule (HTS) number of the merchandise must be provided, if available. (CBP will also accept the eight or ten-digit HTS number.) If the six digit HTS number is not available, then a detailed description must be provided setting forth the exact nature of the merchandise with sufficient detail to enable CBP and other government agencies to determine if the merchandise is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation.

(ii) *Health, safety or conservation.* If the carrier or other responsible party submitting the in-bond application knows that the merchandise is subject to a rule, regulation, law, standard or ban relating to health, safety or conservation enforced by CBP or another government agency, a statement must be provided setting forth the rule, regulation, law, standard or ban to which the merchandise is subject to and the name of the government agency responsible for enforcing the rule, regulation, law, standard or ban.

(iii) *Prohibited or restricted merchandise.* Merchandise that is prohibited or subject to entry

restrictions in the U.S. as set forth in this chapter must be identified accordingly.

(iv) *Textiles.* Textiles and textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), must be described in such detail as to enable the port director to estimate the duties and taxes, if any, due. The port director may require evidence to satisfy him or her of the approximate correctness of the value and quantity stated in the entry (e.g., detailed quantity description: 14 cartons, 2 dozen per carton); detailed description of the textiles or textile products including type of commodity and chief fiber content (e.g., men’s cotton jeans or women’s wool sweaters); net weight of the textiles or textile products (including immediate packing but excluding pallet); total value of the textiles or textile products; manufacturer or supplier; country of origin; name(s) and address(es) of the person(s) to whom the textiles and textile products are consigned; and 10-digit Harmonized Tariff Schedule of the United States number (when available).

(v) *Other identifying information.* If a visa, permit, license, entry number, or other similar number or identifying information has been issued by the U.S. Government, foreign government or other issuing authority, relating to the merchandise, the visa, permit, license, entry number, or other similar number or identifying information must be provided.

(vi) *Quantity.* The quantity of the merchandise to be transported to the smallest piece count must be provided.

(vii) *Seals.* The container number of the container in which the merchandise is being transported and the seal number of the seal that seals the container (see § 18.4) must be provided.

(viii) *Ultimate destination.* The ultimate destination in the U.S. or abroad of the merchandise to be transported in-bond must be provided.

(2) *Method of submission.* The in-bond application must be electronically transmitted to CBP via a CBP-approved EDI system, except as prescribed in § 18.31 relating to pipeline transportation of bonded merchandise.

(3) *Timing.* The in-bond application may be submitted at any time prior to the merchandise departing the origination port.

(4) *Quantities of goods.* By filing an in-bond application, the initial bonded carrier asserts that there is no discrepancy between the quantity of goods received from the importing carrier and the quantity of goods delivered to the in-bond carrier for transportation in-bond.

(e) *Bond required.* A custodial bond on CBP Form 301, containing the bond conditions set forth in § 113.63 of this chapter, is required in order to transport merchandise in-bond under the provisions of this part.

(f) *Movement authorization required.* Authorization from CBP is required before merchandise can be transported in-bond. Authorization for the movement of merchandise will be transmitted by CBP via a CBP-approved EDI system.

(g) *Supervision—(1) Generally.* When merchandise is delivered to a bonded carrier for transportation in-bond, CBP may, in its discretion, require that the merchandise be laden on the conveyance only under CBP supervision.

(2) *Merchandise delivered from warehouse.* When merchandise is delivered from a warehouse to a bonded carrier for transportation in-bond, supervision of lading will be accomplished in accordance with the procedure set forth in § 19.6(b) of this chapter.

(3) *Merchandise delivered from foreign trade zone.* When merchandise is delivered from a foreign trade zone to a bonded carrier for transportation in-bond, supervision of lading will be accomplished in accordance with the procedure set forth in § 146.71(a) of this chapter.

(h) *Updating and amending the in-bond record.* The filer of the in-bond application or any other party named in paragraph (c) of this section, with the permission of the filer, may update and/or amend the in-bond record as required under the provisions of this part via a CBP-approved EDI system.

(i) *In-Transit Time—(1) 30-day transit time.* Merchandise to be transported in-bond must be delivered to CBP at the port of destination or port of export within 30 days from the date CBP provides movement authorization to the in-bond applicant. Neither the diversion to another port nor the filing of a new in-bond application extends the 30-day maximum in-transit time. Failure to deliver the merchandise within the prescribed period constitutes an irregular delivery.

(2) *Extension.* In cases where it is anticipated that a shipment will not be capable of completing its transit to the port of destination or port of export within 30 days, the 30-day in-transit requirement may be extended by CBP upon request via a CBP-approved EDI system. CBP may also extend the in-transit period if delays are caused due to the examination or inspection of the merchandise by CBP or another

government agency or for some other reason.

(3) *Restriction of in-transit time.* CBP or any other government agency with jurisdiction over the merchandise may shorten the in-transit time to less than 30 days. CBP will provide notice of a CBP-shortened in-transit time with the movement authorization.

(j) *Report of Arrival.* After the arrival of any portion of the in-bond shipment at the port of destination or the port of export, the delivering carrier must promptly, but no more than 24 hours after arrival, notify CBP via a CBP-approved EDI system that the merchandise has arrived and identify the physical location of the merchandise within the port. Failure to report the arrival or identify the physical location of the merchandise transported in-bond within the prescribed period constitutes an irregular delivery.

(k) *General order merchandise; exportation.* Any merchandise covered by an in-bond shipment (including carnets) that has arrived at the port of destination or the port of export must be entered or exported pursuant to this part within 15 calendar days from the date of arrival at the port of destination or port of export. On the 16th day, the merchandise will become subject to general order requirements pursuant to 19 CFR 4.37, 122.50, or 123.10 of this chapter, as applicable. In addition, failure to enter or export the merchandise within the prescribed period constitutes an irregular delivery.

(l) *Restricted and prohibited merchandise; health, safety and conservation; and special classes of merchandise—(1) Health, safety and conservation.* Merchandise not in compliance with an applicable rule, regulation, law, standard or ban, relating to health, safety or conservation may only be released for transportation in-bond with the authorization of the governmental agency administering such rule, regulation, law, standard or ban.

(2) *Prohibited and restricted merchandise—(i) Plants and plant products.* Merchandise subject upon importation to examination, disinfection, or further treatment under the Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine program, will be only be released for transportation in-bond with the authorization of APHIS under regulations issued by that program. (See §§ 12.10 to 12.15 of this chapter).

(ii) *Narcotics and other prohibited articles.* Narcotics and other articles prohibited admission into the commerce of the United States may not be entered for transportation in-bond and any such

merchandise offered for entry for that purpose will be seized, except that exportation or transportation and exportation may be permitted with authorization from the Drug Enforcement Agency (DEA) and/or compliance with the regulations of the DEA.

(iii) *Non-narcotics.* Articles entered for transportation in-bond that are manifested merely as drugs, medicines, or chemicals, without evidence to satisfy the port director that they are non-narcotic, will be detained and subjected, at the carrier's risk and expense, to such examination as may be necessary to satisfy the port director whether or not they are of a narcotic character. A properly verified certificate of the shipper, specifying the items in the shipment and stating whether narcotic or not, may be accepted by the port director to establish the character of such a shipment.

(iv) *Explosives.* Explosives may not be transported in-bond unless the importer has first obtained a license or permit from the proper governmental agency. In such case the explosives may be entered for immediate transportation, for transportation and exportation, or for immediate exportation as specified by the approving government agency. Governmental agencies with regulatory authority over explosives include the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the Department of Transportation (DOT), and the U.S. Coast Guard (USCG).

(v) *Livestock.* Carload shipments of livestock will not be entered for in-bond transportation unless they will arrive at the port of destination named in the in-bond application before it becomes necessary to remove the seals for the purpose of watering and feeding the animals, or unless the route is such that the removal of the seals and the watering, feeding, and reloading of the stock may be done under CBP supervision.

§ 18.2 Carriers, cartmen and lightermen.

(a) *Transportation of merchandise in-bond by bonded carriers.* (1) Except as provided for in paragraph (b) of this section, merchandise to be transported from one port to another in the United States in-bond must be delivered to a common carrier, contract carrier, freight forwarder, or private carrier, each of which must be bonded for that purpose. Such merchandise delivered to a bonded common carrier, contract carrier, or freight forwarder may be transported with the use of facilities of other bonded or nonbonded carriers; however, the responsibility for the merchandise will remain with the

common carrier, contract carrier, or freight forwarder that is bonded for that purpose. Only vessels entitled to engage in the coastwise trade (see § 4.80 of this chapter) will be entitled to transport merchandise under this section.

