



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Parts 4, 10, 11, 12, 18, 19, 24, 54, 112, 113, 118, 122, 123, 125, 127, 128, 132, 133, 134, 141, 142, 144, 146, 147, 148, 149, 151, 162, 163, 190, 191

[USCBP-2026-0199]

RIN 1685-AA24 (formerly RIN 1515-AE49)

Electronic Bond Transmission

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

ACTION: Proposed rule; request for comments.

SUMMARY: U.S. Customs and Border Protection (CBP) collects bonds from parties engaging in transactions or activities with CBP to adequately protect the revenue of the United States and ensure compliance with U.S. statutes and regulations. This document proposes to amend the CBP regulations to require that most bonds be transmitted to CBP electronically via a specialized system by the surety securing the bond, or by the principal on a bond secured by cash in lieu of surety. The changes proposed in this document further centralize and streamline CBP's bond program.

DATES: Comments on the proposed rule must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by docket number, through the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2026-0199.

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 and submitted comments, go to <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For questions regarding bond policy, contact Sharolyn McCann, Director, Commercial Operations, Revenue and Entry Division, Trade Policy and Programs, Office of Trade, at otbond@cbp.dhs.gov or (202) 384-8935. For operational questions, contact Kara Welty, Chief, Revenue Protection Branch, Revenue Division, Office of Finance, at KARA.N.WELTY@CBP.DHS.GOV or (202) 875-3284.

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I. PUBLIC PARTICIPATION

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this notice of proposed rulemaking. 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. If appropriate to a specific comment, the commenter should reference the specific portion of the proposed rule, explain the reason for any recommended change, and include data, information, or authority that supports the recommended change.

II. BACKGROUND

As more fully discussed below, this document proposes amendments to title 19 of the Code of Federal Regulations (CBP regulations), to require that bonds be transmitted to CBP using a specified electronic data interchange (EDI) or by email. Pursuant to these proposed amendments, all bonds, bond amendments, and terminations must be transmitted electronically to CBP, and CBP proposes to eliminate paper bonds. Bonds secured by a surety must be transmitted by the surety or the surety's authorized agent. Bonds secured by cash in lieu of surety must be transmitted by the principal on the bond. Under the proposed regulations, all bond processing will be centralized at CBP's Revenue Division, Office of Finance, in Indianapolis, Indiana.

Section 623 of the Tariff Act of 1930, as amended (19 U.S.C. 1623), gives CBP broad authority to require a bond, by regulation or specific instruction, where CBP deems it necessary to protect the revenue or ensure compliance with any provision of law, regulation, or instruction that CBP is authorized to enforce. 19 U.S.C. 1623(a). 19 U.S.C. 1623(b)(1) permits CBP to

prescribe the conditions and form of bonds and the manner in which the bond may be filed with or, pursuant to an authorized electronic data interchange system, transmitted to CBP. 19 U.S.C. 1623(b)(1). In 19 CFR part 113, CBP has promulgated regulations exercising this authority, detailing requirements for the execution and filing of bonds required by Chapter I of title 19 of the Code of Federal Regulations. These regulations outline a paper-based bond process designed to complement other paper-based processes in title 19. In keeping with other automation and centralization efforts, CBP is proposing to replace the paper-based bond process set forth in the regulations with an electronic bond process.

A. Development of the Automated Commercial Environment and Electronic Filing

Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057, December 8, 1993), commonly known as the Customs Modernization Act or Mod Act, amended the Tariff Act of 1930 to provide for electronic filing, among other things. Subtitle B of title VI established the National Customs Automation Program (NCAP), an automated and electronic system for the processing of commercial importations. Section 631 in Subtitle B of the Mod Act created sections 411 through 414 of the Tariff Act of 1930 (19 U.S.C. 1411-1414). These sections define and list the existing and planned components of the NCAP (section 411), promulgate program goals (section 412), provide for the implementation and evaluation of the program (section 413), and provide for Remote Location Filing (section 414). Paragraph (a) of Section 411, which lists the existing and planned components of the NCAP, includes the electronic filing of bonds as a planned component. 19 U.S.C. 1411(a)(2)(D). Paragraph (b) of Section 411 authorizes the Secretary of the Treasury to “require the electronic submission of information described in subsection (a),” by regulation.

Section 647 of the Mod Act amended section 623(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1623(b)(1)) to give CBP the authority to prescribe “the manner in which the bond may be filed with or, pursuant to an authorized electronic data interchange system, transmitted” to CBP. In addition, section 647 of the Mod Act amended section 623(d) of the Tariff Act (19 U.S.C.

1623(d)) to provide that “[a]ny bond transmitted to the Customs Service pursuant to an authorized electronic data interchange system shall have the same force and effect and be binding upon the parties thereto as if such bond were manually executed, signed, and filed.”

Pursuant to these mandates, CBP has modernized the business processes essential to securing U.S. borders, facilitating the flow of legitimate shipments, and targeting illicit goods. The key automated system behind these initiatives is the Automated Commercial Environment (ACE), the successor to the Automated Commercial System (ACS). ACE is an automated and electronic system for commercial trade processing that streamlines business processes, facilitates growth in trade, ensures cargo security, and fosters participation in global commerce, while ensuring compliance with U.S. laws and regulations and reducing costs for CBP and stakeholders. The ability to meet these objectives depends on successfully modernizing CBP's business functions and the information technology that supports those functions, including the development of modernized bond processes and an electronic system to support and streamline those processes.

ACE is the backbone of CBP trade data processing and risk management activities and provides a single, centralized access point to connect CBP, other International Trade Data System (ITDS) agencies, and the trade community. In 2015, CBP published an interim final rule amending the CBP regulations to reflect the designation of ACE as the CBP-authorized EDI system for processing of commercial trade data. Automated Commercial Environment (ACE) Filings for Electronic Entry/Entry Summary (Cargo Release and Related Entry), 80 FR 61278 (Oct. 13, 2015). That interim final rule became effective on November 1, 2015.

In preparation for the development and deployment of an automated bond program, CBP has engaged in regular outreach with stakeholders, including sureties, surety agents, customs brokers, trade groups and partner government agencies, with a view to obtaining meaningful feedback on existing systems and operations in order to build a mutually beneficial automated bond system.

B. Centralization and Modernization of Bond Processes

Concurrently with CBP's efforts to develop modernized electronic processes, CBP also engaged stakeholders on streamlining bond processes. In 2011, the Department of Homeland Security's Office of the Inspector General (OIG) conducted an audit of CBP's single transaction bond (STB) program, and found deficiencies in bond retention, accuracy and completion, and valuation, as well as problems with cargo being released prior to execution of bonds. *See* "Efficacy of Customs and Border Protection's Bonding Process," OIG 11-92, dated June 27, 2011, available for viewing at <https://www.govinfo.gov/app/details/GOVPUB-HS-PURL-gpo15744> (last visited December 10, 2025). The OIG recommended centralization and automation of the STB program, and CBP adopted this objective as a CBP mission priority.

The transition to electronic bond processing allowed CBP to develop and implement centralized filing procedures with the Office of Finance. In 2015, CBP centralized the filing, review and approval of continuous bonds at CBP's Revenue Division. Customs and Border Protection's Bond Program, 80 FR 70154 (Nov. 13, 2015). In that final rule, CBP amended part 113 of the CBP regulations to require continuous bonds to be filed with the Revenue Division and allow STBs to be filed with either the Revenue Division or the port. The rule also allowed STBs and continuous bonds to be filed by email or facsimile, in addition to the existing paper bond form, known as the CBP Form 301, and required that notice of bond termination be sent to the Revenue Division and centralize surety oversight in the Revenue Division.

C. The eBond System in ACE

The culmination of these efforts to automate and centralize bond processing is the development of the eBond system. In early 2014, CBP began building the eBond system, an EDI for the transmission of bond data. The eBond system harmonizes and enhances CBP bond processes pertaining to transmission, validation, maintenance, retention, and periodic review of all bonds collected by CBP, and establishes a single electronic repository for the centralization of those bonds within the Revenue Division.

On November 28, 2014, CBP published a notice in the *Federal Register* (Announcement of eBond Test, 79 FR 70881), announcing an NCAP test of the eBond system, designed to evaluate the functionality of the system, its impact on trade, and CBP's ability to protect the revenue and enforce applicable laws.¹ The eBond test was conducted pursuant to 19 CFR 101.9(b), which provides for the testing of NCAP programs. *See* Treasury Decision (T.D.) 95-21. The test began on January 3, 2015.

Pursuant to the test, participating sureties were invited to transmit electronic bonds, riders, and terminations to ACE through the eBond EDI. The test notice also provided procedures for email transmission of bonds and related documents to the Revenue Division, for manual input into ACE. The test required that all bonds and riders transmitted pursuant to the test be transmitted by the surety obligated on the bond or an authorized surety agent.

CBP published two subsequent notices modifying and extending the eBond test program in the *Federal Register*. In the second test notice, CBP modified the eBond test to allow conversion of continuous bonds executed outside the test into eBonds, clarified that principals and sureties are identified in eBond by their respective filing numbers rather than names, and amended the test requirements for termination of a bond in eBond. *eBond Test Modifications and Clarifications*, 80 FR 899 (Jan. 7, 2015). The third test notice extended the test period indefinitely. *Extension of National Customs Automation Program; eBond Test*, 83 FR 12403 (Mar. 21, 2018).

CBP has evaluated the eBond test and found it to be successful. Nearly all bonds transmitted to CBP in 2023 were transmitted pursuant to the test, rather than filed in paper or emailed pursuant to the procedures outlined in the regulations.² Electronic transmission of bonds benefits importers, sureties, and CBP by reducing paper processing, expediting cargo release,

¹ The Mod Act authorizes the Commissioner of CBP to conduct limited test programs to evaluate planned components of the NCAP. Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057, December 8, 1993).

² Out of 599,342 bonds transmitted to CBP in 2023, only 37 were submitted to the Revenue Division by email or mail.

expanding bond transmission capabilities beyond regular CBP business hours, and enhancing traceability for audit purposes. Sureties benefit through increased oversight and control over bonds on which they are obligated and the ability to receive real-time updates from ACE and through the ACE Portal. Finally, CBP benefits from decreased burdens associated with paper and increased opportunity for oversight.

The current regulations in part 113 envision a bonding process that includes the submission of a paper bond application and approval of that application by CBP. This application and approval process is both burdensome for CBP to administer and incompatible with the modernized eBond process developed for ACE. CBP is proposing changes to part 113 of the CBP regulations to replace this paper process with the electronic eBond process tested pursuant to the NCAP. Pursuant to the proposed regulations, ACE will be the EDI system authorized by the Commissioner for the electronic transmission of bond information (eBond system), and the eBond test will be ended at the time the proposed regulations are finalized. For those bonds not suitable for transmission via EDI, CBP will require email transmission to the Revenue Division. In the event of an ACE outage, CBP will follow the downtime procedures found on the CBP website at <https://www.cbp.gov/document/technical-documentation/ace-cbp-downtime-policy-trade>. The processes for transmission of bonds via EDI and email are outlined in Sections II.E. and II.F., below.

D. Effect of Transmission of a Bond, Bond Amendment, or Termination

The transmission of bond data via EDI or by email memorializes the agreement of the principals and sureties on the bond to be bound by the terms and conditions of the transmitted bond, bond amount adjustment, rider, or termination. In accordance with 19 U.S.C. 1623(d), and consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 *et seq.*, in place of signatures memorializing the parties' intent to be bound, the transmission of a bond, bond amount adjustment, rider, or termination to CBP pursuant to the proposed regulations constitutes a binding representation to CBP of the surety's authority to bind all sureties and

principals on the bond, bond amount adjustment, rider, or termination. In addition, transmission to CBP affirms the agreement of all sureties and principals on the bond to the terms and conditions of the transmitted bond, bond amount adjustment, rider, or termination. A bond, bond amount adjustment, rider, or termination transmitted via EDI or email has the same force and effect, and is binding upon the principal and surety thereto, as if such bond, bond amount adjustment, rider, or termination had been manually executed, signed, and filed in paper with CBP.

Likewise, the transmission of a bond secured by cash in lieu of surety by email memorializes the agreement of all principals on the bond to be bound by the terms and conditions of the transmitted bond. In accordance with 19 U.S.C. 1623(d), and consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, *et seq.*, in place of signatures memorializing the parties' intent to be bound, the principal's transmission to CBP of a bond secured by cash in lieu of surety is a binding representation of the transmitting principal's authority to bind itself and all other principals identified in the bond, and constitutes the agreement of all principals on the bond to be bound by the transmitted bond.

Identification or use of a bond by the principal or other authorized user to secure an activity or transaction reaffirms that the principal intends to be bound by the terms and conditions of the bond, including all riders thereto. These certifications are provided in proposed § 113.12, and are further explained in Section III, below.

E. Overview of Transmission of Bonds, Bond Amendments, and Terminations via the eBond EDI

Bonds Transmitted via EDI

The eBond EDI is built around the transmission of electronic bond data to CBP by the surety obligated on the bond. A bond transmitted via eBond is an electronic bond contract between the principal and the surety with CBP as the beneficiary, comprised of data elements required by the eBond system. These required data elements consist of a subset of the Office of

Management and Budget (OMB)-approved information collected on the CBP Form 301.

Because ACE is built to reduce or eliminate repeated collection of the same data elements, information already available in ACE is not re-collected as part of the eBond transmission.

All bonds, amendments, and terminations transmitted via EDI must be transmitted to CBP by the surety obligated on that bond or by the authorized surety agent. Filing requirements for eBond are detailed in the Customs and Trade Automated Interface Requirements (CATAIR) document, which provides conventional trade interface information for electronic bond data functionality in ACE. The CATAIR provides the input and output EDI record formations for the electronic transmission of bonds to CBP (record layouts). The input record layouts describe the data elements required by the automated EDI interface. The output record layouts describe a response to filing as generated and returned by the automated EDI interface. CBP has posted these technical specifications on the CBP website at the following link:

<https://www.cbp.gov/trade/ace/catair>. Any updates to the technical formats will be posted at the above link. The trade community is encouraged to subscribe to the Cargo Systems Messaging Service (CSMS) at <https://www.cbp.gov/trade/automated/cargo-systems-messaging-service> to receive timely notifications regarding ACE, including any future changes or updates to these technical specifications.