(2) *Merchandise transported under a TIR carnet.* Merchandise to be transported from one port to another in the United States under cover of a TIR carnet (see part 114 of this chapter), except merchandise not otherwise subject to CBP control, as provided in §§ 18.41 through 18.45, must be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The TIR carnet will be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond will be responsible as provided in § 114.22(c) of this chapter.

(3) *Merchandise transported under an A.T.A. or a TECRO/AIT carnet.* Merchandise to be transported from one port to another in the United States under cover of an A.T.A. or TECRO/AIT carnet (see part 114 of this chapter) must be delivered to a common carrier or contract carrier bonded for that purpose, but the merchandise thereafter may be transported with the use of other bonded or nonbonded common or contract carriers. The A.T.A. or TECRO/AIT carnet will be responsible for liability incurred in the carriage of merchandise under the carnet, and the carrier's bond will be responsible as provided in § 114.22(d) of this chapter.

(b) *Transportation of merchandise in-bond between certain ports by bonded cartmen or lightermen.* Pursuant to Public Resolution 108, of June 19, 1936, (19 U.S.C. 1551, 1551a) and subject to compliance with all other applicable provisions of this part, CBP, upon the request of a party named in § 18.1(c), may permit merchandise that has been entered and subject to CBP examination to be transported in-bond between the ports of New York, Newark, and Perth Amboy, by bonded cartmen or lightermen duly qualified in accordance with the provisions of part 112 of this chapter, if CBP is satisfied that the transportation of such merchandise in this manner will not endanger the revenue and does not pose a risk to health, safety or security.

§ 18.3 Transshipment; transfer by bonded cartmen.

(a) *Transshipment to single conveyance.* Merchandise being transported in-bond may be transhipped to another conveyance

while en route to the port of destination or port of export. The carrier or any of the parties provided for in § 18.1(c) must notify CBP of the transshipment using the CBP-approved EDI system before the merchandise can be transhipped to another conveyance. The notification of transshipment must include the name of the bonded carrier receiving the merchandise for shipment to the port of destination or port of export.

(b) *Transshipment to multiple conveyances.* When merchandise being transported in-bond is to be transhipped to more than one conveyance, the carrier or any of the parties named in § 18.1(c) must notify CBP via a CBP-approved EDI system of the transshipment. The notification of transshipment must include the name of the bonded carrier receiving the merchandise for shipment to the port of destination or port of export and any new container or seal numbers. The transshipment to multiple conveyances does not extend the 30-day transit time requirement set forth in § 18.1(i).

(c) *Transshipment of merchandise covered by a TIR carnet generally prohibited.* Merchandise covered by a TIR carnet may not be transhipped except in cases in which the unloading of the merchandise from a container or road vehicle is necessitated by casualty en route. In the event of transshipment, a TIR approved container or road vehicle must be used if available. If the transshipment takes place under CBP supervision, the CBP officer must execute a certificate of transfer on the appropriate TIR carnet voucher.

(d) *Transshipment of merchandise in emergency situations—(1) Removal of seals.* If it becomes necessary at any point in transit to remove the CBP seals from a conveyance or container containing bonded merchandise for the purpose of transferring its contents to another conveyance or container, or to gain access to the shipment because of casualty or for other good reason, and it cannot be done under CBP supervision because of the element of time involved or because there is no CBP officer stationed at such point, a responsible agent of the carrier may remove the seals, supervise the transfer or handling of the merchandise, and seal the conveyance or container in which the shipment goes forward. In this situation, the responsible agent is required to provide the notification specified in paragraph (d)(2) of this section.

(2) *Notification.* When the responsible agent of the carrier takes the actions specified in paragraph (d)(1) of this section, he or she must notify CBP via the CBP-approved EDI system of the

serial numbers of the new seals applied, and the reason for and the date of the actions. The responsible agent must also make appropriate notations of the same information on the conductor's or master's copy of the manifest, or the outside back cover of the TIR carnet.

(e) *Transfer by bonded cartmen.* All transfers to or from the conveyance or warehouse of merchandise undergoing transportation in-bond must be made under the provisions of part 125 of this chapter and at the expense of the parties in interest, unless the bond of the carrier on CBP Form 301, containing the bond conditions set forth in § 113.63 of this chapter or a TIR carnet is liable for the safekeeping and delivery of the merchandise while it is being transferred.

§ 18.4 Sealing conveyances and compartments; labeling packages.

(a) *Requirements, waiver and TIR carnets—(1) Seals required.* The bonded carrier must ensure that carload or containerized shipments are properly sealed, that the seals remain intact until the merchandise arrives at the port of destination or the port of export, and that CBP is notified of such arrival pursuant to § 18.1(j) of this part. The seals to be used and the method for sealing conveyances, compartments, or packages must meet the requirements of §§ 24.13 and 24.13a of this chapter.

(2) *Waiver.* (i) CBP may authorize the waiver of sealing of a conveyance or compartment in which bonded merchandise is transported if CBP determines that the sealing of the conveyance or compartment is unnecessary to protect the revenue or to prevent violations of the customs laws and regulations.

(ii) Examples of situations where CBP may authorize a waiver of the sealing requirement include when the compartment or conveyance cannot be effectively sealed, as in the case of merchandise shipped in open cars or barges, on the decks of vessels, or when it is known that any seals would necessarily be removed outside the jurisdiction of the United States for the purpose of discharging or taking on cargo, or when it is known that the breaking of the seals will be necessary to ventilate the hatches.

(3) *TIR carnets.* The port director will cause a CBP seal to be affixed to a container or road vehicle that is being used to transport merchandise under cover of a TIR carnet unless the container or road vehicle bears a customs seal (domestic or foreign). The port director will likewise cause a CBP seal or label to be affixed to heavy or bulky goods being so transported. If,

however, the port director has reason to believe that there is a discrepancy between the merchandise listed on the Goods Manifest of the carnet and the merchandise that is to be transported, the port director may cause a CBP seal or label to be affixed only when the listing of the merchandise in the carnet and a physical inventory agree.

(b) *Commingled merchandise.* (1) Merchandise that is not covered by a bond may only be transported in a sealed conveyance or compartment that contains bonded merchandise if the merchandise is destined for the same or subsequent port as the bonded merchandise.

(2) Merchandise moving under cover of a carnet may not be consolidated with other merchandise.

(c) *Removal or breaking of seals.* Except as provided in § 18.3(d) and § 19.6(e) of this chapter, seals affixed under this section may only be removed upon CBP permission. Failure to keep the seals intact and/or removal of the seals without CBP permission will result in the assessment of liquidated damages in accordance with § 18.8 of this part and § 113.63 of this chapter.

(d) *Containers or road vehicles accepted for transport under customs seal; requirements—*

(1)(i) *Containers covered by the Customs Convention on Containers.* Containers covered by the Customs Convention on Containers shall be accepted for transport under customs seal if

(A) Durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers, and

(B) Constructed and equipped as outlined in Annex 1 to the Customs Convention on Containers, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 2 to that Convention or by a metal plate showing design type approval by a competent authority.

(ii) *Containers carrying merchandise covered by a TIR carnet.* Containers carrying merchandise covered by a TIR carnet shall be accepted for transport under customs seal if

(A) Durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers,

(B) Constructed and equipped as outlined in Annex 6 to the TIR Convention, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 8 to that Convention, or by a metal plate showing design type approval by a competent authority, and

(C) If the container or road vehicle hauling the container has affixed to it a rectangular plate bearing the letters “TIR” in accordance with Article 31 of the TIR Convention.

(2) *Road vehicles carrying merchandise covered by a TIR carnet.* Road vehicles carrying merchandise covered by a TIR carnet shall be accepted for transport under customs seal if

(i) Durably marked with the name and address of the owner, particulars of tare, and identification marks and numbers,

(ii) Constructed and equipped as outlined in Annex 3 to the TIR Convention, as evidenced by an accompanying unexpired certificate of approval in the form prescribed by Annex 5 to that Convention, or by a metal plate showing design type approval by a competent authority, and

(iii) If the road vehicle has affixed to it a rectangular plate bearing the letters “TIR” in accordance with Article 31 of the TIR Convention.

(3) *CBP refusal.* The port director may refuse to accept for transport under customs seal a container or road vehicle bearing evidence of approval if, in the port director’s opinion, the container or road vehicle no longer meets the requirements of the applicable Convention.

(4) *CBP acceptance for transport.* Containers or road vehicles that are not approved under the provisions of a Customs Convention may be accepted for transport under customs seal only if the port director at the port of origin is satisfied that the container or road vehicle can be effectively sealed and no goods can be removed from or introduced into the container or road vehicle without obvious damage to it or without breaking the seal. A container or road vehicle so accepted shall not carry merchandise covered by a TIR carnet.

§ 18.5 Diversion.

(a) *Procedure.* In order to change the port of destination or the port of export of an in-bond movement, the party that submitted the in-bond application must submit a request to divert merchandise via a CBP-approved EDI system. Authorization for the diversion and movement of merchandise will be transmitted via a CBP-approved EDI system. If the request to divert merchandise is denied, such merchandise must be delivered to the original port of destination or port of export that was named in the in-bond application. The decision to grant or deny permission to divert merchandise is within the sole discretion of CBP.

(b) *In-Transit Time.* The approval of a request to divert merchandise for transportation in-bond does not extend the in-transit time specified in § 18.1(i) of this part. The diverted merchandise must be delivered to the port of diversion within 30 days from the date CBP first authorized the in-bond movement.

(c) *Split Shipments.* When merchandise for transportation in-bond is approved for diversion to more than one port, or when a portion of an in-bond shipment is approved for consumption or warehouse entry, the approval of the diversion will complete the original transportation entry. The carrier or any of the parties named in § 18.1(c) must, in accordance with the filing requirements of § 18.1, submit a new in-bond application for each portion of the original shipment to be transported in-bond. Split shipments for merchandise being transported under cover of a carnet are prohibited.

(d) *Diversion of cargo subject to restriction, prohibition or regulation by other federal agency or authority.* Merchandise subject to a law, regulation, rule, standard or ban that requires permission or authorization by another federal agency or authority before importation, cannot be diverted without authorization by the other federal agency or authority.

§ 18.6 Short shipments; shortages; entry and allowance.

(a) *Notification of short shipment.* When an in-bond shipment arrives at the port of destination or the port of export and a portion of the cargo covered by the original in-bond application is short, the arriving carrier must notify CBP of the shortage when submitting the notice of arrival via a CBP-approved EDI system.

(b) *New in-bond application required.* The carrier or any of the parties named in § 18.1(c) must, in accordance with the filing requirements of § 18.1, submit a new in-bond application to transport short shipped packages in-bond to the port of destination or port of export provided in the in-bond application. Reference must be made in the new in-bond application to the original transportation entry.

(c) *Demand for redelivery.* When there is a shortage of any portion of a shipment, nondelivery of an entire shipment, delivery to unauthorized locations, or delivery to the consignee without the permission of CBP, CBP may demand return of the merchandise to CBP custody. The demand must be made no later than 30 days after the shortage, delivery, or nondelivery is discovered by CBP. The demand for the

return of the merchandise to CBP custody must be made on the bonded carrier, cartman, or lighterman identified in the in-bond application. The demand for the return of the merchandise will be made on CBP Form 4647, Notice of Redelivery, other appropriate form, letter, or by an electronic equivalent thereof. A copy of the demand or electronic equivalent thereof, with the date of mailing or delivery noted thereon, must be retained by the port director and made part of the in-bond entry record. Entry of the merchandise may be accepted if the merchandise can be recovered intact without any of the packages having been opened. In such cases, any shortage from the invoice quantity will be presumed to have occurred while the merchandise was in the possession of the bonded carrier.

(d) *Failure to redeliver.* If the merchandise cannot be recovered intact, entry will be accepted in accordance with § 141.4 of this chapter for the full manifested quantity, unless a lesser amount is otherwise permitted in accordance with subpart A of part 158. Except as provided in paragraph (e) of this section, if the merchandise is not returned to CBP custody within 30 days of the date of mailing, date of delivery of the demand for redelivery, or electronic notification thereof, there shall be sent to the party whose bond is obligated on the transportation entry a demand for liquidated damages on CBP Form 5955-A in the case of nondelivery of an entire shipment or on CBP Form 5931 in the case of partial shortage. CBP will also seek the payment of duties, taxes, and fees, where appropriate, pursuant to § 18.8(c).

(e) *Failure to redeliver merchandise covered by a carnet.* If merchandise covered by a carnet cannot be recovered intact as specified in paragraph (c) of this section, entry will not be accepted; there will be sent to the appropriate guaranteeing association a demand for liquidated damages, duties, and taxes as prescribed in § 18.8(d); and, if appropriate, there will also be sent to the initial bonded carrier a demand for any excess, as provided in § 114.22(e) of this chapter. Demands must be made on the forms specified in paragraph (d) of this section.

(f) *Allowance.* An allowance in duty on merchandise reported short at destination, including merchandise found by the appraising officer to be damaged and worthless, and animals and birds found by the discharging officer to be dead on arrival at destination, must be made in the liquidation of the entry.

(g) *Rail and searain.* In the case of shipments arriving in the United States by rail or searain, which are forwarded under CBP in-bond seals under the provisions of subpart D of part 123 of this chapter, and § 18.11, or § 18.20, a notation must be made by the carrier or shipper on the in-bond application, to show whether the shipment was transferred to the car designated in the manifest or whether it was laden in the car in the foreign country. If laden on the car in a foreign country, the country must be identified in the notation.

§ 18.7 Lading for exportation; notice and proof of exportation; verification.

(a) *Exportation—(1) Notice.* No more than 24 hours after the arrival at the port of export of any portion of an in-bond shipment, the delivering carrier must report the arrival of the merchandise to CBP pursuant to § 18.1(i). Failure to report the arrival of bonded merchandise within the prescribed period will constitute an irregular delivery.

(2) *Time to export.* Within 15 calendar days after the filing of the report of arrival for the last portion of a shipment arriving at the port of export under a transportation and exportation entry, the entire shipment of merchandise must be exported. On the 16th day the merchandise will become subject to general order requirements under § 4.37, § 122.50, or § 123.10 of this chapter, as applicable. Failure to export the merchandise within the prescribed period constitutes an irregular delivery.

(3) *Notice and Proof of Exportation.* The bonded carrier must promptly, but no more than 24 hours after exportation, update the in-bond record via a CBP approved EDI system to reflect that the merchandise has been exported. The principal on any bond filed to guarantee exportation may be required by the port director to provide evidence of exportation in accordance with § 113.55 of this chapter within 30 days of exportation.

(b) *Supervision.* The port director will require only such supervision of the lading for exportation of merchandise covered by an entry or withdrawal for exportation or for transportation and exportation only as is reasonably necessary to satisfy the port director that the merchandise has been laden on the exporting conveyance.

(c) *Verification.* CBP may verify export entries and withdrawals against the records of the exporting carriers. Such verification may include an examination of the carrier's records of claims and settlement of export freight charges and any other records that may relate to the transaction. The exporting

carrier must maintain these records for 5 years from the date of exportation of the merchandise.

§ 18.8 Liability for not meeting in-bond requirements; liquidated damages; payment of taxes, duties, fees, and charges.

(a) *Liability.* The party whose bond is obligated on the transportation entry (generally the initial carrier) will be liable for not meeting any of the requirements found at Part 18 of this chapter or any of the other conditions specified in the bond. This includes, but is not limited to shortages, irregular delivery, or nondelivery, at the port of destination or port of export of the merchandise transported in-bond; the failure to export merchandise transported in bond pursuant to a transportation and exportation or immediate exportation entry; and, the failure to maintain intact seals or the unauthorized removal of seals, as provided in such bond. Appropriate commercial or government documentation may be provided to CBP as proof of delivery and/or exportation. When sealing is waived, any loss found to exist at the port of destination or port of export will be presumed to have occurred while the merchandise was in the possession of the party whose bond was obligated under the transportation entry, unless conclusive evidence to the contrary is produced.

(b) *Liquidated damages.* (1) The party described in paragraph (a) of this section that fails to comply with any of the requirements found at Part 18 of this chapter or any of the other conditions specified in the bond is liable for payment of liquidated damages.