The required data elements are enumerated in detail in proposed § 113.21, and in the description of that provision, in Section III, below. The surety has the option of submitting additional data elements, such as the surety's internal reference number for the bond and the identification codes for any "secondary notify parties" for the bond. A "secondary notify party" is a party, identified by the surety, who will receive status notifications regarding the bond.

ACE will accept any bond data properly transmitted through the eBond system. Upon acceptance, the system will return a message to the surety and any secondary notify parties identifying the CBP-assigned bond number. A single transaction bond is available to secure an activity or transaction upon the bond's acceptance by ACE. For term bonds, including

continuous bonds, the surety must identify the effective date on which the bond may be used by the principal or authorized user to secure activities or transactions. The effective date must be on or after the date the bond is transmitted to CBP and accepted by ACE. The surety may select an effective date for a term bond, including a continuous bond, so long as the selected date is no more than 60 calendar days after the date the bond is transmitted to CBP. A single transaction bond is effective for the transaction it secures, regardless of the date of the transaction.

An appropriate bond must be effective in eBond before the commencement of the activity or transaction it secures. Thus, as an example, a bond securing entry must be accepted by the eBond system prior to transmission of the related entry or entry summary. When the related entry or entry summary is transmitted, ACE will validate the existence of the bond in eBond before accepting transmission of the entry or entry summary. The bond is then linked in ACE to the relevant transaction.

CBP will conduct sufficiency reviews of all bonds transmitted to CBP to ensure that the amount and type of bond are sufficient to protect the revenue and ensure compliance with all applicable laws and regulations. This sufficiency review is discussed in more detail in proposed § 113.13, and in the explanation of that provision in Section III of this document.

Bond Amendments Transmitted via EDI

CBP will permit limited amendments to bonds after transmission to CBP. Only those changes expressly provided for in proposed § 113.23 will be permitted. To effect any other change, the surety must terminate the existing bond and replace that bond with a new bond.

For STBs transmitted via EDI with Activity Code 1, which are bonds for basic importation and entry, CBP will permit the surety to adjust the amount of the bond following transmission of the bond, so long as that adjustment is transmitted within 10 business days of the date of entry.³ To ensure the protection of the revenue and legal compliance, transmission of a

³ The activity code is the CBP-assigned number identifying the terms and conditions for a bond securing a particular activity or transaction. Activity Code 1 bonds are importer or broker bonds. The terms and conditions for bonds with Activity code 1 are set forth in 19 CFR 113.62.

bond amount adjustment to CBP constitutes the surety's and the principal's agreement that the amended bond amount will only limit their liability if it was calculated and transmitted using reasonable care, as that term is used in 19 U.S.C. 1484 for importations and entries. Absent reasonable care, the bond amount in effect prior to transmission of the bond amount adjustment would remain in effect. The failure to use reasonable care may result in penalties or other enforcement actions permitted by law. Transmission of a bond amount adjustment to CBP would also constitute the surety's and the principal's agreement that CBP may immediately prohibit either the surety or the principal, or both, from being party to future bond amount adjustments to any bond, if necessary to protect the revenue or to ensure legal compliance.

CBP would also permit transmission of five bond riders, as described in proposed § 113.24: the user addition rider, the user deletion rider, the addition of a reconciliation rider, the removal of a reconciliation rider, and the U.S. Virgin Islands rider. The user addition and user deletion riders would allow the surety to add and delete authorized users on an existing bond. An authorized user is a person, business firm, government agency, or other organization that is authorized to obligate the bond in the principal's name. The authorized user must be an unincorporated unit of an identified principal or a trade or business name used by an identified principal in its business. An authorized user may use the bond to cover activities or transactions to the same extent as the principal on the bond, and any such activities or transactions will be considered to be the activities or transactions of the bond principal.

The reconciliation rider would allow the principal and surety to utilize the bond to cover all reconciliations elected pursuant to 19 U.S.C. 1484(b) on entries secured by the identified bond, and certifies that all conditions set out in § 113.62 are applicable to the identified bond. The surety may also remove the reconciliation rider via EDI.

The U.S. Virgin Islands rider would memorialize agreement by the principal and surety that the words "United States," whenever used in the terms and conditions of the identified bond,

include the U.S. Virgin Islands, and that activities or transactions of the principal in the U.S. Virgin Islands are covered by the identified bond as if they occurred in the United States.⁴

Riders amending a bond transmitted via the eBond EDI would also be required to transmit to CBP via EDI. The data elements required in the transmission of a rider are described in proposed § 113.24, and further explained in the explanation of that provision in Section III below. Except for the amendments made pursuant to the bond rider, the surety and principal would agree that all other terms and conditions of the identified bond remain unchanged. Identification or use of a bond amended by a rider by the principal or other authorized user to secure an activity or transaction reaffirms that the principal intends to be bound by the terms and conditions of the bond and the rider. These terms and conditions include certifications, which are provided in proposed § 113.12, and are further explained in Section III, below.

ACE will accept any bond rider properly transmitted through the eBond system. Upon acceptance, the system will return a message to the surety and any secondary notify parties. Reconciliation and U.S. Virgin Islands bond riders are effective upon acceptance by the eBond system. Sureties must identify an effective date for a bond rider adding an authorized user, identifying the date on which the added user may begin using the bond. The effective date for the user addition rider must be on or after the transmission date of the rider, and no more than 60 calendar days after the date the rider is transmitted to CBP. Similarly, sureties must identify an effective date for a bond rider deleting an authorized user, identifying the date on which the user is no longer authorized to use the bond. The effective date for a user deletion rider must be at least 10 business days after the transmission date of the user deletion rider.

Termination of Bonds via EDI

⁴ A U.S. Virgin Islands rider is required because the U.S. Virgin Islands is outside the customs territory of the United States. The customs territory of the United States includes only the States, the District of Columbia, and Puerto Rico. *See* 19 CFR 101.1 and General Note 2 of the Harmonized Tariff Schedule of the United States (HTSUS). This rider is only needed for the U.S. Virgin Islands because the Secretary of the Treasury administers the customs laws of the U.S. Virgin Islands through CBP. *See* 19 CFR 7.2(c). The other insular possessions of the United States other than Puerto Rico, including Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, are not governed by the Tariff Act of 1930, as amended, or by the CBP regulations.

CBP will permit sureties to terminate bonds via EDI or by email to the Revenue Division. Principals wishing to terminate a bond must send notice of termination by email to the Revenue Division. The surety may terminate the bond with or without the consent of the principal, but must provide the principal notice of the termination, as detailed in proposed § 113.27. The surety must transmit the effective date of the termination to CBP, and that termination date must be at least 15 calendar days after the date of the electronic notice of termination.

F. Overview of Transmission of Bonds, Riders, and Terminations by Email to the Revenue Division

Bonds Transmitted by Email

In order to effectively implement the streamlined procedures developed for bonds, CBP has adapted the process for email transmission of bonds to mirror the requirements for bonds transmitted via EDI. A bond transmitted by email is an electronic bond contract between principal and surety with CBP as beneficiary, comprised of the same data elements required by the eBond system. These required data elements consist of a subset of the OMB-approved information collected on the CBP Form 301. With the exception of bonds secured by cash in lieu of surety, all bonds transmitted by email to the Revenue Division must be sent by the surety obligated on the bond or by the authorized surety agent. Bonds secured by cash in lieu of surety must be transmitted to the Revenue Division by the principal on the bond. All bonds transmitted to the Revenue Division by email are manually added to the eBond system and are effective only after they have been successfully added to the eBond system. Upon acceptance by the eBond system, the system will return a message to the surety and any secondary notify parties on the bond, identifying the CBP-assigned bond number. In addition, a CBP Form 301, annotated with the CBP-assigned bond number, will be sent by email to the surety. If requested by the surety, CBP will mail a CBP Form 301, annotated with the CBP-assigned bond number, to the principal. Principals transmitting a bond secured by cash in lieu of surety via email will not receive

automated messages from ACE; a copy of the CBP Form 301, annotated with the CBP-assigned bond number, will be mailed to such parties.

Formatting requirements for bonds sent by email to the Revenue Division are posted on the CBP website at the following link: <https://www.cbp.gov/trade/priority-issues/revenue/bonds/bond-centralization-program>. Any updates to the requirements will be posted at the above link. Bonds transmitted via email must adhere to these formatting requirements, and include, as an attachment to the email, a CBP Form 301 containing the data elements required by proposed § 113.21. The data elements collected in bond transmissions sent by email are a subset of the information collected on the CBP Form 301. The surety has the option of submitting additional data elements, such as the identification codes for any “secondary notify parties” for the bond. A “secondary notify party” is a party, identified by the surety, who will receive status notifications regarding the bond.

For term bonds, including continuous bonds, the bond transmitted via email must identify the effective date on which the bond may be used by the principal or authorized user to secure activities or transactions. The effective date for a term bond transmitted by email must be at least ten business days after the date the bond is received by CBP. The surety may elect an effective date for a term bond, including a continuous bond, so long as the selected day is no more than 60 calendar days after the date the bond is transmitted to CBP. A single transaction bond is effective for the transaction it secures, regardless of the date of the transaction.

An appropriate bond must be effective and in the eBond system before the commencement of the activity or transaction it secures. For example, a bond securing entry must be in eBond prior to transmission of the related entry or entry summary. When the related entry or entry summary is transmitted, ACE will validate the existence of the bond in eBond before accepting transmission of the entry or entry summary. The bond is then linked in ACE to the relevant transaction.

CBP will conduct sufficiency reviews of all bonds transmitted to CBP to ensure that the amount and type of bond are sufficient to protect the revenue and ensure compliance with all applicable laws and regulations. This sufficiency review is discussed in more detail in proposed § 113.13, and in the overview of that provision in Section III, below.

Bond Riders Transmitted by Email

For bonds transmitted by email, CBP will permit only amendments made by bond rider, as provided for in proposed § 113.23. To effect any other change, the surety must terminate the existing bond and replace that bond with a new bond.

As with bonds transmitted by EDI, CBP will permit email transmission of the five bond riders listed in proposed § 113.24 and described in Section II.E. *supra*: the user addition rider, the user deletion rider, the addition of a reconciliation rider, the removal of a reconciliation rider, and the U.S. Virgin Island rider. Riders amending a bond that was transmitted by email to the Revenue Division must also be transmitted to CBP by email to the Revenue Division. The information required in a rider transmitted by email is the same as the information required for a rider transmitted by EDI. This information is described in proposed § 113.24, and further explained in the description of that provision in Section III, below.

All riders properly transmitted to the Revenue Division by email will be added to the eBond system. Upon acceptance, the system will return a message to the surety and any secondary notify parties. The effective dates for bond riders transmitted by email will be the same as the effective dates of bonds transmitted by EDI, and are explained in Section III, below.

Termination of Bonds by Email

CBP will permit sureties to terminate continuous bonds via EDI or by email to the Revenue Division. Principals wishing to terminate a continuous bond must send notice of termination by email to the Revenue Division. The surety may terminate the bond with or without the consent of the principal, but must provide the principal notice of the termination, as detailed in proposed § 113.27. The principal or surety must identify the effective date of the

termination in the notice to CBP. That termination date must be at least 15 calendar days after the date of the notice of termination.

III. Explanation of Proposed Amendments to CBP Regulations

A. Proposed Amendments to Part 113

CBP is proposing amendments to part 113, in accordance with the new procedures described above. CBP is proposing to amend the scope provision at § 113.0 to reflect the proposed electronic bond process, removing reference to the submission of a bond application and subsequent approval by CBP. Instead, the scope provision will reflect the transmission of bond information, and CBP's subsequent review for sufficiency.

Proposed Amendments to Subpart A

CBP is proposing amendments to Subpart A to define terms used throughout part 113 and to clarify the transition from bonds executed under the current regulations to bonds transmitted electronically pursuant to the proposed regulations. The proposed amendments are as follows.

First, CBP proposes to move the existing authority provision in § 113.1 to a revised § 113.2, and to add a new "Definitions" section for § 113.1. The proposed § 113.1 will define the following terms:

- *Activity code*: a CBP-assigned number identifying a set of terms and conditions for a bond securing a particular activity or transaction.
- *Authorized user*: an unincorporated unit, trade name, or business name of the identified principal on the bond who is authorized to obligate a bond in the principal's name, and must have a CBP filing identification number identical to that of the principal on the bond, except that the optional two-digit suffix code may differ as allowed in 19 CFR 24.5. To make the regulations easier to read and understand, the singular term "authorized user" is used generally and, unless the context indicates otherwise, includes and applies to several "authorized users"

(and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. § 1).

- *Bond*: a contract between principal and surety, or an agreement by a principal secured by cash in lieu of surety (even when the cash is not required to be deposited with CBP), securing the principal's performance of one or more obligations imposed by the U.S. Government with CBP or another party as beneficiary. A bond is comprised of the elements required under proposed part 113, and includes any amendments made to the bond in accordance with proposed part 113.
- *Bond amount adjustment*: a retroactive amendment of a single transaction bond's amount or limit of liability, made in accordance with § 113.23 of proposed part 113.
- *Bond rider*: a prospective amendment of a bond, made in accordance with proposed part 113.
- *Consolidated Bond*: a bond (single transaction or term) assuring compliance with two or more provisions of law, regulations, or instructions that CBP is authorized to enforce.
- *Continuous Bond*: a term bond with a bond period of one year, that renews automatically for a new one-year period beginning on the anniversary of the effective date of the bond and continuing for each succeeding one-year period, unless terminated sooner by the principal or surety, or cancelled by CBP, in accordance with the regulations in proposed part 113. Each one-year period of a continuous bond, or partial-year period if the bond is terminated sooner, constitutes a separate period of liability in the amount of the bond for the transactions or activities that occur within the period.