(2) *Petition for relief.* In any case in which liquidated damages are imposed in accordance with this section and CBP is satisfied by the evidence submitted with a petition for relief filed in accordance with the provisions of part 172 of this chapter that any violation of the terms and conditions of the bond occurred without any intent to evade any law or regulation, CBP may cancel such claim upon the payment of any lesser amount or without the payment of any amount as may be deemed appropriate under the law and in view of the circumstances.

(c) *Taxes, duties, fees, and charges.* In addition to the liquidated damages described in paragraph (b) of this section, the party whose bond is obligated on the transportation entry will be liable for any duties, taxes, and fees accruing to the United States on the missing merchandise, together with all costs, charges, and expenses, caused by the failure to make the required

transportation, report, delivery, entry and/or exportation.

(d) *Carnets*—(1) *TIR carnets*. (i) The domestic guaranteeing association will be jointly and severally liable with the initial bonded carrier for duties, taxes, and fees accruing to the U.S., and any other charges imposed, in lieu thereof, as the result of any shortage, irregular delivery, or nondelivery at the port of destination or port of exit of merchandise covered by a TIR carnet. The liability of the domestic guaranteeing association is limited to \$50,000 per TIR carnet for duties, taxes, and sums collected in lieu thereof. Penalties imposed as liquidated damages against the initial bonded carrier, and sums assessed against the guaranteeing association in lieu of duties and taxes for any shortage, irregular delivery, or nondelivery will be in accordance with this section. If a TIR carnet has not been discharged or has been discharged subject to a reservation, the guaranteeing association will be notified within 1 year of the date upon which the carnet is taken on charge, including time for receipt of the notification, except that if the discharge was obtained improperly or fraudulently the period will be 2 years. However, in cases that become the subject of legal proceedings during the above-mentioned period, no claim for payment will be made more than 1 year after the date when the decision of the court becomes enforceable.

(ii) Within 3 months from the date demand for payment is made by the port director as provided by § 18.6(e), the guaranteeing association must pay the amount claimed, except that if the amount claimed exceeds the liability of the guaranteeing association under the carnet (see § 114.22(d) of this chapter), the carrier must pay the excess. The amount paid will be refunded if, within a period of 1 year from the date on which the claim for payment was made, it is established to the satisfaction of the Commissioner of CBP that no irregularity occurred. CBP may cancel liquidated damages assessed against the guaranteeing association to the extent authorized by paragraph (c) of this section.

(2) *A.T.A. or TECRO/AIT carnets*. The domestic guaranteeing association is jointly and severally liable with the initial bonded carrier for pecuniary penalties, liquidated damages, duties, fees, and taxes accruing to the United States and any other charges imposed as the result of any shortage, irregular delivery, failure to comply with sealing requirements in this part, and any non-delivery at the port of destination or port of exit of merchandise covered by

an A.T.A. or TECRO/AIT carnet. However, the liability of the guaranteeing association must not exceed the amount of the import duties by more than 10 percent. If an A.T.A. or TECRO/AIT carnet is unconditionally discharged with respect to certain goods, the guaranteeing association will no longer be liable on the carnet with respect to those goods unless it is subsequently discovered that the discharge of the carnet was obtained fraudulently or improperly or that there has been a breach of the conditions of temporary admission or of transit. No claim for payment will be made more than one year following the date of expiration of the validity of the carnet. The guaranteeing association will be allowed a period of six months from the date of any claim by the port director in which to furnish proof of the reexportation of the goods or of any other proper discharge of the A.T.A. or TECRO/AIT carnet. If such proof is not furnished within the time specified, the guaranteeing association must either deposit or provisionally pay the sums. The deposit or payment will become final three months after the date of the deposit or payment, during which time the guaranteeing association may still furnish proof of the reexportation of the goods to recover the sums deposited or paid.

§ 18.9 New in-bond movement for forwarded or returned merchandise.

The carrier or any of the parties named in § 18.1(c) must, in accordance with the filing requirements of § 18.1, submit a new in-bond application in order to forward or return merchandise from the port of destination or port of export named in the original in-bond application, or from the port of diversion, to any another port. If the merchandise is moving under cover of a carnet, the carnet may be accepted as a transportation entry.

§ 18.10 Special manifest.

(a) *General*. Merchandise for which no other type of bonded movement is appropriate (e.g., prematurely discharged or overcarried merchandise and other such types of movements whereby the normal transportation-in-bond procedures are not applicable) may be shipped in-bond from the port of unloading to the port of destination, port of export or port of diversion where applicable, upon approval by CBP.

(b) *Filing requirements*. The carrier or any of the parties named in § 18.1(c) may, in accordance with the filing requirements of § 18.1, submit an in-bond application, requesting permission to transport the merchandise in-bond as

a special manifest. Authorization for the movement of merchandise will be transmitted via a CBP-approved EDI system. The party submitting the in-bond application must identify the relevant merchandise and also identify the date and entry number of any entry made at the destination port covering the merchandise to be returned, if known. For diversion of cargo, see §§ 4.33, 4.34, and 18.5 of this chapter. When no entry is identified, the port director may approve the shipment pursuant to this section.

Subpart B—Immediate Transportation Without Appraisal

§ 18.11 General rules.

(a) *Delivery outside port limits*. (1) Merchandise covered by an entry for immediate transportation, including a carnet, or a manifest of baggage shipped in-bond (other than baggage to be forwarded in-bond to a CBP station—see § 18.13(a)), may be delivered to a place outside a port of entry for examination and release as contemplated by section 484(f), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)), with the approval of CBP.

(2) The carrier or any of the parties named in § 18.1(c) must request, via a CBP-approved EDI system, permission to transport the merchandise in-bond. Before permission will be granted by CBP, the importer must stipulate in the in-bond application that within 24 hours after the arrival of any part of the merchandise or baggage to a place outside the port of entry, the importer will file an entry for the shipment and will comply with the provisions of § 151.9 of this chapter. Authorization for the movement of merchandise will be transmitted via a CBP-approved EDI system.

(b) *Split shipments*. One or more entire packages of merchandise covered by an invoice from one consignor to one consignee may be entered for consumption or warehouse at the port of first arrival, and the remainder entered for immediate transportation, provided that all of the merchandise covered by the invoice is entered and any carnet which may cover such merchandise is discharged as to that merchandise.

(c) *Consolidated loads and combined shipments*. Several importations may be consolidated into one immediate transportation entry when bills of lading or carrier's certificates name only one consignee at the port of first arrival. However, merchandise moving under cover of a carnet may not be consolidated with other merchandise.

§ 18.12 Entry at port of destination.

(a) *Arrival procedures.* Merchandise received under an immediate transportation entry at the port of destination may be entered for transportation and exportation, immediate exportation, or for immediate transportation, or under a FTZ admission, or any other form of entry, and is subject to all the conditions pertaining to merchandise entered at a port of first arrival.

(b) *Entry.* The right to make entry at the port of destination will be determined in accordance with the provisions of § 141.11 of this chapter.

(c) *Entry at subsequent ports.* When a portion of a shipment is entered at the port of first arrival and the remainder of the shipment is entered for consumption or warehouse at one or more subsequent ports, the entry at each subsequent port may be made on an extract of the invoice as provided for in § 141.84 of this chapter.

(d) *General order merchandise.* All merchandise included in a transportation appraisalment entry (including carnets) must be entered pursuant to § 18.12(a), within 15 calendar days from the date of arrival at the port of destination. On the 16th day, the merchandise will become subject to general order requirements pursuant to §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

Subpart C—Shipment of Baggage In-Bond**§ 18.13 Procedure; manifest.**

(a) *In-bond application required.* Baggage may be forwarded in-bond to another port of entry, or to a Customs station listed in § 101.4 of this chapter without examination or assessment of duty at the port or station of first arrival at the request of the passenger, the transportation company, or the agent of either, by filing an in-bond application in accordance with the provisions of § 18.1.

(b) *Coast to coast transportation.* Baggage arriving in-bond or otherwise at a port on the Atlantic or Pacific coast, destined to a port on the opposite coast, may be laden under CBP supervision, without examination and without being placed in-bond, on a vessel proceeding to the opposite coast, provided the vessel will proceed to the opposite coast without stopping at any other port on the first coast.

§ 18.14 Shipment of baggage in transit to foreign countries.

The baggage of any person in transit through the United States from one foreign country to another may be

shipped over a bonded route for exportation. Such baggage must be shipped under the regulations prescribed in § 18.13. See § 123.64 of this chapter for the regulations applicable to baggage shipped in transit through the United States between points in Canada or Mexico.

Subpart D—Transportation & Exportation**§ 18.20 General rules.**

(a) *Classes of goods for which a transportation and exportation entry is authorized.* Entry for transportation and exportation may be made under section 553, Tariff Act of 1930, as amended (19 U.S.C. 1553), for any merchandise, except as provided under § 18.1(l).

(b) *Filing Requirement.* Transportation and exportation entries must be filed via a CBP-approved EDI system and in accordance with § 18.1.

(c) *Entry Procedures.* Except as provided for in subparts D, E, F and G of part 123 of this chapter (relating to merchandise in transit through the U.S. between two points in contiguous foreign territory), when merchandise is entered for transportation and exportation, a carnet, three copies of an air waybill (see § 122.92 of this chapter), or the in-bond application must be submitted to CBP (see § 18.1). The port director may require the carrier to provide additional information and documentation related to the delivery of the merchandise to the bonded carrier. Arrival must be reported promptly, but no later than 24 hours after the arrival at the port of exportation, in accordance with § 18.1.

(d) *No bonded common carrier facilities available.* Except for merchandise covered by a carnet (see § 18.2(a) (2) and (3)), in places where no bonded common carrier facilities are reasonably available and merchandise is permitted to be transported otherwise than by a bonded common carrier, the port director may permit entry in accordance with the procedures outlined in this section if he or she is satisfied that the revenue will not be endangered. A bond on CBP Form 301, containing the bond conditions set forth in § 113.62 of this chapter in an amount equal to double the estimated duties that would be owed will be required when the port director deems such action necessary. The principal on any bond filed to guarantee exportation may be required by the port director to provide evidence of exportation in accordance with § 113.55 of this chapter within 30 days of exportation.

(e) *Electronic Export Information.* Filing of Electronic Export Information

(EEI) is not required for merchandise entered for transportation and exportation, provided the merchandise has not been entered for consumption or for warehousing. If the merchandise requires an export license, the merchandise is subject to the filing requirements of the licensing Federal agency. See 15 CFR 30.37(e).

(f) *Time to export.* Any portion of an in-bond shipment entered for exportation following an in-bond entry must be exported within 15 calendar days from the date of arrival to the port of export, unless an extension has been granted by CBP pursuant to § 18.24. On the 16th day, the merchandise will become subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

(g) *Notice and Proof of Exportation.* The bonded carrier must promptly, but no more than 24 hours after exportation, update the in-bond record via a CBP approved EDI system to reflect that the merchandise has been exported. The principal on any bond filed to guarantee exportation may be required by the port director to provide evidence of exportation in accordance with § 113.55 of this chapter within 30 days of exportation.

§ 18.21 [Reserved].**§ 18.22 Transfer and express shipment procedures at port of exportation.**

(a) *Transfer of bonded merchandise to another conveyance.* If in-bond merchandise must be transferred to another conveyance, the procedure will be as prescribed in § 18.3(d).

(b) *Transfer of baggage by express shipment.* An express company that is bonded as a common carrier and is responsible under its bond for delivery to the CBP officer in charge of the exporting conveyance of articles shown to be baggage in the in-bond record may transfer the baggage by express shipment without a permit from the port director and without the use of a transfer ticket or other CBP formality from its terminal to the exporting conveyance for lading under CBP supervision. The in-bond record must be updated to reflect the name of the owner of the baggage or article and the name of the conveyance transporting the owner of the baggage. See § 18.1.

§ 18.23 Change of foreign destination; change of entry.

(a) The carrier or any of the parties provided for in § 18.1(c) must notify CBP of a change of the foreign destination that was provided in the original in-bond application by updating the in-bond record via a CBP-

approved EDI system within 24 hours of learning of the change.

(b) Merchandise received at the anticipated port of export may be entered for consumption, warehouse, FTZ or any other form of entry, and is subject to all the conditions pertaining to merchandise entered at a port of first arrival.

§ 18.24 Retention of goods within port limits; splitting of shipments.

(a) *Retention of goods within port limits.* Upon application via a CBP-approved EDI system by the carrier or any of the parties provided for in § 18.1(c), the port director, in his or her discretion, may allow in-transit merchandise, including merchandise covered by a carnet, to remain within the port limits under CBP supervision without extra expense to the Government for a period not exceeding 90 days, provided that the owner of the premises where the merchandise is located, has consented to the retention of the goods on the owner's premises. Upon obtaining CBP approval, the carrier or any of the parties provided for in § 18.1(c) must submit an immediate exportation in-bond application pursuant to §§ 18.1 and 18.25 of this chapter. Upon further requests, additional extensions of 90 days or less may be granted by the port director, but the merchandise may not remain in the port limits for more than 1 year from the date of arrival of the importing conveyance at the port of first arrival. Any merchandise that remains in the port limits without authorization is subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

(b) *Split shipments.* The splitting up of a shipment for exportation will be permitted when exportation in its entirety is not possible by reason of the different destination to which portions of the shipment are destined, when the exporting vessel cannot properly accommodate the entire quantity, or in similar circumstances. The carrier or any of the parties named in § 18.1(c) must, in accordance with the filing requirements of § 18.1, submit a new in-bond application for each portion of the original shipment to be transported in a manner inconsistent with the original in-bond application. All movements of split shipment must be initiated within two days from the date that the first portion of the split shipment is authorized or it will be considered an irregular delivery. In the case, however, of merchandise being transported under cover of a carnet, the splitting up of a shipment is not permitted.

Subpart E—Immediate Exportation

§ 18.25 Direct exportation.

(a) *Merchandise*—(1) *General.* Except for exportations by mail as provided for in subpart F of part 145 of this chapter (see also § 158.45 of this chapter), an in-bond application must be transmitted as provided under § 18.1, for the following merchandise when it is to be directly exported without transportation to another port:

(i) Merchandise in CBP custody for which no entry has been made or completed;

(ii) Merchandise covered by an unliquidated consumption entry; or

(iii) Merchandise that has been entered in good faith but is found to be prohibited under any law of the United States.

(2) *Carnets.* If a TIR carnet covers the merchandise that is to be exported directly without transportation, the carnet will be discharged or canceled, as appropriate (see part 114 of this chapter), and an in-bond application must be transmitted, as provided by this part. If an A.T.A. carnet covers the merchandise that is to be exported directly without transportation, the carnet must be discharged by the certification of the appropriate transportation and reexportation vouchers by CBP officers as necessary.

(b) *Restriction on immediate export by truck.* Trucks arriving at a United States port of entry, carrying shipments for which an immediate exportation entry is presented as the sole means of entry will be denied a permit to proceed. The port director may require the truck to return to the country from which it came or, at the discretion of the port director, may allow the filing of a new entry.

(c) *Time to export.* Any portion of an in-bond shipment entered for immediate exportation pursuant to an in-bond entry must be exported within 15 calendar days from the date of arrival to the port of export, unless an extension has been granted by CBP pursuant to § 18.24. On the 16th day, the merchandise will become subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

(d) *Electronic Export Information.* Filing of Electronic Export Information (EEI) is not required for merchandise entered under an Immediate Exportation entry provided that the merchandise has not been entered for consumption or for warehousing. If the merchandise requires an export license, the merchandise is subject to the filing requirements of the licensing Federal agency. See 15 CFR 30.37(e).

(e) *Exportation without landing.* If the merchandise is exported in the arriving carrier without landing, a representative of the exporting carrier who has knowledge of the facts must certify that the merchandise entered for exportation was not discharged during the carrier's stay in port. A charge will be made against the continuous bond on CBP Form 301, containing the bond conditions set forth in § 113.64 of this chapter, if on file. If a continuous bond is not on file, a single entry bond containing the bond conditions set forth in § 113.64 will be required as in the case of residue cargo for foreign ports. If the merchandise is covered by a TIR carnet, the carnet must not be taken on charge (see § 114.22(c)(2) of this chapter).

(f) *Notice and Proof of Exportation.* The bonded carrier must promptly, but no more than 24 hours after exportation, update the in-bond record via a CBP approved EDI system to reflect that the merchandise has been exported. The principal on any bond filed to guarantee exportation may be required by the port director to provide evidence of exportation in accordance with § 113.55 of this chapter within 30 days of exportation.