- *Electronic Data Interchange (EDI)*: eBond or any other CBP-authorized functionality that allows filers to transmit data electronically to, and receive electronic messaging from, CBP and the CBP-authorized EDI system.
- *Electronic Data Interchange (EDI) system*: the Automated Commercial Environment (ACE) or any other established mechanism approved by the Commissioner of CBP through which information can be transferred electronically.
- *Principal*: a person, business firm, government agency, or other organization, as identified by a CBP filing identification number, as detailed in § 24.5 of this title, engaged in a transaction or activity for which CBP requires a bond, including the officers, employees, contractors, and/or agents of such person, business firm, government agency, or other organization. To make the regulations easier to read and understand, the singular term “principal” is used generally and, unless the context indicates otherwise, includes and applies to several “principals” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).
- *Revenue Division*: the centralized office within the CBP Office of Finance responsible for bond processing and retention for all continuous and single transaction bonds.
- *Single Transaction Bond (STB)*: a bond securing one transaction or activity covered by a single activity code.
- *Surety*: a company listed in Treasury Circular 570 as an acceptable surety on Federal bonds or as an acceptable reinsurance company for such bonds, and the officers, employees, and/or agents (including surety agents) of such company. To make the regulations easier to read and understand, the singular term “surety” is used generally and, unless the context indicates otherwise, includes and applies to

several “sureties” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).

- *Surety agent*: a person, business firm, or other organization granted power of attorney by a surety pursuant to 19 CFR 113.37 to transact business on behalf of the surety. To make the regulations easier to read and understand, the singular term “surety agent” is used generally and, unless the context indicates otherwise, includes and applies to several “surety agents” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).
- *Term bond*: a bond securing one or more transactions or activities with the same activity code over a defined period of time.
- *Void*: invalidating an STB transmitted to CBP via EDI before that single transaction bond has been used to secure an activity or transaction. Once voided, that single transaction bond will no longer be available to secure any activity or transaction. Only the surety may void an STB.

In revising the rest of subpart A, CBP proposes to consolidate the authority provision currently in § 113.1, which details the powers of the Commissioner of CBP relating to bonds, and that the Commissioner may authorize the Director, Revenue Division or the port director to require bonds or other security, with existing § 113.2. CBP would update the introductory text of proposed § 113.2 to clarify that the Commissioner may also authorize the Center director to require bonds or other security. CBP also proposes to modernize the language in § 113.2 by replacing the word “penalty” and the words “penalty for violation” with the word “amount” in proposed paragraphs (a) and (d) and making technical amendments to proposed paragraph (c) to replace the words “he” and “his” with the word “Commissioner” to make clearer who the references are referring to. Next, CBP proposes clarifying amendments to § 113.3, regarding the liability of the principal and the surety by adding a reference to transactions or activities that occur prior to termination of the bond, and noting CBP’s authority to relieve liability on a

terminated bond. Currently, § 113.4 provides an explanation for bonds and carnets. CBP proposes to remove the definition for “CBP bond” from § 113.4, as a new definition for “bond” has been proposed in § 113.1, obviating the need for clarification in § 113.4.

Lastly, CBP proposes to add two new provisions in subpart A. First, in § 113.5, CBP proposes to add a new provision specifying CBP authority to require a bond by specific instruction. The language of the proposed § 113.5 is modeled on the existing language in § 113.14, which CBP proposes to remove and replace with a new provision. Second, CBP proposes to add a new provision in § 113.6 detailing the treatment of existing bonds once the final rule implementing the new regulations is effective. All new bonds transmitted to CBP on or after the effective date of the final rule will be subject to the amended regulations in part 113. An STB filed with or transmitted to CBP prior to the effective date of the final rule will remain subject to the terms and conditions that were in place on the date that the bonds were executed. Thus, STBs will be subject to the prior regulations or eBond test requirements in place on the date of execution.

For term bonds, including continuous bonds, the proposed rule outlines a rolling transition from bonds under the existing regulations to bonds under the new regulations, beginning with the effective date of the final rule. Principals may continue to secure transactions or activities with a term bond executed prior to the effective date of the final rule until the end of that bond’s latest bond period (e.g., the end of the latest one-year period in the case of continuous bonds). Term bonds filed with or transmitted to CBP prior to [*insert effective date of Final Rule here*] will remain subject to the terms and conditions that were in place on the date that the bonds were executed. Term bonds will also be subject to the prior regulations or eBond test requirements in place on the date of execution. At the end of the bond’s latest bond period, the bond will be deemed insufficient to secure any new transaction or activity. In order for principals to secure further transactions or activities with a term bond, their surety must transmit a new term bond to CBP on or after the effective date of the final rule. This rolling transition

period is intended to align with the bond period for term bonds, to ensure that principals are not required to obtain a new term bond prior to the end of the current bond period for a bond executed prior to the effective date of the final rule. On and after the one-year anniversary of the effective date of the final rule, all new transactions or activities must be secured with bonds under the new regulations.

Proposed Amendments to Subpart B

Currently, subpart B describes a paper-intensive process for submission of bonds to CBP. For STBs, the existing process requires the submission of either a bond application or a sufficient bond with the entry or entry summary, to be approved by either the port or the Revenue Division. For continuous bonds, the existing process requires the submission of a bond application to the Revenue Division, to be approved by the Revenue Division. CBP proposes to amend the provisions in subpart B by replacing the existing process with new regulations consistent with electronic transmission of bonds and bond amendments. The proposed changes are as follows.

First, CBP proposes to change the heading of subpart B to “Transmission, Sufficiency, and Retention of Bonds” to reflect the new contents of the subpart.

In § 113.11, CBP proposes to replace the existing provisions detailing bond application requirements with new requirements for electronic bond transmission. Proposed § 113.11(a) would require that all bonds secured by a surety be transmitted by that surety, or by a surety agent authorized to transmit bonds on behalf of that surety, unless otherwise permitted by CBP. The bond transmission would also be required to meet the new electronic filing requirements laid out in proposed subpart C of part 113. Proposed § 113.11(b) would require that all bonds secured by a surety be transmitted to CBP via EDI, unless specifically required to be transmitted by email pursuant to proposed § 113.11(c) or when otherwise agreed by CBP. Under this proposed provision, a bond transmitted via EDI is active and available to secure a transaction once the eBond system has accepted the transmission.

Proposed § 113.11(c) would require email transmission for specific bonds, or in particular circumstances where transmission by EDI is not possible. As described in more detail in Section II.F. above, bonds emailed to CBP pursuant to proposed § 113.11(c) would become active and available to secure a transaction once CBP has added the bond to the eBond system. While CBP would aim to add the bond to the eBond system in an expedited manner, the effective date for a term bond transmitted by email must be at least ten business days after the date the bond is received by CBP since it could possibly take up to ten business days for the bond to be added to the eBond system. CBP proposes to require email transmission of the following:

- Neutrality bond (Activity Code 9, bond terms and conditions found in current and proposed § 113.71);
- Intellectual Property Rights (IPR) bond (Activity Code 15, terms and conditions found in current and proposed § 113.70);
- Any bond with two or more sureties, pursuant to proposed § 113.37(d)(1), unless all sureties on the bond share the same ACE filer code;
- Any re-insurance agreement, pursuant to proposed § 113.37(d)(2);
- Cash in lieu of surety pursuant to current and proposed § 113.40. Such bonds must be transmitted by the principal on the bond.
- Bonds without surety or cash deposit. Such bonds must be transmitted by the principal on the bond.
- Any other bond that cannot be transmitted via EDI.

Upon adoption of these proposed changes, CBP will no longer accept paper bonds. All bonds would be required to be transmitted to CBP electronically via the eBond EDI or, unless otherwise specified, by email to the Revenue Division.

Next, CBP proposes to remove the existing provisions in § 113.12, which outline CBP's bond approval process, because CBP will no longer use this process. CBP proposes to add a new provision in § 113.12, replacing the signature and seal requirements that are part of the paper

process currently in part 113 with new certification requirements complementing the proposed electronic process.

Under the paper bond process currently in the regulations, the parties to the bond contract must sign the CBP Form 301 and apply a seal before filing the form with CBP. In the new electronic process, the certifications in proposed § 113.12 would replace these requirements. The transmission of a bond to CBP by the surety and the principal's use of that bond, as amended by any bond riders or bond amount adjustments, to secure an activity or transaction, constitute acknowledgment of the legally binding nature of the bond. Therefore, proposed paragraph (a) states that transmission of a bond, bond rider, or bond amount adjustment to CBP constitutes binding representation by the surety or surety agent that the surety or surety agent has the authority to bind both the surety and principal identified on the bond, bond rider, or bond amount adjustment. In addition, transmission to CBP would constitute the certification of the surety or surety agent that both the surety and the principal have the legal capacity to enter into a contract. Transmission would also represent agreement that both the surety and principal agree to be bound by the transmitted bond, bond rider, or bond amount adjustment, including all terms and conditions pertaining to that bond, bond rider, or bond amount adjustment.

Lastly, transmission of a bond rider or bond amount adjustment would represent the agreement of the surety and principal on the bond to be bound by the terms and conditions of the identified bond, as amended by the transmitted bond rider or bond amount adjustment. Except for the amendments made pursuant to the bond rider or bond amount adjustment, the surety and principal would agree that all other terms and conditions of the identified bond remain unchanged.

Proposed paragraph (b) enumerates similar conditions for bonds without a surety, which are transmitted to CBP by email pursuant to proposed § 113.11. Transmission of the bond or bond rider to CBP by the principal would constitute binding representation by the transmitting principal that it has the authority to bind itself and all other principals identified in the bond or

bond rider, and that all identified principals have the legal capacity to enter into a contract. In addition, transmission represents agreement that all principals agree to be bound by the transmitted bond or bond rider, including all terms and conditions pertaining to that bond or bond rider. Lastly, transmission of a bond rider would represent agreement of all principals on the bond to be bound by the terms and conditions of the identified bond, as amended by the transmitted bond rider. Except for the amendments made pursuant to the bond rider, the principals would agree that all other terms and conditions of the identified bond remain unchanged.

Proposed paragraph (c) states that the principal's or any authorized user's use of a bond to secure an activity or transaction constitutes reaffirmation by the principal that it has the legal capacity to enter into a contract and agrees to be bound by the terms and conditions of the identified bond, and any associated amendments.

In the current regulations, § 113.13 details requirements imposed by CBP to ensure that the amount of a bond is sufficient to protect the revenue and ensure compliance with applicable laws, regulations, and instructions. CBP proposes to expand this provision to consider the sufficiency of the bond more generally, including not only the amount of the bond, but also the type of bond or other security. Under the existing regulatory procedures, CBP has the opportunity to consider and approve or deny a continuous bond application before any activity can be conducted using that bond. Because the proposed amendments would eliminate this procedure, CBP is proposing to amend § 113.13 to include review of both the amount of the bond and the type of the bond when conducting a sufficiency review. This ensures that CBP can require additional security where necessary to protect the revenue and ensure compliance with applicable laws, regulations, and instructions. Therefore, CBP proposes to retitle § 113.13 as "Sufficiency of bond."

This document proposes minor amendments to § 113.13(a), which generally sets the minimum amount for any bond at \$100. CBP is proposing amendments clarifying that fractional

parts of a dollar will be rounded up to the next dollar rather than disregarded and replacing the reference to “CBP bond” with “bond.”

In § 113.13(b), CBP is proposing minor amendments to the guidelines for determining the sufficiency of a bond. CBP proposes to amend the introductory paragraph, by removing references to the amount of the bond, since CBP will consider more than just the amount of the bond in determining sufficiency. CBP also proposes to state that CBP “may” consider any of the listed factors, as not all factors are relevant to every bond, and CBP has long operated under an interpretation of this provision as discretionary, even with its existing language. Additionally, CBP proposes to clarify that the record of any authorized user on the bond may be considered in determining whether the amount of the bond is sufficient. In § 113.13(b)(2), CBP proposes to consider the prior record of the principal in complying with CBP demands for information or documents when determining whether a bond is sufficient. The proposed changes would replace the word “commitments” in § 113.13(b)(5) with the word “obligations” to be consistent with terminology used elsewhere in part 113. Lastly, in § 113.13(b)(6), CBP proposes to remove the reference to information contained in a bond application, which will no longer exist, and instead state that CBP may consider any other relevant information in determining the bond needed to protect the revenue and ensure compliance.

CBP proposes to combine existing § 113.13(c) and (d), which provide for periodic sufficiency review and CBP’s ability to require additional security as separate CBP responsibilities, into proposed paragraph (c), *review of bond*, to expand CBP’s review of the bond to include not only the amount of the bond, but also the type of bond or other security. While proposed paragraph (d) maintains the same heading as existing § 113.13(d), proposed paragraph (d) would set forth the form the additional security, which is required by CBP for the principal’s transaction(s) or activity(ies) and authorized user’s transaction(s) or activity(ies), may take. CBP further proposes to clarify the procedures and timing for remedying an insufficient bond. This is intended to clarify CBP’s existing authority to determine that a bond or other

security is insufficient, and to ensure that the insufficiency is remedied before further transactions or activities can occur. CBP proposes to amend § 113.13(c) to include review of all aspects of the bond securing the principal's transactions or activity and any authorized user's transactions or activity, not just the amount of the bond. CBP proposes to rephrase "periodic" review as "regular" review, as CBP is gradually increasing its ability to review bonds on file for sufficiency. Because CBP has added electronic notice capabilities for sureties and other parties to the bond, CBP proposes to provide electronic notice of insufficiency. Electronic notice has the advantage of being instantaneous, allowing the parties to the bond to remedy any insufficiency rapidly. CBP will retain the ability to provide notice of insufficiency in writing, for those parties unable to receive electronic notice.

Upon receipt of a notice of insufficiency, the principal and surety must transmit additional security to CBP before further transactions or activity can take place. Such additional security is described in proposed § 113.13(d). In general, principals and sureties would have 15 calendar days to remedy any insufficiency. This would remain unchanged from the current regulations. However, as described in existing § 113.13(d), where CBP determines that the bond presents an immediate risk to the revenue or enforcement of applicable laws and regulations, CBP will notify the principal and surety that additional security is required in a shorter timeframe to protect the revenue and ensure compliance with applicable laws and regulations. CBP may require the immediate provision of additional security in such cases. CBP proposes to move this requirement to proposed § 113.13(c).