(g) *Explosives.* Gunpowder and other explosive substances, the deposit of which in any public store or bonded warehouse is prohibited by law, may be entered on arrival from a foreign port for immediate exportation in-bond by sea, but must be transferred directly from the importing to the exporting vessel.

(h) *Transfer by Express Shipment.* The transfer of articles by express shipment must be in accordance with the procedures set forth in § 18.22.

§ 18.26 Indirect exportation.

(a) *Merchandise exported without landing from importing carrier.* Merchandise to be exported in the importing carrier without landing, commonly referred to as freight remaining on board (FROB), may be transported in-bond to another port for exportation and entered for transportation and exportation in accordance with the procedure in § 18.20, upon the transmission of an in-bond application to CBP pursuant to § 18.1, via a CBP-approved EDI system. Upon acceptance of the entry by CBP and acceptance of the merchandise by the bonded carrier, the bonded carrier assumes liability for the transportation and exportation of the merchandise. If the merchandise was prohibited entry by any Government agency, that fact must be noted in the in-bond application.

(b) *Carnets*. If the merchandise was imported under cover of a TIR carnet, the carnet must be discharged or canceled at the port of importation and the merchandise transported under an electronic in-bond application (see § 18.25). If merchandise has been imported under cover of an A.T.A. carnet to be transported in-bond to another port for exportation, the appropriate transit voucher will be accepted in lieu of an electronic in-bond application. One transit voucher will be certified by CBP officers at the port of importation and a second transit voucher, together with the reexportation voucher, will be certified at the port of exportation.

(c) *Transfer at selected port of exportation*. If the merchandise is to be transferred to another conveyance after arrival at the port selected for exportation pursuant to paragraph (a) of this section, the procedure prescribed in § 18.3(d) will be followed. The provisions of §§ 18.23 and 18.24 will also be followed in applicable cases.

(d) *Time to export*. Any portion of an in-bond shipment entered for immediate exportation following an in-bond entry must be exported within 15 calendar days from the date of arrival to the port of export, unless an extension has been granted by CBP pursuant to § 18.24. On the 16th day, the merchandise will become subject to general order requirements under §§ 4.37, 122.50, or 123.10 of this chapter, as applicable.

(e) *Notice and Proof of Exportation*. The bonded carrier must promptly, but no more than 24 hours after exportation, update the in-bond record via a CBP approved EDI system to reflect that the merchandise has been exported. The principal on any bond filed to guarantee exportation may be required by the port director to provide evidence of exportations in accordance with § 113.55 of this chapter within 30 days of exportation.

§ 18.27 Port marks.

Port marks may be added by authority of the port director and under the supervision of a CBP officer. The original marks and the port marks must appear in all documentation pertaining to the exportation.

Subpart F—Merchandise Transported by Pipeline

§ 18.31 Pipeline transportation of bonded merchandise.

(a)(1) *General*. Merchandise may be transported by pipeline under the procedures in this part, as appropriate, and unless otherwise specifically provided for in this section.

(2) *In-bond application*. For purposes of this section, the in-bond application will be made by submitting a CBP Form 7512.

(b) *Bill of lading to account for merchandise*. Unless CBP has reasonable cause to suspect fraud, CBP will accept a bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper and accepted by the consignee to account for the quantity of merchandise transported by pipeline and to maintain the identity of the merchandise.

(c) *Procedures when pipeline is only carrier*. When a pipeline is the only carrier of the in-bond merchandise and there is no transfer to another carrier, the bill of lading or equivalent document of receipt issued by the pipeline operator to the shipper must be submitted with the in-bond application. If there are no discrepancies between the bill of lading or equivalent document of receipt and the in-bond application for the merchandise, and provided that CBP has no reasonable cause to suspect fraud, the bill of lading or equivalent document of receipt will be accepted by CBP at the port of destination or exportation as establishing the quantity and identity of the merchandise transported. The pipeline operator is responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries at the port of destination or exportation (see § 18.8).

(d) *Procedures when there is more than one carrier (i.e., transfer of the merchandise)*—(1) *Pipeline as initial carrier*. When a pipeline is the initial carrier of merchandise to be transported in-bond and the merchandise is transferred to another conveyance (either a different mode of transportation or a pipeline operated by another operator), the procedures in § 18.3 and paragraph (c) of this section must be followed, except that—

(i) When the merchandise is to be transferred to one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper must be delivered to the person in charge of the conveyance for delivery to the appropriate CBP official at the port of destination or export; or

(ii) When the merchandise is to be transferred to more than one conveyance, a copy of the bill of lading or equivalent document issued by the pipeline operator to the shipper must be delivered to the person in charge of each additional conveyance, for delivery to the appropriate CBP official at the port of destination or exportation.

(2) *Transfer to pipeline from initial carrier other than a pipeline*. When merchandise initially transported in-bond by a carrier other than a pipeline is transferred to a pipeline, the procedures in § 18.3 and paragraph (c) of this section must be followed, except that the bill of lading or other equivalent document of receipt issued by the pipeline operator to the shipper must be delivered to the appropriate CBP officer at the port of destination or port of export.

(3) *Initial carrier liable for discrepancies*. In the case of either paragraph (d)(1) or (d)(2) of this section, the initial carrier will be responsible for any discrepancies, including shortages, irregular deliveries, or nondeliveries, at the port of destination or failure to export at the port of exportation (see generally § 18.8).

(e) *Recordkeeping*. The shipper, pipeline operator, and consignee are subject to the recordkeeping requirements in 19 U.S.C. 1508 and 1509, as provided for in part 162 of this chapter.

Subpart G—Merchandise Not Otherwise Subject to Customs Control Exported Under Cover of a TIR Carnet

§ 18.41 Applicability.

The provisions of §§ 18.41 through 18.45 apply only to merchandise to be exported under cover of a TIR carnet for the convenience of the U.S. exporter or other party in interest and do not apply to merchandise otherwise required to be transported in bond under the provisions of this chapter. Merchandise to be exported under cover of a TIR carnet for the convenience of the U.S. exporter or other party in interest may be transported with the use of the facilities of either bonded or nonbonded carriers.

§ 18.42 Direct exportation.

At the port of exportation, the container or road vehicle, the merchandise, and the TIR carnet shall be made available to the port director. Any required export declarations shall be filed in accordance with the applicable regulations of the Bureau of the Census (15 CFR part 30) and the Export Administration (15 CFR chapter VII, subchapter C). The port director shall examine the merchandise to the extent he believes necessary to determine that the carnet has been properly completed and shall verify that the container or road vehicle has the necessary certificate of approval or approval plate intact and is in satisfactory condition. After completion of any required examination and

supervision of loading, the port director will seal the container or road vehicle with customs seals and ascertain that the TIR plates are properly affixed and sealed. See § 18.4(d). In the case of heavy or bulky goods moving under cover of a TIR carnet, the port director shall cause a customs seal or label, as appropriate, to be affixed. He shall also remove two vouchers from the carnet, execute the appropriate counterfoils, and return the carnet to the carrier or agent to accompany the merchandise.

§ 18.43 Indirect exportation.

(a) *Filing of Electronic Export Information.* When merchandise is to move from one U.S. port to another for actual exportation at the second port, any export declarations required to be validated shall be filed in accordance with the port of origin procedure described in the applicable regulations of the Bureau of the Census (15 CFR part 30) and the Export Administration (15 CFR chapter VII, subchapter C).

(b) *Origination port procedure.* The port director shall follow the procedure provided in § 18.42 in respect to examination of the merchandise, supervision of loading, sealing or labeling, and affixing of TIR plates. The port director will remove one voucher from the carnet, execute the appropriate counterfoil, and return the carnet to the carrier or agent to accompany the container or road vehicle to the port of actual exportation.

(c) *Port of export procedure.* At the port of actual exportation, the carnet and the container (or heavy or bulky goods) or road vehicle shall be presented to the port director who shall verify that seals or labels are intact and that there is no evidence of tampering. After verification, the port director shall remove the appropriate voucher from the carnet, execute the counterfoil, and return the carnet to the carrier or agent.

§ 18.44 Abandonment of exportation.