If the principal wishes to challenge CBP's sufficiency determination, the principal must make a written submission to CBP demonstrating that the bond is sufficient, as provided in proposed § 113.13(c). The notice of insufficiency would provide contact information for that submission. CBP would consider the principal's written submission and notify the principal and surety of any change to the sufficiency determination in writing or electronically via email. Pursuant to proposed § 113.13(c), until a sufficient bond or other security has been provided,

CBP may reject, suspend, or otherwise prevent the principal or any authorized user from further transactions or activities.

Proposed § 113.13(d) delineates the remedies for insufficiency. First, CBP proposes to permit a surety to increase the amount of an existing STB with Activity Code 1 that was transmitted via EDI, if the increase is transmitted to CBP within 10 business days of the date of entry. This procedure is explained in further detail in proposed § 113.23(b). CBP also proposes that a continuous bond deemed to be insufficient must be terminated and replaced with a new bond of an amount and type deemed sufficient by CBP. CBP would also be permitted to require one or more additional bonds to secure a transaction, or may require other security, as dictated by the risks of the particular transaction or activity to be secured.

CBP proposes to add § 113.13(e) to establish the joint and several liability of principal and sureties for obligations arising under all bonds that secure the same transaction or activity. In other words, this paragraph would specify that where a principal identifies only a single transaction bond to secure a transaction or activity, CBP may hold the principal and the sureties on all other bonds securing the same transaction or activity jointly and severally liable for any obligations (e.g., penalty, duty, tax or other charge) arising under the bonds. This would be true regardless of whether the bonds have the same surety and even if one or more of the bonds are not identified by the principal as securing the transaction or activity at the time it occurs.⁵ This provision protects the revenue by ensuring that adequate assets are available to pay assessed charges. However, as delineated in proposed § 113.13(d), importers would still retain the ability to provide additional security in the manner most appropriate for the importer.

The existing § 113.14 provides that, if it is determined that none of the conditions in subpart G of part 113 is applicable to the contemplated transaction or activity, CBP may draft

⁵ See *United States v. Am. Home Assurance Co.*, 113 F. Supp. 3d 1297, 1306-09 (Ct. Int'l Trade 2015), *aff'd under* Fed. Cir. R. 36, 776 Fed. Appx. 712 (Sep. 6, 2019) (finding that both the surety issuing the continuous bond for an entry and the surety issuing the single transaction bonds for the same entry are equally liable with respect to each entry for the payment of duties, as the sureties' obligations were identical).

bond conditions to cover that transaction or activity. This provision, permitting a “specific instruction” bond, has been incorporated into proposed § 113.5. In its place, CBP is proposing to add a new provision, detailing CBP’s authority to restrict the use of a continuous bond, and to instead require only single transaction bonds or other security.

Under the existing bond procedures, CBP has the authority to approve or deny any application for a continuous bond. The proposed regulations replace this oversight process with a new provision in § 113.14, whereby CBP may require a principal who has demonstrated an unwillingness or inability to perform its obligations under part 113, on one or more bonds, to secure future transactions with single transaction bonds. This restriction could be imposed for a temporary period, or as a permanent termination of the principal’s ability to conduct business using a continuous bond. Before instituting such restrictions, CBP would provide notice of the proposed restrictions, the basis for imposing such restrictions, and the date the restrictions will take effect. The principal would have 30 calendar days to respond. If the principal does not respond within 30 calendar days, CBP’s limitations would take effect on the date indicated in the notice. If the principal responds to the notice provided pursuant to paragraph (b) of § 113.14, then, within 30 calendar days of CBP’s receipt of the response, the appropriate CBP officer would review the response and make a final decision as to whether the proposed limitation would go into effect. Notice of the final decision would be provided to the principal and the surety on any existing continuous bond, and any limitations imposed will take effect at least five business days after the date of the notice of final decision. Additionally, paragraph (d) would retain the restriction permitting each principal to hold only one continuous bond for a particular activity, originally found in §113.12(b).

Finally, CBP proposes to amend § 113.15 regarding retention of bonds. Because all bonds will be transmitted to the Revenue Division unless otherwise specified, either by EDI or by email, CBP proposes to remove the current provision, providing that bonds approved by a port director will be retained at the port office, and bonds approved by the Revenue Division will

be retained by the Revenue Division. Rather, CBP would retain a record of all bonds, bond riders, and bond amount adjustments transmitted to CBP in ACE, regardless of the method of transmission. Notwithstanding CBP's retention of these records, the absence of a bond, bond rider, or bond amount adjustment from CBP records, regardless of the reason for its absence, would not release any party from liability under the bond, bond rider, or bond amount adjustment if the bond, bond rider, or bond amount adjustment otherwise exists. CBP would continue to transmit bonds containing the agreement to pay court costs (condemned goods), the terms and conditions of which are in § 113.72, to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608).

3. Proposed Amendments to Subpart C

Subpart C to part 113 currently details bond requirements. CBP proposes to update the requirements in § 113.21, which details the information required on a bond. The proposed revisions include changing the title of the provision to “Information required in the bond transmission” to reflect electronic bond transmission, as opposed to the filing of a paper CBP Form 301. The existing information requirements in § 113.21 include identifying information for principals and sureties, identifying information for bond users without distinct legal status from the principal, the date of execution, and the amount of the bond.⁶ In this document, CBP proposes to update and expand those requirements, to accommodate the electronic data transmitted to the eBond system. ACE is designed to minimize or eliminate repeated collection of the same data elements. As a result, the eBond transmission does not require transmission of the name or address of a principal, authorized user, surety, or surety agent.

Thus, the proposed § 113.21(a) requires that bonds and riders transmitted to CBP identify principals, authorized users, and sureties as follows:

⁶ In addition, § 113.21 currently includes provisions limiting the use of abbreviations and requiring strike throughs in all blank spaces. 19 CFR 113.21(d)-(e). CBP has determined that these provisions are no longer needed given the shift to the electronic submission of bonds as the identities of all parties would be known and there is no paper-based form with blank spaces at issue.

- Principal: the bond transmission would be required to identify all principals on the bond, by the filing identification number, as detailed in 19 CFR 24.5, for each principal.
- Authorized Users: if additional parties are authorized to obligate the bond, the bond transmission would be required to identify them by the filing identification number, as detailed in 19 CFR 24.5, for each user. The filing identification number for an authorized user would be required to be related to the filing identification number of the identified principal on the bond, as detailed in 19 CFR 24.5.
- Surety: each surety obligated on the bond would be required to be identified by its CBP-assigned three-digit surety code, pursuant to proposed § 113.37. The transmission would also be required to include the surety-assigned identification number for the surety agent on the bond, pursuant to § 113.37(c)(1). Lastly, if two or more sureties are identified on the bond, the transmission would be required to comply with § 113.37(d), including the provision of the total value of each surety's liability on the bond, in whole U.S. dollars.

CBP proposes to expand § 113.21(b) to require bonds to contain the following information, which corresponds to data elements required by the eBond test and on the CBP Form 301:

- Type: The type of bond being transmitted, *i.e.*, STB or continuous bond.
- Designation: The bond designation type corresponding to the purpose of the transmission - new bond, additional STB, substitution bond (pursuant to § 142.4(b)(2)), superseding bond (pursuant to § 142.4(b)(1)), STB bond amount adjustment, bond rider, void an unobligated STB, or termination of an existing bond.
- Activity Code: The activity code identifying the terms and conditions in the bond, as agreed by both principal and surety. For regulatory bonds in Subpart G, this rule

proposes to identify in the regulations the activity code corresponding to the terms and conditions of each bond.

- Amount: The amount of the bond, stated in whole U.S. dollars.
- Date of execution: The date the bond is transmitted to CBP via EDI or by email.
- Effective date of a continuous bond: This is the first date on which the bond may be obligated, subject to the provisions of § 113.26. Because an STB is effective for the identified transaction, regardless of the date, the effective date for STBs would not be required.
- Transaction identification information: For an STB, the number identifying the particular transaction the bond is intended to secure. This could be the entry number, the Importer Security Filing (ISF) transaction number, the seizure case number, the bill of lading number, or the carrier and voyage identification. The entry type code is also required for bonds with Activity Codes: 1, 1A, 6, 7, 8, 12, or 16.

Currently, § 113.22 requires witnesses to the signatures of each party to a bond. Because bonds submitted consistent with § 113.11 would not need signatures, witnesses would no longer be required for these bonds. Therefore, CBP proposes to remove and reserve § 113.22 in its entirety.

CBP proposes to update § 113.23, which addresses changes made to existing bonds and lists requirements for changes to paper bonds. CBP proposes to rename the provision to “Amendments made to the bond,” and to remove the provisions related to paper bonds, which are no longer needed in the new electronic environment. In their place, CBP proposes to permit two types of changes to existing bonds: riders, as described in proposed § 113.24, and the bond amount adjustment for STBs transmitted by a surety via EDI with Activity Code 1. To effect any other change to the bond, the surety or principal would need to terminate the existing bond, and replace it with a new bond containing the change.

CBP proposes to enumerate the requirements for the bond amount adjustment in § 113.23(b). The bond amount adjustment may only be transmitted to CBP via EDI on or before the tenth business day after the date of entry. Transmission of a bond amount adjustment to CBP would constitute the surety's and the principal's agreement that the amended bond amount will only limit their liability if it was calculated and transmitted using reasonable care, as that term is used in 19 U.S.C. 1484. Otherwise, the bond amount in effect prior to transmission of the bond amount adjustment would remain in effect. Failure to use reasonable care may also result in penalties or other legal consequences permitted by law. In addition, the transmission of a bond amount adjustment to CBP would also constitute the surety's and the principal's agreement that CBP may immediately prohibit either the surety or the principal, or both, from being party to future bond amount adjustments to any bond, if necessary to protect the revenue or to ensure legal compliance.

CBP proposes to update § 113.24, which addresses bond riders and their requirements. CBP would remove riders and requirements applicable only to paper bonds, including riders effecting changes to the name of the principal or addresses on the bond. As noted previously, CBP would no longer collect this information as part of the bond or bond rider transmission. CBP proposes to replace the bond riders allowing addition or deletion of trade names and unincorporated divisions of a corporate principal with new bond riders allowing the addition or deletion of authorized users. In the electronic environment, CBP proposes to accept five types of bond rider: the authorized user addition bond rider; the authorized user deletion bond rider; the addition of the reconciliation bond rider; the removal of the reconciliation bond rider; and the U.S. Virgin Islands bond rider.⁷ The terms for each of these riders are laid out in proposed § 113.24(a).

⁷ A U.S. Virgin Islands bond rider may not be removed. Instead, the principal must terminate the existing bond with the rider and obtain a new bond without the rider.

Proposed § 113.24(b) would require that a bond rider be filed using the same method of transmission as the bond it amends. Thus, if the bond was filed via EDI, a bond rider amending that bond would be required to be filed via EDI. Proposed § 113.24(c) lists the information that must be provided to CBP in the bond rider. This information would include the execution date of the bond rider, which is the date the bond rider is transmitted to CBP, and the bond number identifying the bond being amended by the bond rider. In addition, proposed § 113.24(c) lists required information that is specific to the type of bond rider being transmitted. This information would include:

- For a user addition rider, the CBP identification number for the added user and the effective date of the bond rider, which is the date the new user may begin to obligate the bond. Effective dates are covered in more detail in proposed § 113.26.
- For a user deletion rider, the CBP identification number for the user to be removed, and the effective date of the bond rider, which is the date the user may no longer use the bond. Effective dates are covered in more detail in proposed § 113.26.

CBP proposes to remove existing § 113.25, as seals will not be required for electronically transmitted bonds.

CBP proposes to update § 113.26, which describes the effective dates for bonds and bond riders. CBP first proposes to replace references to the paper bond application process with references to the electronic bond process, including email transmission. Next, CBP proposes to reorganize the provision, to address effective dates for bonds in paragraph (a) and effective dates for bond riders in paragraph (b). CBP proposes to consolidate the general provision in existing § 113.26(a) with the continuous bond provision in existing § 113.26(c), forming a new provision addressing the effective date of term bonds in § 113.26(a)(1). CBP proposes to retain procedures allowing the party transmitting the bond to select the effective date for a term bond, and permit transmission of a term bond up to 60 calendar days prior to the effective date of the bond. Bonds transmitted to CBP via email would be required to have an effective date at least ten days after

the date CBP receives the bond, to allow time for CBP to process the bond. The proposed electronic process does not require an effective date for STBs. An STB identifies a particular transaction for bond coverage, and therefore, CBP proposes to state in § 113.26(a)(2) that an STB is effective for the full transaction identified, regardless of the date of the transaction or the date of transmission of the bond.

In proposed paragraph (b)(1), CBP states the conditions for the effective date for a bond rider transmitted via EDI. CBP proposes to permit the party transmitting the bond rider to select the effective date of a user addition bond rider, so long as the date selected is on or after the effective date of the bond and is no more than 60 calendar days after the date the bond rider is successfully transmitted to CBP. Similarly, the party transmitting the bond rider would be able to select the effective date for a user deletion bond rider, so long as the date selected is at least ten calendar days after the effective date of the bond and is no more than 60 calendar days after the date the bond rider is successfully transmitted to CBP. Additionally, for U.S. Virgin Islands bond riders and reconciliation bond riders, the bond rider would be effective on the date the bond rider is transmitted to CBP.

Similarly, proposed paragraph (b)(2) states the conditions for the effective date for a bond rider transmitted via email. CBP proposes to permit the party transmitting a bond rider via email to select the effective date of a user addition bond rider, so long as the date selected is on or after the effective date of the bond and is at least ten business days but no more than 60 calendar days after the date of the email. However, if the bond rider email is not received at least ten business days before the requested date, or if no date is indicated in the email request, the bond rider would be effective at close of business on the tenth business day after CBP receives the email. Similarly, the party transmitting a bond rider via email could select the effective date for a user deletion bond rider, so long as the date selected is at least ten business days from the effective date of the bond and is no more than 60 calendar days after the date of the email. However, if the bond rider email is not received at least ten business days before the requested date, or if no

date is indicated in the email, the bond rider would be effective at close of business on the tenth business day after CBP receives the email. Finally, for U.S. Virgin Islands bond riders and reconciliation bond riders, the bond rider would be effective on or after the date indicated in the bond rider email, so long as that date is on or after the effective date of the bond and is at least ten business days but no more than 60 calendar days after the date of the bond rider email. However, if the bond rider email is not received at least ten business days before the requested date, or if no date is indicated in the email, the bond rider would be effective at close of business on the tenth business day after CBP receives the email.

In § 113.27, describing effective dates for the termination of a bond, CBP is proposing amendments to reflect the new electronic processes for termination. In paragraph (a), voiding a single transaction bond, CBP proposes to permit a surety to void an STB as long as the bond has not been obligated. Voiding an STB constitutes the surety's and principal's agreement that the bond has not been used to secure any activity or transaction, and that the void was transmitted using reasonable care. If these conditions are not met, the STB remains in effect.

In paragraph (b), CBP proposes the procedures for terminating a bond. In paragraph (b)(1), termination by principal, CBP proposes to require that all termination requests from a principal on the bond be transmitted to the Revenue Division by email. Termination would be effective on the date requested, so long as that date is at least 15 calendar days after the date the request is transmitted by email to CBP. If no termination date is requested, or if the request is not received 15 calendar days ahead of the requested date, then the termination would be effective on the fifteenth calendar day after the termination request is transmitted by email to CBP.

In paragraph (b)(2), termination by surety, CBP proposes amendments to the paragraph detailing termination of a bond by the surety. The proposed amendments would require a surety wishing to terminate a bond to notify both CBP and the principal of the termination. The surety would be required to provide notice of termination to the principal at the same time the notice of

termination is transmitted to CBP. The notice of termination could be transmitted by a surety to CBP via EDI or by email to the Revenue Division. The surety would be required to specify the date the termination is to be effective, and that effective date must be at least 15 calendar days after the date the notice of termination is transmitted to CBP, unless the surety can establish, to the satisfaction of the Director of the Revenue Division, good cause for earlier termination of the bond.

4. Proposed Amendments to Subpart D

CBP is proposing to amend the provisions in subpart D to part 113, which provides specific provisions regarding principals and sureties. In § 113.30, CBP proposes to replace references to the paper bond process with references to electronic bond transmission. CBP proposes to clarify § 113.31(a), which prohibits a party from acting as both principal and surety on a bond, by utilizing the term “principal,” as defined in proposed § 113.1, in place of the words “same person, partnership, or corporation” and by expressly stating that the principal may not act as surety on its own bond, except where the bond is secured by cash in lieu of surety pursuant to § 113.40. CBP further proposes to amend § 113.31(b), by expanding the provision to cover bonds, bond riders, and bond amount adjustments, and by removing existing paragraph (b)(2), which permits a person to act as both surety and attorney in fact for the principal. As discussed below, CBP proposes to remove § 113.35, which permits individuals to act as sureties, and, as a result, paragraph (b)(2) would not be needed.

In § 113.32, which outlines requirements for partnerships acting as principals, CBP proposes to amend paragraph (a) to replace requirements for execution of partnership bonds with requirements for transmission of partnership bonds. Under the proposed regulations, CBP would no longer collect names or require signatures. Instead, CBP proposes to require that partnership bonds be transmitted using the partnership’s CBP identification number, consistent with proposed § 113.21.

CBP is proposing to revise the requirements in § 113.33 applicable to corporate principals. In § 113.33(a), CBP proposes to replace the requirement that the name of a corporation executing a paper bond as principal be placed on the bond with a new requirement that the CBP identification number of the principal be transmitted to CBP as part of the bond transmission, consistent with proposed § 113.21. CBP proposes to remove existing paragraphs (b) – (d), which list requirements for the execution of a paper bond. Existing paragraph (e), with requirements for subsidiaries named as co-principals, would become the new paragraph (b). This paragraph currently states that the requirements of § 113.33 are applicable to each corporate subsidiary joined as a principal on the bond. CBP proposes to amend this paragraph to state, instead, that the requirements of part 113, in their entirety, are applicable to all principals on a bond. CBP further proposes to remove a reference to signing the paper bond, and to add a new sentence stating that, pursuant to § 113.12, the principal's use of a bond to secure an activity or transaction constitutes re-affirmation by the principal that it intends to be bound by the terms and conditions of the identified bond.

In § 113.34, CBP is proposing to remove the existing provision regarding co-principals, and to add a new provision in its place regarding bonds with multiple principals or with authorized users. Replacing the word “co-principals” is intended to make it clear that all principals on a bond are equal. CBP proposes to add a new paragraph (a), stating that all principals are jointly and severally liable for the transactions of any principal on the bond, and of any authorized user of the bond. Principals cannot be added to or removed from the bond by rider; a principal may only be added to or removed from a bond by terminating the existing bond and transmitting a new bond. CBP proposes to add a new paragraph (b) stating that authorized users may be added to or deleted from a bond by rider, pursuant to § 113.23, and that authorized users are not liable for the transactions of other principals or authorized users on the bond.

CBP proposes to remove § 113.35 and § 113.36, which list requirements for individuals acting as sureties on a bond, and one member of a partnership acting as individual surety for

another partner, respectively. CBP proposes to eliminate individual sureties for customs bonds, as they impose an administrative burden on the agency in ascertaining the financial responsibility of the individual, and the acceptance of a bond secured by an individual surety presents a risk to the revenue. Eliminating these two provisions, which both allow individual sureties, would limit sureties securing customs bonds to those corporate sureties listed in Treasury Circular 570 and identified to CBP pursuant to § 113.37. Alternatively, principals may elect to secure their transactions and activities with cash in lieu of surety, pursuant to § 113.40.

CBP proposes to rename § 113.37 from “Corporate sureties” to “Surety requirements,” because the elimination of individual sureties means that all sureties are corporate sureties. In § 113.37(a), CBP proposes to make minor edits in keeping with the change from “corporate sureties” to “surety requirements,” such as replacing references to “corporation” with “surety,” where appropriate. CBP proposes to replace the paper-based requirements for providing a surety’s name on the bond in § 113.37(b), with new electronic requirements. These requirements include the surety’s acquisition of a three-digit surety code from the Revenue Division, and the transmission of that surety code with each bond issued by that surety, as detailed in § 113.21. In addition, each surety will be required to establish and maintain an ACE Portal account.⁸

In § 113.37(c), CBP proposes to remove the paper requirements for identification of the agent or attorney acting for the surety on a bond, as proposed § 113.21(a)(2)(ii) now details the electronic requirement. Instead, § 113.37(c) has been revised to include all requirements with respect to power of attorney and identification of surety agents, including those requirements currently found in existing §§ 113.37(d), (f) and (g). Under proposed § 113.37(c), a power of attorney must be transmitted to CBP using the ACE Portal, replacing the requirement in existing § 113.37(g), that a power of attorney be transmitted on CBP Form 5297 by email, fax, or mail. The contents of that power of attorney include: (1) the surety’s three-digit code; (2) the name and

⁸ Instructions on how companies may apply for an ACE Secure Data Portal account can be found at: <https://www.cbp.gov/trade/automated/getting-started/portal-applying>.

physical address of the agent; (3) the nine-digit alphanumeric identification number assigned to the agent by the surety (currently required by § 113.37(d)); and (4) the dollar amount of the surety agent's authority to obligate the surety on each bond. The power of attorney remains in effect until revoked by the surety in the ACE Portal. Such revocations have immediate effect. Permissible changes to the power of attorney are limited to changes to the name or address of the grantee. Any other change requires the surety to revoke the existing power of attorney in the ACE Portal and replace it with a new power of attorney.

As noted above, the surety-agent identification provision in existing § 113.37(d) has been moved to § 113.37(c) in the proposed regulations. CBP proposes to eliminate § 113.37(e), as it pertains to signatures and seals that will no longer be required in the electronic environment. CBP proposes to make existing § 113.37(f), which covers requirements for bonds with two or more sureties, the new § 113.37(d). CBP has amended the provision to clarify the requirements applicable to coinsurance and the requirements applicable to reinsurance agreements. With respect to coinsurance, CBP is proposing amendments in § 113.37(d)(1), replacing references to the paper process with references to the electronic process, including the transmission of each surety's limit of liability for the bond pursuant to §§ 113.11 and 113.12. CBP further proposes to remove requirements for the signature of an "Authorized CBP Officer" and all seals, as these requirements are not consistent with the new electronic bond process.

With respect to reinsurance agreements, consistent with § 223.11 of title 31, Bureau of the Fiscal Service Regulations (31 CFR 223.11), CBP has added a new paragraph § 113.37(d)(2) with requirements for transmission to CBP. Pursuant to these requirements, each surety must limit its liability to a definite specified amount, in terms, transmitted with the bond pursuant to 19 CFR 113.11. In addition, reinsurance agreements must be executed consistent with 31 CFR 223.11 and transmitted to CBP pursuant to 19 CFR 113.11.

In § 113.38, CBP has revised the existing provision addressing delinquent sureties. The proposed revisions expand the scope of the provision by adding new consequences for a surety's

nonperformance or default, including a new type of interest charge for sureties who do not timely comply with their bond obligations, whether acting as principal or surety. CBP is expanding these consequences in response to the unwillingness of some principals and sureties to comply with their bond obligations in a timely manner and the administrative burden this has created for CBP. *See, e.g., United States v. American Home Assurance Co.*, 100 F. Supp. 3d 1364 (Ct. Int'l Trade 2015), *aff'd*, 857 F.3d 1329 (Fed. Cir. 2017). CBP's intent is to create a more robust spectrum of legal consequences so that each defaulting party can be better addressed with one or more appropriate consequences enforced by CBP. As a result, CBP proposes to rename the provision as "Consequences of surety nonperformance or default."

CBP proposes to redesignate existing paragraph (a) as paragraph (b), adding a new paragraph (a). CBP further proposes to combine existing paragraphs (b) and (c) to create a new paragraph (c). In proposed § 113.38(a), which corresponds to a new bond condition for all bonds proposed in § 113.61(a)(5), CBP proposes to assess interest on certain unpaid amounts due to CBP under a bond, excluding penalties secured by a bond. This new form of interest will not be assessed on other debts owed to CBP under a bond when the principal or surety timely pays the full debt amount (*i.e.*, within the applicable period set forth in 19 CFR 24.3(e)). The interest provided for under § 113.38(a) will begin to accrue from the date the debt is due. Interest will be charged until the full balance is paid. The interest rates and procedures are determined according to 19 CFR 24.3a(c). For instance, in the case of any late payment, the payment received will first be applied to the delinquency interest charged under § 113.38(a), and then to payment of the unpaid balance due under the bond.

The goal of this new form of contractually-based delinquency interest is to ensure that the United States receives the full amount of the contractually-based debts on the date that they are due, or on the date that notice thereof has been given, whichever is later. For that reason, liability for this contractually-based interest will not be limited by the bond amount, and payment thereof will not be charged to the bond, consistent with the decisions of federal courts and

commonly-accepted principles of general suretyship law. *See, e.g., United States v. U.S. Fid. & Guar. Co.*, 236 U.S. 512, 530-31 (1915) (parties are liable for interest accruing beyond the limit of their bonds “for such an amount as accrued from their own default in unjustly withholding payment after being notified of the default”) (citations omitted); *Ins. Co. of N. America v. United States*, 951 F.2d 1244, 1246 (Fed. Cir. 1991) (“[I]f a surety delays payment beyond proper notification of liability, interest accrues on the debt. This interest may cause the surety’s obligation to exceed the penal sum of the bond.”) (citing ARTHUR ADELBERT STEARNS, *THE LAW OF SURETYSHIP* 283-84 (James L. Elder ed., 5th ed. 1973); 1 GEORGE W. BRANDT, *THE LAW OF SURETYSHIP AND GUARANTY* 271-72 (1905)).

This new contractually-based delinquency interest will complement the other forms of interest CBP already assesses or collects. CBP currently assesses or collects interest on a variety of statutory-based or regulatory-based debts, such as when duties, taxes, and fees are due after liquidation of an entry. *See* 19 U.S.C. 1505; 19 CFR 24.3a(b). CBP also collects a special additional six percent interest when CBP must pursue collection of a bond debt through litigation. *See* 19 U.S.C. 580; Interest Charges on Certain Delinquent Accounts, 51 FR 34954, 34956 (Oct. 1, 1986) (“If Customs must sue the debtor under a bond, it is entitled to recover the principal amount of the debt, plus interest assessed for the late payment, plus an additional amount of 6 percent assessed under 19 U.S.C. 580.”). However, CBP has generally only collected regular compensatory interest on a bond debt when it has sought an award of such interest under equitable or common law theories in the federal courts. The proposed contractually-based delinquency interest will take the place of this equitable or common law interest, and make it available to CBP in the ordinary course of administratively collecting bond debts and without the need to resort to litigation.

CBP proposes to expand the existing provisions in proposed § 113.38(b) and (c). In conjunction with the proposed regulations, CBP is centralizing determinations regarding nonperformance and default in the Revenue Division. Therefore, port and Center directors

believing that a bond obligation has been breached and that limits on one or more of the bonding parties are appropriate will refer the matter to the Revenue Division for adjudication pursuant to new (b) or (c).

The proposed § 113.38(b) covers the effects of surety nonperformance or default as principal on a bond. Under the proposed regulation, a surety failing to perform its obligations or defaulting as a principal on a bond will not be accepted as a surety on any other bond.

In proposed § 113.38(c), CBP proposes a new procedure to impose limitations on a surety that has defaulted or failed to perform its obligations as a surety on a bond. Such limitations may include:

- Required email transmission: requiring the surety to transmit all bonds via email (barred from EDI transmission);
- Dollar amount limitations: limiting the surety's ability to underwrite bonds above a certain dollar amount or limiting the aggregate amount of the surety's active bonds at any one time;
- Time limitations: limiting the surety's ability to underwrite bonds on a daily, weekly, monthly, or some other periodic basis;
- Volume limitations: limiting the total number of active bonds a surety may underwrite at any one time;
- Bond type limitations: restricting the surety's ability to transmit continuous bonds, and permitting only the transmission of STBs, or requiring the transmission of a continuous bond;
- Transaction or activity limitations: limiting the activity codes for which a surety may underwrite a bond;
- Geographic limitations: limiting a surety to underwriting bonds for activities or transactions in specific locations or ports of entry;

- Commodity limitations: limiting a surety to underwriting bonds for activities or transactions involving specific merchandise or commodities (e.g., bonds for steel products only);
- Temporary suspension of a surety: CBP will accept no new bonds from this surety for a defined period of time;
- Permanent termination of a surety: CBP will no longer accept new or renewed bonds from this surety.