In the event that exportation is abandoned at any time after merchandise has been placed under cover of a TIR carnet, the carrier or agent shall deliver the carnet to the nearest CBP office or to the CBP office at the port of origin for cancellation (see § 114.26(c) of this chapter). When the carnet has been canceled, the carrier or agent may remove customs seals or labels and unload the container (or heavy or bulky goods) or road vehicle without customs supervision.

§ 18.45 Supervision of exportation.

The provisions of §§ 18.41 through 18.44 do not require the director of the port of actual exportation to verify that

merchandise moving under cover of a TIR carnet is loaded on board the exporting carrier.

Subpart H—Importer Security Filings

§ 18.46 Changes to Importer Security Filing information.

For merchandise transported in bond, which at the time of transmission of the Importer Security Filing as required by § 149.2 of this chapter is intended to be entered as an immediate exportation (IE) or transportation and exportation (T&E) shipment, permission from the port director of the port of origin is needed to change the in-bond entry into a consumption entry. Such permission will only be granted upon receipt by CBP of a complete Importer Security Filing as required by part 149 of this chapter.

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

9. The general authority for part 19, CBP regulations continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624;

* * * * *

10. In § 19.15, revise paragraphs (f) and (g)(1) to read as follows:

§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.

* * * * *

(f) The general procedure covering warehouse withdrawals for exportation must be followed in the case of articles withdrawn for exportation from a bonded manufacturing warehouse.

(g)(1) Articles may be withdrawn for transportation and delivery to a bonded storage warehouse at an exterior port under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), for the sole purpose of immediate export, except for distilled spirits which may be withdrawn under the provisions of section 311 for transportation and delivery to any bonded storage warehouse for the sole purpose of immediate export, or may be withdrawn pursuant to § 309(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1309(a)). To make a withdrawal an in-bond application must be filed (see part 18 of this chapter), as provided for in § 144.36 of this chapter. A rewarehouse entry shall be made in accordance with § 144.34(b) of this chapter, supported by a bond on CBP Form 301, containing the bond

conditions set forth in § 113.63 of this chapter.

* * * * *

PART 113—CUSTOMS BONDS

11. The general authority for part 113, CBP regulations continues to read as follows:

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

* * * * *

12. In § 113.63, revise paragraph (c)(1) to read as follows:

§ 113.63 Basic custodial bond conditions.

* * * * *

(c) * * *

(1) If a bonded carrier, to report in-bond arrivals and exportations in the manner and in the time prescribed by regulation and to export in-bond merchandise in the time periods prescribed by regulation.

* * * * *

PART 122—AIR COMMERCE REGULATIONS

13. The general authority for part 122, CBP regulations continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

14. In § 122.118, revise (b) to read as follows:

§ 122.118 Exportation from port of arrival.

* * * * *

(b) *Time.* Transit air cargo must be exported from the port of arrival within 15 days from the date the exporting airline receives the cargo. After the 15-day period, the individual cargo shipments must be made the subject of individual entries, as appropriate.

* * * * *

15. In § 122.119, revise paragraph (b) to read as follows:

§ 122.119 Transportation to another U.S. port.

* * * * *

(b) *Time.* Transit air cargo traveling to a final port of destination in the U.S. shall be delivered to Customs at its destination within 30 days from the date the receiving airline gives the receipt for the cargo at the port of arrival.

16. In § 122.120, revise paragraphs (c) and (k) to read as follows:

§ 122.120 Transportation to another port for exportation.

* * * * *

(c) *Time.* Transit air cargo covered by this section shall be delivered to Customs at the port of exportation

within 30 days from the date of receipt by the forwarding airline.

* * * * *

(k) *Failure to deliver.* If all or part of the cargo listed on the transit air cargo manifest is not accounted for with an exportation copy within 45 days, the director of the port of arrival shall take action as provided in § 122.119(d).

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

17. The general authority for part 123, CBP regulations continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

18. In § 123.31, revise paragraph (b) to read as follows:

§ 123.31 Merchandise in transit.

* * * * *

(b) *From one point in a contiguous country to another through the United States.* Merchandise may be transported from point to point in Canada or in Mexico through the United States in bond in accordance with the procedures set forth in §§ 18.1 and 18.20 through 18.24 of this chapter except where those procedures are modified by this subpart or subparts E for trucks transiting the United States, F for commercial traveler's samples, or G for baggage.

* * * * *

19. Revise § 123.32 to read as follows:

§ 123.32 In-bond application.

An in-bond application must be submitted pursuant to part 18 of this chapter upon arrival of merchandise which is to proceed under the provisions of this subpart.

§ 123.34 [Removed and Reserved]

20. Remove and reserve § 123.34.

21. In § 123.42, revise paragraph (c)(1) and the introductory text of paragraph (d), to read as follows:

§ 123.42 Truck shipments transiting the United States.

* * * * *

(c) *Procedure at United States port of arrival—(1) Filing of in-bond application.* An in-bond application must be filed pursuant to § 18.1 of this chapter prior to or upon arrival at a U.S. port. At CBP's discretion the driver may be required to present four validated copies of the United States-Canada Transit Manifest, CBP Form 7512-B Canada 81/2, to the CBP officer, who will review the manifest for accuracy and verify its validation by Canadian Customs. If the manifest is found not to

be validated properly, the truck will be required to be returned to the Canadian port of departure so that the manifest may be validated in accordance with Canadian Customs regulations. If the manifest is validated properly and no irregularity is found, the truck will be sealed unless sealing is waived by CBP. The CBP officer will note in the in-bond record and, if paper, on the manifest, the seal numbers or the waiver of sealing, retain the original, and return three copies of the manifest to the driver for presentation to CBP at the United States port of exit.

* * *

(d) *Procedure at United States port of exit.* The arrival of the in-bond shipment at the port of export must be reported to CBP in accordance with § 18.1 of this chapter. If CBP requires a paper manifest, the driver will present the three validated copies of the manifest to the CBP officer at the U.S. port of exit.

* * * * *

22. Revise § 123.52 (a) to read as follows:

§ 123.52 Commercial samples transported by automobile through the United States between ports in Canada.

(a) *General provisions.* A commercial traveler arriving from Canada may be permitted to transport effectively corded and sealed samples in his automobile without further sealing in the United States, upon compliance with this section and subject to the conditions of § 18.20(c) of this chapter, since customs bonded carriers as described in § 18.2 of this chapter are not considered to be reasonably available. Samples having a total value of not more than \$200 may be carried by a nonresident commercial traveler through the United States without cording and sealing and without an in-transit manifest in accordance with § 148.41 of this chapter.

* * * * *

23. Revise § 123.64(a) to read as follows:

§ 123.64 Baggage in transit through the United States between ports in Canada or in Mexico.

(a) *Procedure.* Baggage in transit from point to point in Canada or Mexico through the United States may be transported in-bond through the United States in accordance with the procedures set forth in §§ 18.1, 18.13, 18.14, and 18.20 through 18.24 of this chapter except where those procedures are modified by this section.

* * * * *

PART 141—ENTRY OF MERCHANDISE

24. The general authority for part 141, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1414, 1448, 1484, 1624.

25. In § 141.61, revise paragraph (e)(1)(i)(A) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(e) *Statistical information—(1) Information required on entry summary or withdrawal form—(i) Where form provides space—(A) Single invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Notes, Harmonized Tariff Schedule of the United States (HTSUS), must be shown on the entry summary, CBP Form 7501. The applicable information must also be shown on the in-bond application filed pursuant to part 18 of this chapter when it is used to document an incoming vessel shipment proceeding to a third country pursuant to an entry for transportation and exportation, or immediate exportation.

* * * * *

PART 142—ENTRY PROCESS

26. The general authority for part 142, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

27. In § 142.18, revise paragraphs (a)(1) and (2) to read as follows:

§ 142.18 Entry summary not required for prohibited merchandise.

(a) * * *

(1) An entry for exportation filed using an in-bond application pursuant to part 18 of this chapter, or an application to destroy the merchandise under CBP supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, filed using an in-bond application pursuant to part 18 of this chapter, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

* * * * *

28. In § 142.28, revise paragraph (a)(2) to read as follows:

§ 142.28 Withdrawal or entry summary not required for prohibited merchandise.

(a) * * *

(2) An entry for exportation or for transportation and exportation filed using an in-bond application pursuant to part 18 of this chapter, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

* * * * *

PART 143—SPECIAL ENTRY PROCEDURES

29. The general authority for part 143, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1414, 1481, 1484, 1498, 1624, 1641.