Before imposing any of these limitations, CBP will provide notice to the surety. That notice will explain the basis for the limitations, provide a description of the proposed limitations, and identify the date the limitations will take effect, which will be at least 30 calendar days from the date of the notice. The surety will have 30 calendar days to respond to the notice. If the surety fails to respond, the limitations will be imposed on the date indicated in the notice.

If the surety does respond, CBP will have 30 calendar days to review and make a final decision regarding the proposed limitations. In any instance where the proposed limitation is a temporary suspension or permanent termination of the surety's ability to act as a surety on bonds required by CBP, the final decision will be made by the Commissioner of CBP or the Commissioner's delegate. CBP may impose the limitations as proposed, impose lesser limitations, or withdraw the proposed limitations at this stage. A "less restrictive limitation" is a reduction in the noticed limitation itself. For example, where the notice proposed a dollar amount limitation of \$1 million in bonds per day, the reviewing official could impose a lesser limitation of \$10 million in bonds per day. CBP will provide notice of the final decision to the surety, and any limitations imposed will take effect no earlier than five business days from the date of the notice of final decision. Notice of the final decision will also be provided to the public, by publication in the *Customs Bulletin*.

CBP is proposing clarifying amendments to § 113.39, which covers the procedures to remove a surety from Treasury Department Circular 570.⁹ These amendments include adding the Center directors to the list of people who may identify a surety that has failed to pay a valid demand, updating “Revenue Division personnel” or “officer” to specify the Director, Revenue Division, and updating the name of the office receiving the report showing the unsatisfactory performance by the surety of the bond obligation(s) and determining whether further action against the surety is warranted to specify the “Executive Director, Financial Operations, Office of Finance.” This change from the Executive Director of Regulations and Rulings to the Executive Director of Financial Operations ensures that the office within CBP with the greatest oversight of sureties is providing the recommendation to the Department of the Treasury. CBP proposes to insert the word “relevant” in paragraph (a)(3), (4), and (5) to more accurately reflect administrative practice and the scope of the information required in 113.39(a). The practice of including only the relevant notices, demands, correspondence, and facts sent to the surety increases efficiency and avoids undue administrative burdens and an unnecessarily voluminous administrative record. Additionally, these proposed amendments provide greater transparency about the intended scope of the evidence. CBP also proposes amendments to the text of paragraph (b) to be more consistent with the language of 31 CFR part 223.

In § 113.40, CBP is proposing amendments to the existing requirements for cash in lieu of surety on a bond. First, CBP proposes to eliminate the acceptance of obligations of the United States in lieu of bond. This is intended to reflect current practice by the trade community, as CBP has not received a bond secured by an obligation of the United States in many years. Eliminating the option to provide such obligations as security reduces the burden on CBP to maintain a process for tracking and securing these obligations. Second, CBP is proposing edits to paragraph (a) to provide for transmission via email of the bond information, pursuant to §

⁹ Treasury Department Circular 570 is a list of companies certified by the U.S. Treasury to underwrite and issue surety bonds for federal contracts. The list is published annually by the Bureau of the Fiscal Service. The latest list is available online at <https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html>.

113.11. CBP proposes to remove existing paragraph (b), as a consequence of eliminating the acceptance of obligations of the United States, and to redesignate existing paragraph (c) as the new paragraph (b), with minor amendments for clarity. CBP proposes to add a new paragraph (c), stating that CBP will release cash deposited in lieu of surety upon the expiration of all applicable statutes of limitations for claims made against the bond secured by cash in lieu of surety. This will result in a refund to the bond principal, subject to CBP's set off rights as provided in 19 CFR 24.72.

5. Proposed Amendments to Subpart F

CBP is proposing to amend § 113.51, by making the existing provision paragraph (a), adding the definition of cancellation of a bond to the new paragraph (a), and adding a new paragraph (b). Cancellation of a bond is the process by which CBP relinquishes the right to enforce the terms and conditions of a bond, either because the principal has satisfied the terms and conditions secured by the bond, or because the principal has satisfied alternative terms and conditions as agreed to by CBP. CBP also proposes to clarify that the authority of the Commissioner of CBP to cancel bonds does not include the authority to cancel an International Trade Commission (ITC) exclusion order bond or any charge that may have been made against such a bond to indemnify a complainant pursuant to section 337 of the Tariff Act of 1930 as provided in 19 CFR 113.74 and Appendix B to title 19.

New paragraph (b) will address cancellation of a bond for the deferral of duty on large yachts imported for sale at U.S. boat shows. When using paper bonds, under certain circumstances, CBP is required to return the bond to the importer, which entails CBP physically returning and handing back the paper bond, to indicate that CBP does not intend to enforce this bond. These paper-based procedures for the "return" of a bond are not consistent with electronic bond processing, therefore, CBP is proposing to cancel such bonds to indicate that CBP does not

intend to enforce the bond.¹⁰ The statutory authority governing this procedure is 19 U.S.C. 1484b, which provides explicitly for the cancellation of the bond when certain conditions are met. Additional regulations are found in 19 CFR 4.94a. Pursuant to these authorities, CBP proposes to state in § 113.51(b), that the large yacht bond will be cancelled upon: (1) completion of entry and deposit of duties, if the yacht is neither sold, nor exported within six months after importation; (2) completion of entry and deposit of duties following sale of the yacht; or (3) exportation of the yacht and provision of notice to CBP.

6. Proposed Amendments to Subpart G

CBP proposes to renumber the existing § 113.61 to be § 113.60, and to update that provision to reflect the electronic transmission of bonds to CBP. The proposed revisions state that the terms and conditions in an electronically transmitted bond are represented by the activity code selected for that bond. The terms and conditions for each bond in subpart G would be updated to identify the corresponding activity code for that bond.

CBP is proposing a new § 113.61, outlining terms and conditions that are applicable to all bonds. The first four of these are derived from language currently found on CBP Form 301. Generally, the principal and surety agree: (1) to bind themselves (jointly and severally) to the United States in the amount(s) set forth in the bond; (2) that any charge against the bond by any authorized user on the bond is as though it were made by the principal; (3) that they are bound to the same extent as if they executed a separate bond covering each set of conditions incorporated by reference to the CBP regulations into the bond; and (4) if the surety fails to appoint an agent under 31 U.S.C. 9306, the surety consents to service on the Clerk of the U.S. Court of International Trade or any United States District Court, in which suit is brought on the bond. In addition, CBP proposes to add a new condition in proposed § 113.61(a)(5), incorporating the proposed delinquency interest provision in § 113.38(a), and the principals' and sureties'

¹⁰ As discussed further below, CBP also proposes to move the terms and conditions for the large yacht bond from current Appendix C to part 113 to revised § 113.75.

agreement to pay such interest, into the bond itself. In proposed § 113.61(a)(6), CBP proposes to add a new condition specifically for term bonds that renew automatically, including continuous bonds that renew automatically for a new one-year period beginning on the anniversary of the effective date of the bond and continue for each succeeding one-year period, unless terminated or cancelled sooner. For such bonds, the new condition would state that the principal and surety agree that the terms and conditions applicable to each new bond period would be those terms and conditions required by CBP on the renewal date at the start of the new bond period (e.g., the anniversary of the effective date of the bond for continuous bonds). In other words, by allowing the bond to renew automatically, the principal and surety would agree that the bond's terms and conditions are updated to reflect the CBP regulations and/or CBP requirements at the start of each new bond period. Thus, any amendments to the CBP regulations affecting the terms and conditions of the bond would not be incorporated into the bond until the start of the next bond period, if the principal and surety allow the bond to renew automatically. CBP intends for this proposed new condition to minimize the need to render existing term bonds insufficient when CBP changes the bond regulations, which has, in the past, led to many bonds being terminated and replaced. CBP believes that proposed § 113.61(a)(6) would create more transparency and consistency for principals and sureties when they execute and administer bonds. CBP invites comments on this proposed new condition from principals, sureties, and other interested stakeholders.

CBP also proposes to add a provision at proposed § 113.61(b) stating that additional terms and conditions for each bond are identified by the activity code transmitted with the bond, with the selection of an activity code constituting the agreement of the principal and surety to be bound by the terms and conditions in the corresponding regulation. Finally, CBP proposes to clarify in a new § 113.61(c) that the terms and conditions required by CBP for a specific bond control if they conflict with provisions of proposed § 113.61(a). For example, the International

Trade Commission (ITC) exclusion order bond required by CBP binds the principal and surety to the complainant in an ITC case instead of to the United States.

CBP proposes to update the terms and conditions for the bonds in subpart G, enumerated in §§ 113.62 through 113.75, to provide the corresponding activity code for each bond, and to identify consolidated bonds. Further, CBP proposes to update § 113.62 to clarify that an active continuous bond is obligated at the time entry is filed.

CBP also proposes to amend § 113.74, which, along with Appendix B to part 113, provides the bond conditions for the ITC exclusion order bond (Activity Code 12) to indemnify a complainant under Section 337, Tariff Act of 1930, as amended. CBP proposes to expand this provision to include the transmission and execution requirements for the ITC exclusion order bond. Because the ITC exclusion order bond cannot currently be transmitted through the eBond system, CBP proposes to retain the current requirements for transmission of the ITC exclusion order bond. Proposed paragraph (b) requires that a copy of the bond be transmitted to the Center or the port of entry, along with the entry, by the principal on the bond. Consistent with the proposed definition of “principal” in 19 CFR 113.1, the bond may be transmitted by the importer or the importer’s licensed customs broker. This bond may be transmitted via the Document Image System (DIS) (which permits upload through email or EDI) or via email to the port of entry or the Center, whereupon the port of entry or the Center will complete the upload process into DIS. Because the bond is not transmitted by the surety, the principal will still be responsible for transmitting a copy of the fully executed bond, including all required signatures, seals, and witnesses. These requirements are found in paragraphs (c) and (d) of proposed § 113.74.

In addition, CBP proposes to amend § 113.75, which provides for the bond for deferral of entry completion and duty deposit on large yachts imported for sale. CBP proposes to expand this provision to include the terms and conditions formerly enumerated in Appendix C; Appendix C will be removed and reserved. Similarly, CBP proposes to add a new § 113.76 to include the terms and conditions for the Airport Customs Security Area bond that are currently

enumerated in Appendix A; Appendix A will be removed and reserved. Likewise, CBP proposes to add a new § 113.77 to include the terms and conditions for the Importer Security Filing Bond that are currently found in Appendix D; Appendix D will be removed and reserved. Although these three bonds are being moved from the Appendices to individual regulatory provisions, the terms and conditions for each bond remain the same.

B. Technical and Conforming Amendments to Title 19

As a consequence of the revisions to bond procedures in part 113, CBP is proposing conforming changes throughout Title 19 of the CFR. CBP proposes to replace references to the filing of a paper Customs Bond form, CBP Form 301, with references to the new electronic bond process in proposed part 113. As a result of the centralization of bond processing and transmission of bond information to the Revenue Division, CBP proposes amendments to reflect that responsibility for setting bond amounts will no longer reside exclusively with port directors. Further, CBP proposes to change references to the port director's bond authority to reference CBP's bond authority more generally. In several provisions, CBP proposes to replace references to a "single entry" bond with a reference to the "single transaction" bond, as defined and used in the proposed changes to part 113. CBP is further proposing to amend various provisions in Title 19 to replace references to the withdrawal, discontinuance, or return of a bond, with reference to the cancellation of the bond, consistent with the procedures proposed in subpart F of part 113. These technical amendments are described below.

Lastly, CBP proposes 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 on March 31, 2007. *See* 72 FR 20131 (Apr. 23, 2007).

Part 4

In part 4, CBP proposes the following amendments:

- **§ 4.3 Vessels required to enter; place of entry.** In paragraph (b)(2), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113. CBP also proposes to change “single entry” bond to “single transaction” bond. Lastly, CBP proposes to change references to the port director’s authority to set the amount of the bond to “CBP” to reflect the centralization of these procedures.
- **§ 4.10 Request for overtime services.** CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 4.14 Equipment purchases for, and repairs to, American vessels.** In paragraph (c), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113, to change “single entry” bond to “single transaction” bond, clarify that “number” refers to a “bond number,” and to replace references to paper filing requirements with references to the new electronic transmission procedures.
- **§ 4.30 Permits and special licenses for unlading and lading.** In paragraph (c) and paragraph (i)(2), CBP proposes to replace references to the CBP Form 301 with a reference to the transmission requirements in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 4.32 Vessels in distress; landing of cargo.** In paragraph (b), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113. CBP also proposes to change references to the port director’s authority to set the amount of the bond to “CBP” to reflect the centralization of these procedures.
- **§ 4.33 Diversion of cargo.** In paragraphs (c) introductory text, (c)(2), and (d), CBP proposes to change references to the port director’s authority to set the

amount of the bond to “CBP” to reflect the centralization of these procedures, and to change “Customs” to “CBP” where appropriate. CBP also proposes changing “shall” to “must” and “will”, as appropriate, to incorporate plain language into the CBP regulations consistent with CBP’s policies.

- **§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.** In paragraph (g), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 4.75 Incomplete manifest; incomplete or missing Electronic Export Information (EEI); bond.** In paragraph (a), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113. CBP also proposes technical amendments to replace the word “his” with the word “master’s” to make clearer whose vessel is being referenced.
- **§ 4.85 Vessels with residue cargo for domestic ports.** In paragraph (a), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes a minor technical change to remove the reference to bond requirements at subsequent ports of entry to align with the new electronic process.
- **§ 4.88 Vessels with residue cargo for foreign ports.** In paragraph (a), CBP proposes to replace the reference to the CBP Form 301 with a reference to the transmission requirements in part 113.
- **§ 4.94a Large yachts imported for sale.** CBP proposes amendments to paragraphs (a)(1) through (4) and (b) through (d) to change “single entry” bond to “single transaction” bond; replace references to the bond conditions moved from Appendix C to § 113.75; replace references to the paper process with references

to the electronic process in part 113; change “Customs” to “CBP” where appropriate; and to make both the Director, Revenue Division, and the Center director responsible for setting the bond amount. CBP also proposes to make a minor technical change to include the phrase “any applicable successor subheading” in paragraphs (c) and (d) following subheading 8903.91.00 and 8903.92.00 of the Harmonized Tariff Schedule of the United States to cover recent changes made to the Harmonized Tariff Schedule of the United States.¹¹

Part 10

- **§ 10.24 Documentation.** CBP proposes to amend paragraph (f) to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.31 Entry; bond.** CBP proposes to revise paragraph (f) to replace references to the paper process with references to the electronic process in part 113, to remove the reference to modification of the paper bond, and to make changes consistent with the shared responsibility of the Director, Revenue Division, and the Center director for setting the bond amount. CBP also proposes to change “Customs” to “CBP” where appropriate.
- **§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.** CBP proposes amendments to paragraph (c), to replace references to the paper bond process with references to the electronic bond process in part 113, and to change “Customs” to “CBP” where appropriate.

¹¹ The Harmonized System (HS) is amended approximately every five years by the World Customs Organization, with the U.S. International Trade Commission responsible for aligning the HTSUS with the HS’s amendments. 19 U.S.C. 3005. On January 1, 2022, the latest amendments entered into force, adding and removing tariff headings to the HS, including removing subheadings 8903.91.00 and 8903.92.00.

- **§ 10.41b Clearance of serially numbered substantial holders or outer containers.** CBP proposes amendments to paragraphs (b)(3) and (i) to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.49 Articles for exhibition; requirements on entry.** CBP proposes amendments to paragraphs (a) and (c) to replace references to the paper process with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 10.59 Exemption from customs duties and internal-revenue tax.** CBP proposes amendments to paragraph (e) to replace references to the paper process with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes to remove the numbers in paragraph (e) to clarify the paragraph structure.
- **§ 10.60 Forms of withdrawals; bond.** CBP proposes amendments to paragraphs (c) and (g), to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.61 Withdrawal permit.** CBP proposes to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.64 Crediting or cancellation of bonds.** CBP proposes amendments to paragraph (a) to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.65 Cigars and cigarettes.** CBP proposes amendments to paragraph (c)(3) to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.66 Articles exported for temporary exhibition and returned; horses exported for horse racing and returned; procedure on entry.** CBP proposes

amendments to paragraph (b) to replace references to the paper process with references to the electronic process in part 113. CBP also proposes to change “Customs” to “CBP” where appropriate.

- **§ 10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.** CBP proposes amendments to paragraph (b) to replace references to the paper process with references to the electronic process in part 113.
- **§ 10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.** CBP proposes amendments to paragraphs (a) and (e) to replace references to the paper process with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes to change the word “his” to the word “passenger’s” and the word “him” to the words “port director” to make clearer who the regulation refers to.
- **§ 10.80 Remission of duty; withdrawal; bond.** CBP proposes to replace references to the paper process with references to the electronic process in part 113 and to change “Customs” to “CBP” where appropriate.
- **§ 10.81 Use in any port.** CBP proposes amendments to paragraph (b) to replace references to the paper process with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 10.83 Bond; cancellation; extension.** CBP proposes amendments to paragraph (a) to replace references to the paper process with references to the electronic process in part 113, and to make changes consistent with the shared responsibility of the Director, Revenue Division, and the Center director regarding bonds.

- **§ 10.90 Master records and metal matrices.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113.

Part 11

- **§ 11.12 Labeling of wool products to indicate fiber content.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113, and to make changes consistent with the shared responsibility of the Director, Revenue Division, and the Center director in setting the bond amount.
- **§ 11.12a Labeling of fur products to indicate composition.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113, and to make changes consistent with the shared responsibility of the Director, Revenue Division, and the Center director in setting the bond amount.
- **§ 11.12b Labeling textile fiber products.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113, and to make changes consistent with the shared responsibility of the Director, Revenue Division, and the Center director in setting the bond amount.

Part 12

- **§ 12.3 Release under bond; liquidated damages.** CBP proposes amendments to paragraphs (a) and (b), to replace references to the paper process with references to the electronic process in part 113, and to change references to the port director's authority to set the amount of the bond to "CBP" to reflect the centralization of these procedures.

- **§ 12.8 Inspection; bond; release.** CBP proposes amendments to paragraph (a) to replace references to the paper process with references to the electronic process in part 113. Additionally, CBP proposes a minor technical correction to replace a reference to “customs” to “CBP”.
- **§ 12.12 Release under bond.** CBP proposes amendments to replace references to the paper process with references to the electronic process in part 113 and to change “Customs” to “CBP” where appropriate.
- **§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113.
- **§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered and threatened species; designated ports of entry; permits required.** CBP proposes amendments to paragraph (e) to replace references to the paper process with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 12.39 Imported articles involving unfair methods of competition or practices.** CBP proposes amendments to paragraph (b)(2) to change “single entry” bond to “single transaction” bond, consistent with the terminology in part 113, and amendments to paragraph (b)(2)(i) to replace references to the paper process with references to the electronic process in part 113. CBP also proposes in paragraph (e) to replace the name “Office of International Trade” with “Office of Trade” to accurately reflect the name of the office.
- **§ 12.73 Importation of motor vehicles and motor vehicle engines.** CBP proposes amendments to paragraph (j) to replace references to the paper process with references to the electronic process in part 113, remove references to the

consignee or surety to be consistent with part 113, and to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113.

- **§ 12.74 Importation of nonroad and stationary engines, vehicles, and equipment.** CBP proposes amendments to paragraph (c)(1) to replace references to the paper process with references to the electronic process in part 113, and remove references to the consignee or surety to be consistent with part 113. CBP also proposes amendments to paragraph (c)(2) to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113.
- **§ 12.80 Federal motor vehicle safety standards.** CBP proposes amendments to paragraph (e)(1) to replace references to the paper process with references to the electronic process in part 113. CBP also proposes amendments to paragraph (e)(2) to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113.
- **§ 12.85 Coast Guard boat and associated equipment safety standards.** CBP proposes amendments to paragraph (e)(1) to replace references to the paper process with references to the electronic process in part 113, and to change references to the port director’s authority to set the amount of the bond to “CBP” to reflect the centralization of these procedures. CBP also proposes amendments to paragraph (e)(3) to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113.
- **§ 12.91 Electronic products offered for importation under the Act.** CBP proposes to amend paragraph (d) to change “single entry” bond to “single transaction” bond; replace references to the paper process with references to the electronic process in part 113; change “Customs” to “CBP” where appropriate; and change references to the port director’s authority to set the amount of the

bond to “CBP” to reflect the centralization of these procedures. CBP also proposes changing the word “his” to “Secretary’s” to make clearer who the regulation refers to. CBP also proposes changing “shall” to “must” and “will”, as appropriate, to incorporate plain language into the CBP regulations consistent with CBP’s policies.

- **§ 12.104f Temporary disposition of materials and articles.** CBP proposes amendments to replace references to the paper process with references to the electronic process in part 113. CBP also proposes changing the word “he” to the words “the Secretary” to make clearer who the regulation refers to.
- **§ 12.115 Release under bond of shipment detained for examination.** CBP proposes amendments to replace references to the paper process with references to the electronic process in part 113.
- **§ 12.123 Procedure after detention.** CBP proposes amendments to paragraph (b) to replace references to the paper process with references to the electronic process in part 113.

Part 18

- **§ 18.1 In-bond application and entry; general rules.** CBP proposes amendments to paragraph (e) to replace references to the paper process with references to the electronic process in part 113.
- **§ 18.3 Transfers.** CBP proposes amendments to paragraph (d) to replace references to the paper process with references to the electronic process in part 113.
- **§ 18.20 General rules.** CBP proposes amendments to paragraph (d) to replace references to the paper process with references to the electronic process in part 113. CBP also proposes changing the words “he or she” to the words “port director” to make clearer who the regulation refers to.

- **§ 18.25 Direct exportation.** CBP proposes amendments to paragraph (e) to replace references to the paper process with references to the electronic process in part 113, and to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113.

Part 19

- **§ 19.2 Applications to bond.** CBP proposes amendments to paragraphs (c) and (e) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113. CBP also proposes to change “class” to “Class” in paragraph (c) to ensure internal consistency within the section, and to change “he” to “the proprietor” in paragraph (e) for increased clarity.
- **§ 19.13 Requirements for establishment of warehouse.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113.
- **§ 19.14 Materials for use in manufacturing warehouse.** CBP proposes amendments to paragraphs (b) and (d) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 19.15 Withdrawal for exportation of articles manufactured in bond; waste or byproducts for consumption.** CBP proposes amendments to paragraph (g)(1) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 19.17 Application to establish warehouse; bond.** CBP proposes amendments to paragraph (e) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 19.40 Establishment, relocation or alteration of container stations.** CBP proposes amendments to paragraph (a) to replace references to the paper process

and the CBP Form 301 with references to the electronic process in part 113, and to change references to the port director's authority to set the amount of the bond to "CBP" to reflect the centralization of these procedures.

Part 24

- **§ 24.11 Notice to importer or owner of increased or additional duties, taxes, fees and interest.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.** CBP proposes to amend the section heading to replace "Customs" with "CBP," and to amend paragraph (c)(1) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113; to change references to the port director's authority to set the amount of the cash deposit to "CBP" to reflect the centralization of these procedures; to change "Customs" to "CBP" where appropriate; and to change references to the port director's authority to set the amount of the bond to "CBP" to reflect the centralization of these procedures. CBP also proposes to amend paragraphs (c)(2) and (3) to replace "Customs Form" with "CBP Form."

Part 54

- **§ 54.6 Proof of intent; bond; proof of use; liquidation.** CBP proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change "Customs" to "CBP" where appropriate.

Part 112

- **§ 112.11 Carriers which may be authorized.** CBP proposes amendments to paragraph (a)(4)(ii) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 112.12 Application for authorization.** CBP proposes amendments to paragraph (a) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change references to the port director's authority to set the amount of the bond to "CBP" to reflect the centralization of these procedures. CBP also proposes amendments to paragraph (b)(3) to align with the electronic process in part 113.
- **§ 112.14 Discontinuance of carrier bonds.** CBP proposes to replace the word "Discontinuance" in the section header with "Termination," in keeping with the terminology used throughout title 19, and to add cross-references to the termination and cancellation provisions in part 113 (§§ 113.27 and 113.51, respectively).
- **§ 112.22 Application for license.** CBP proposes amendments to paragraph (a) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change "Customs" to "CBP" where appropriate. CBP proposes to add the bond requirement found in paragraph (a)(1) to the introductory text, to remove paragraph (a)(1), and to redesignate paragraphs (a)(2) and (a)(3) as (a)(1) and (a)(2), respectively. Additionally, CBP proposes to change "he" to "the applicant" for increased clarity.
- **§ 112.25 Bonded carriers.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 112.49 Temporary identification cards.** CBP proposes amendments to paragraph (d) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change references to the port director's

authority to set the amount of the bond to “CBP” to reflect the centralization of these procedures. CBP also proposes changing the word “his” to the word “an” employee to make clearer who the regulation refers to.

Part 118

- **§ 118.11 Contents of application.** CBP proposes amendments to paragraph (e) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to include a reference to the conditions for a custodial bond found in § 113.63. Because the electronic bond process does not call for an application to be submitted to CBP, CBP proposes to eliminate the second sentence in paragraph (e) that provides the option of submitting a bond application to CBP that is included with the application to operate a Centralized Examination Station.

Part 122

- **§ 122.38 Permit and special license to unlade and lade.** CBP proposes amendments to paragraphs (d), (e), and (f) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 122.74 Incomplete (pro forma) manifest.** CBP proposes amendments to paragraphs (a)(1) – (2) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 122.81 Application.** CBP proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 122.82 Bond requirements.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in

part 113, and to change references to the port director's authority to set the amount of the bond to "CBP" to reflect the centralization of these procedures.

- **§ 122.117 Requirements for transit air cargo transport.** CBP proposes amendments to paragraphs (a)(1)(ii), (a)(2), and (c)(4)(ii) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 122.182 Security provisions.** CBP proposes amendments to the introductory text to paragraph (c)(1) to replace references to the bond conditions moved from Appendix A to § 113.76, and to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

Part 123

- **§ 123.8 Permit or special license to unlade or lade a vessel or vehicle.** CBP proposes amendments to paragraph (c) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

Part 125

- **§ 125.42 Cancellation of liability.** CBP proposes amendments to remove references to the paper process and the CBP Form 301.

Part 127

- **§ 127.37 Insufficient proceeds.** CBP proposes amendments to paragraph (a) to remove references to the paper process and the CBP Form 301.

Part 128

- **§ 128.22 Bonds.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change "Customs" to "CBP" where appropriate.

Part 132

- **§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.** CBP proposes amendments to paragraphs (a)(4)(i)(C) and (a)(4)(ii)(B) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.

Part 133

- **§ 133.21 Articles suspected of bearing counterfeit marks.** CBP proposes amendments to paragraphs (b)(5), (c)(2), and (f) to replace references to the paper process with references to the electronic process in part 113.
- **§ 133.25 Procedure on detention of articles subject to restriction.** CBP proposes amendments to paragraph (c) to replace references to the paper process with references to the electronic process in part 113.
- **§ 133.26 Demand for redelivery of released merchandise.** CBP proposes amendments to remove a reference to the CBP Form 301.
- **§ 133.42 Infringing copies or phonorecords.** CBP proposes amendments to paragraphs (b)(5), (c)(2), and (f) to replace references to the paper process with references to the electronic process in part 113.
- **§ 133.46 Demand for redelivery of released articles.** CBP proposes amendments to remove a reference to the CBP Form 301, and to change “Customs” to “CBP” where appropriate.
- **§ 113.47 Articles suspected of violating the Digital Millennium Copyright Act.** CBP proposes amendments to paragraphs (b)(5), (c)(2) and (f) to replace references to the paper process with references to the electronic process in part 113.
- **§ 113.48 Demand for redelivery of released articles.** CBP proposes amendments to remove a reference to the CBP Form 301.