30. In § 143.1, revise paragraph (c) to read as follows:

§ 143.1 Eligibility.

* * * * *

(c) *Participants for other purposes.* Upon approval by CBP, any party may participate in ABI for other purposes, including transmission of protests, and applications for FTZ admission (CBP Form 214).

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

31. The general authority for part 144, CBP regulations, continues to read as follows:

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

* * * * *

32. In § 144.22, revise paragraph (b) to read as follows:

§ 144.22 Endorsement of transfer on withdrawal form.

* * * * *

(b) In-bond application filed pursuant to part 18 of this chapter, for merchandise to be withdrawn for transportation, exportation, or transportation and exportation.

33. In § 144.36, revise paragraph (c), the introductory text of paragraph (d), paragraph (f), and paragraph (g)(4) to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(c) *Form.* (1) A withdrawal for transportation shall be filed by submitting an in-bond application pursuant to part 18 of this chapter.

(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 using one in-bond application, under one control number, provided that the

information for each withdrawal, as required in paragraph (d) of this section is provided in the in-bond application for certification by CBP. With the exception of alcohol and tobacco products, this procedure will not be allowed for merchandise that is in any way restricted (for example, quota/visa).

(3) The requirement that an in-bond application be filed and the information required in paragraph (d) of this section be shown will not be required if the merchandise qualifies under the exemption in § 144.34(c).

(d) *Information required.* In addition to the statement of quantity required by § 144.32, the following information for the merchandise being withdrawn must be provided in the in-bond application:

* * * * *

(f) *Forwarding procedure.* The merchandise must be forwarded in accordance with the general provisions for transportation in bond (§§ 18.1 through 18.9 of this chapter). However, when the alternate procedures for transfers between integrated bonded warehouses under § 144.34(c) are employed, the merchandise need not be delivered to a bonded carrier for transportation, and an entry for transportation and a rewarehouse entry will not be required.

* * * * *

(g) * * *

(4) Forwarded to another port or returned to the port of origin in accordance with §§ 18.5(c) or 18.9 of this chapter;

* * * * *

34. In § 144.37, revise paragraphs (a) and (b), to read as follows:

§ 144.37 Withdrawal for exportation.

(a) *Form.* A withdrawal for either direct or indirect exportation must be filed by submitting an in-bond application pursuant to part 18 of this chapter or on CBP Form 7501 in 3 copies for merchandise being exported under cover of a TIR carnet. The in-bond application or CBP Form 7501 must contain all of the statistical information as provided in § 141.61(e) of this chapter. The port director may require an extra copy or copies of CBP Form 7501 for use in connection with the delivery of merchandise to the carrier.

(b) *Procedure for indirect exportation—(1) Forwarding.* Merchandise withdrawn for indirect exportation (transportation and exportation) must be forwarded to the port of exportation in accordance with the general provisions for transportation in bond (part 18 of this chapter).

(2) *Splitting of shipments.* The splitting up for exportation of shipments

arriving under warehouse withdrawals for indirect exportation will be permitted only when various portions of a shipment are destined to different destinations, when the export vessel cannot properly accommodate the entire quantity, or in other similar circumstances. In the case of merchandise moving under cover of a TIR carnet, if the merchandise is not to be exported or if the shipment is to be divided, appropriate entry will be required and the carnet discharged. The provisions of §§ 18.23 and 18.24 of this chapter concerning change of destination or retention of merchandise on the deck must also be followed in applicable cases.

* * * * *

PART 146—FOREIGN TRADE ZONES

35. The general authority for part 146, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

36. In § 146.62, revise paragraphs (a) and (b)(2) to read as follows:

§ 146.62 Entry.

(a) *General.* Entry for foreign merchandise that is to be transferred from a zone, or removed from a zone for exportation or transportation to another port, for consumption or warehouse, will be made filing an in-bond application pursuant to part 18 of this chapter, CBP Form 3461, CBP Form 7501, or other applicable CBP forms. If entry is made on CBP Form 3461, the person making entry shall file an entry summary for all the merchandise covered by the CBP Form 3461 within 10 working days after the time of entry.

(b) * * *

(2) An in-bond application for merchandise to be transferred to another port or zone or for exportation must provide that the merchandise covered is foreign trade zone merchandise; give the number of the zone from which the merchandise was transferred; state the status of the merchandise; and, if applicable, bear the notation or endorsement provided for in § 146.64(c), § 146.66(b), or § 146.70(c).

* * * * *

37. In § 146.66, revise paragraphs (a) and (b), and remove the words “Customs Form” and adding in their place the words “CBP Form” in paragraphs (c) and (d) to read as follows:

§ 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) must be made by a licensed cartman or a bonded carrier as provided for in § 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 filed via an in-bond application pursuant to part 18 of this chapter or other appropriate form with a CBP 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 CBP Form 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 must be made by bonded carrier under an entry for immediate transportation filed via an in-bond application pursuant to part 18 of this chapter. All copies of the entry must bear a notation that the merchandise is being transferred to another zone designated by its number.

* * * * *

38. In § 146.67, revise paragraphs (b) and (c) to read as follows:

§ 146.67 Transfer of merchandise for exportation.

* * * * *

(b) *Immediate exportation.* Each transfer of merchandise to the customs territory for exportation at the port where the zone is located will be made under an entry for immediate exportation filed in an in-bond application pursuant to part 18 of this chapter. The person making entry must furnish an export bond on CBP Form 301 containing the bond conditions provided for in § 113.63 of this chapter.

(c) *Transportation and exportation.* Each transfer of merchandise to the customs territory for transportation to and exportation from a different port, will be made under an entry for transportation and exportation in an in-bond application pursuant to part 18 of this chapter. The bonded carrier will be responsible for exportation of the

merchandise in accordance with § 18.26 of this chapter.

* * * * *

39. Revise § 146.68 to read as follows:

§ 146.68 Transfer for transportation or exportation; estimated production.

(a) *Weekly permit.* The port director may allow the person making entry for merchandise provided for in § 146.63(c) to file an application for a weekly permit to enter and release merchandise during a calendar week for exportation, transportation, or transportation and exportation. The application will be made by filing an in-bond application pursuant to part 18 of this chapter. The in-bond application must provide invoice or schedule information like that required in § 146.63(c)(1). If actual transfers will exceed the estimate for the week, the person with the right to make entry must file a supplemental in-bond application to cover the additional merchandise to be transferred from the subzone or zone site. No merchandise covered by the weekly permit may be transferred from the zone before approval of the application by the port director.

(b) *Individual entries.* After approval of the application for a weekly permit by the port director, the person making entry will be authorized to file individual in-bond applications for exportation, transportation, or transportation and exportation of the merchandise covered by permit. Upon transfer of the merchandise, the carrier must update the in-bond record via a CBP-approved system to ensure its assumption of liability under the carrier's or cartman's bond. CBP will consider the time of entry to be when the removing carrier updates the in-bond record.

(c) *Statement of merchandise entered.* The person making entry for merchandise under an approved weekly permit must file with the port director, by the close of business on the second working day of the week following the week designated on the permit, a statement of the merchandise entered under that permit. The statement must list each in-bond application by its unique IT number, and must provide a reconciliation of the quantities on the weekly permit with the manifested

quantities on the individual in-bond applications submitted to CBP, as well as an explanation of any discrepancy.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

40. The general authority for part 151, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

41. Revise § 151.9 to read as follows:

§ 151.9 Immediate transportation entry delivered outside port limits.

When merchandise covered by an immediate transportation entry has been authorized by the port director to be delivered to a place outside a port of entry as provided for in § 18.11(a) of this chapter, the provisions of § 151.7 must be complied with to the same extent as if the merchandise had been delivered to the port of entry, and then authorized to be examined elsewhere than at the public stores, wharf, or other place under the control of CBP.

PART 181—NORTH AMERICAN FREE TRADE AGREEMENT

42. The general authority for part 181, CBP regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314.

* * * * *

§ 181.47 [Amended]

43. In § 181.47, revise paragraph (b)(2)(ii)(E) by removing the words "Customs Form 7512" and replacing them with the words "In-bond application submitted pursuant to part 18 of this chapter".

David V. Aguilar,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: February 2, 2012.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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