Part 134

- **§ 134.53 Examination packages.** CBP proposes amendments to paragraph (a)(2), to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, to change references to the Center director's authority to accept a bond to "CBP" to reflect the centralization of these procedures, and to change "Customs" to "CBP" throughout § 134.53 where appropriate.

Part 141

- **§ 141.4 Entry required.** CBP proposes amendments to paragraph (d) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 141.15 Bond for production of bill of lading or air waybill.** CBP proposes amendments to paragraph (a) to change references to the port director's authority to accept a bond to "CBP" to reflect the centralization of bond procedures, and to change "Customs" to "CBP" where appropriate. CBP also proposes to change the word "he" to the words "port director" to make clearer who the regulation refers to. CBP also proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 141.18 Entry by nonresident corporation.** CBP proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 141.19 Declaration of entry.** CBP proposes amendments to paragraph (b)(2)(ii), to remove references to the paper process and the CBP Form 301.
- **§ 141.20 Actual owner's declaration and superseding bond of actual owner.** CBP is proposing amendments to paragraphs (a)(1)-(2), (b), and (c) to change "Customs" to "CBP" where appropriate, to change "single entry" bond to "single transaction" bond, consistent with the terminology used in part 113, and to replace references to the paper process and the CBP Form 301 with references to the

- electronic process in part 113. CBP also proposes technical amendments to make clearer references to the noun. CBP is proposing further amendments in paragraphs (b) and (c) to clarify that the actual owner must be listed as the principal on the bond.
- **§ 141.41 Surety on Customs bonds.** CBP is proposing amendments replacing references to the paper process, and clarifying that this provision addresses power of attorney to act as an agent for a surety.
 - **§ 141.61 Completion of entry and entry summary documentation.** CBP proposes amendments to paragraph (e)(2) to replace references to the paper process with references to the electronic process in part 113.
 - **§ 141.66 Bond for missing documentation.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
 - **§ 141.91 Entry without required invoice.** CBP proposes amendments to paragraph (d) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
 - **§ 141.92 Waiver of invoice requirements.** CBP proposes amendments to paragraph (c) to remove references to the CBP Form 301.
 - **§ 141.112 Liens for freight, charges, or contribution in general average.** CBP proposes amendments to paragraph (g) to replace references to CBP Form 301 with references to the electronic process in part 113, and to make clearer references to the noun. CBP also proposes to change “Customs” to “CBP” in paragraphs (b), (c), (e)(1) and (h) where appropriate.

Part 142

- **§ 142.4 Bond requirements.** CBP proposes amendments to paragraphs (a), (b), and (c)(1) to change “Customs” to “CBP” where appropriate, to change “single entry” bond to “single transaction” bond, consistent with the terminology used in part 113,

and to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

- **§ 142.19 Release of merchandise under the entry summary.** CBP proposes amendments to the introductory text and paragraphs (a) and (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 142.21 Merchandise eligible for special permit for immediate delivery.** CBP proposes amendments to paragraphs (a), (b)(2), (e)(1), (f)(2) and (i) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.

Part 144

- **§ 144.2 Liability of importers and sureties.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes technical amendments to make clearer references to the noun.
- **§ 144.13 Bond requirements.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to replace references to the Center Director with CBP, as the entity responsible for setting the bond amount.
- **§ 144.14 Removal to warehouse.** CBP proposes amendments to the introductory text to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 144.21 Conditions for transfer.** CBP proposes amendments to the introductory text to replace references to the paper process and the CBP Form 301 with references

to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.

- **§ 144.23 Endorsement in blank.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes technical amendments to make clearer references to the noun.
- **§ 144.24 Transferee's bond.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 144.25 Deposit of forms.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.
- **§ 144.41 Entry for rewarehouse.** CBP proposes amendments to paragraph (d) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.

Part 146

- **§ 146.6 Procedure for activation.** CBP proposes amendments to paragraphs (d) and (e) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate. CBP also proposes changing the word “his” to the words “the port director’s” to make clearer who the regulation refers to.
- **§ 146.7 Zone changes.** CBP proposes amendments to paragraphs (d) and (f) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

- **§ 146.67 Transfer of merchandise for exportation.** CBP proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.
- **§ 146.69 Supplies, equipment, and repair material for vessels or aircraft.** CBP proposes amendments to paragraph (a) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” where appropriate.

Part 147

- **§ 147.3 Bond required.** CBP proposes amendments to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, and to also make it possible for the Director, Revenue Division, and the Center director to be responsible for setting the bond amount.

Part 148

- **§ 148.52 Exemption for household effects used abroad.** CBP proposes amendments to paragraph (c) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

Part 149

- **§ 149.5 Eligibility to file an Importer Security Filing, authorized agents.** CBP proposes amendments to paragraph (b) to replace references to the bond conditions moved from Appendix D in part 113 to § 113.77, and to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

Part 151

- **§ 151.7 Examination elsewhere than at place of arrival or public stores.** CBP proposes amendments to paragraph (d) to replace references to the paper process and

the CBP Form 301 with references to the electronic process in part 113, and to change “Customs” to “CBP” in paragraphs (a)-(c) where appropriate.

- **§ 151.12 Accreditation of commercial laboratories.** CBP proposes amendments to paragraphs (f)(1)(vii) and (g)(2)(vi) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, to change “Customs” to “CBP” where appropriate, and to make the Director, Revenue Division, the port director, and the Executive Director, Laboratories & Scientific Services responsible for setting the bond amount.
- **§ 151.13 Approval of commercial gaugers.** CBP proposes amendments to paragraphs (d)(1)(vii) and (e)(2)(vi) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113, to change “Customs” to “CBP” where appropriate, and to make the Director, Revenue Division, the port director, and the Executive Director, Laboratories & Scientific Services responsible for setting the bond amount.

Part 162

- **§ 162.47 Claim for property subject to summary forfeiture.** CBP proposes amendments to paragraph (b) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113. CBP also proposes to modernize the language of this provision by replacing the words “penal sum” with the word “amount.”

Part 190

- **§ 190.92 Accelerated payment.** CBP proposes amendments to paragraphs (d) and (e)(3) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

Part 191

- **§ 191.92 Accelerated payment.** CBP proposes amendments to paragraphs (d) and (e)(3) to replace references to the paper process and the CBP Form 301 with references to the electronic process in part 113.

IV. STATUTORY AND REGULATORY REQUIREMENTS

A. Executive Orders 12866, 13563 and 14192

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 14192 (Unleashing Prosperity Through Deregulation) directs agencies to significantly reduce the private expenditures required to comply with Federal regulations and provides that “any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” CBP estimates that during the period of analysis 2015-2029, this proposed rule would result in annualized net cost savings ranging from \$3.53 million (discounted 2024 U.S. dollars) using a three percent discount rate to \$3.48 million (discounted 2024 U.S. dollars) using a seven percent discount rate. For the purposes of Executive Order 14192 accounting, CBP estimates that the perpetual time horizon present value of cost savings from this proposed rule would be \$54.8 million, and the annualized value of cost savings would be \$3.84 million using a seven percent discount.

The Office of Management and Budget (OMB) has not designated this rule a “significant regulatory action,” under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. This proposed rule, if finalized, is expected to be an Executive Order 14192 deregulatory action. The following is the economic analysis for this proposed rule.

Purpose of the Rule

This proposed rule requires sureties issuing customs bonds to use an electronic data interchange (EDI) to submit the bonds to CBP, except in certain prescribed instances where email is acceptable.¹² Generally, sureties would use eBond, an electronic system for filing customs bonds.¹³ This proposed rule requires that all bonds, riders, terminations, and changes to power of attorney be transmitted electronically to CBP by the surety or the surety's authorized filer.¹⁴ CBP has also established a central repository for all bonds within the Office of Finance's Revenue Division, helping to eliminate errors in bond execution and reduce legal risks. Implementing eBond reduces paper processing, expedites cargo release, enhances the traceability of bonds for audit purposes, and allows for bonds to be filed outside of business hours. Overall, eBond increases efficiency in the bonding process for CBP, sureties, and importers.

Background

To import goods for commercial purposes, an importer may be required to procure a customs bond securing importation and entry (an "import bond"), which ensures compliance with various laws, and protects the revenue.¹⁵ The process of importing and entering goods takes time and has several steps from the initial entry filing to liquidation. To facilitate trade, CBP allows importers to secure their transactions with an import bond so that goods may be released before duties, taxes, and fees are fully assessed and paid. In Fiscal Year (FY) 2023, CBP processed 36.7 million entries and collected almost \$92.3 billion in duties.¹⁶ Duties collected in

¹² Exemptions allowing for or requiring the use of bonds sent via email are listed in proposed 19 CFR 113.11(c). Transmission by the surety is required unless otherwise permitted by CBP. These exceptions account for approximately 0.01 percent of all bonds active as of January 2024. Source: CBP's Automated Commercial Environment (ACE) database.

¹³ In 2015, CBP designated the Automated Commercial Environment (ACE) as the CBP-authorized EDI system for processing commercial trade data. 80 FR 61278 (October 13, 2015). The eBond system is a part of ACE. For simplicity, throughout this analysis, eBond refers to the CBP-authorized EDI.

¹⁴ Except where the bond is secured by cash in lieu of surety, pursuant to 19 CFR 113.40, and for bonds to indemnify a complainant under Section 337 of the Tariff Act of 1930, as provided for in 19 CFR 113.74.

¹⁵ Generally, a bond securing the importation transaction is required for formal entry of goods valued over \$2,500. Other bonds, such as a bond required for informal entry of goods, can have a lower monetary threshold but are much less common. Additionally, importers may elect to use cash in lieu of a surety. While a bond secured by cash in lieu of surety serves to secure the transaction in the same way as a bond secured by a surety, the importer paying a cash deposit does not use a surety. Cash-in-lieu is very rare, accounting for only 0.002 percent of import bonds. Data provided by CBP Revenue Division on February 26, 2025.

¹⁶ Customs and Border Protection, "FY 2023 CBP Trade Fact Sheet" June 2024 (most recent available publication). https://www.cbp.gov/sites/default/files/2024-06/cbp_fy_2023_trade_fact_sheet_06.2024.pdf. Accessed March 27, 2024.

FY 2023 were at a 17.5 percent decrease from FY 2022, and were paid on \$3.33 trillion worth of imported goods.

A customs bond is a financial guarantee between a principal and a surety company.¹⁷ The surety issues the bond with CBP as the direct beneficiary. For an import bond, the importer is the principal. If CBP is unable to collect monies owed from the principal, the surety is liable for the amount of the bond and the surety may then use any legal means to seek reimbursement from the principal/importer.

There are two basic types of customs bonds: single transaction bonds (STBs) and continuous bonds. STBs cover a single transaction or activity while continuous bonds apply to all transactions or activities of the same type, by a single principal, in a one-year time period. The minimum amount for a customs bond of any type is \$100, except when law or regulation expressly allows a smaller amount. Generally, the principal may use either a single transaction or continuous bond to secure its customs activity or transaction. The type of transaction or activity to be secured is identified by an “activity code.” Each activity code has a different minimum amount for continuous bonds. See Table 1 for the number of bonds and total amount of bond coverage by activity code for the one-year period ending in January 2025. Table 1 indicates that the majority of customs bonds are importer bonds.

¹⁷ The proposed regulations define a surety as a company listed in Treasury Circular 570 as an acceptable surety on Federal bonds or as an acceptable reinsurance company for such bonds, and the officers, employees, and/or agents (including surety agents) of such company. See proposed 19 CFR 113.1.

Table 1: Bonds Outstanding Summary for February 1, 2024, through January 31, 2025¹⁸

Activity Code	Activity Code Name	Single Transaction Bonds		Continuous Bonds	
		Count	Total Amount	Count	Total Amount
1	Importer/Broker	386,535	\$8,212,145,904	254,103	\$27,315,420,000
1A	Drawback	7,934	\$1,374,977,252	1,431	\$5,881,731,600
1A1	Combo 1 & 1A	0	\$0	2	\$210,000
2	Custodian of Bonded Merchandise	N/A	N/A	7,018	\$615,965,000
3	International Carrier	324	\$59,339,063	8,379	\$1,211,290,000
3A	Instruments of International Traffic	N/A	N/A	965	\$34,247,000
3A3	Combo 3 & 3A	0	\$0	30	\$16,540,000
4	Foreign Trade Zone (FTZ)	N/A	N/A	1,369	\$588,040,000
5	Public Gauger	0	\$0	37	\$1,720,000
6	Wool & Fur Products Labeling Acts Importation	0	\$0	N/A	N/A
7	Bill of Lading	0	\$0	N/A	N/A
8	Detention of Copyrighted Material	0	\$0	N/A	N/A
9	Neutrality	0	\$0	N/A	N/A
10	Court Cost for Condemned Goods	252	\$122,136	\$0	\$0
11	Airport Security Bond	N/A	N/A	1,700	\$84,563,000
12	International Trade Commission (ITC)	0	\$0	0	\$0
14*	In-Bond Export Consolidation (IBEC)	N/A	N/A	0	\$0
15	Intellectual Property Rights (IPR)	0	\$0	35	\$505,500
16	Importer Security Filing (ISF)	90,944	\$909,440,000	87	\$3,930,000
17	Marine Terminal Operator	N/A	N/A	39	\$4,500,000
19	User Fee Facility	0	\$0	1	\$4,100,000
20	Vehicle Export Consolidator	0	\$0	0	\$0
	TOTAL	485,989	\$10,556,024,355	275,196	\$35,762,762,100

N/A = Activity Code does not apply

*Source: ACE Reports

Generally, single transaction import bond amounts are calculated as the value of the merchandise, plus estimated taxes, duties, and fees. Generally, continuous import bond amounts are calculated based on the amount of taxes, duties, and fees paid by the particular importer (and any authorized users on the bond) during the prior 12 months.¹⁹ If the importer did not make

¹⁸ Bond totals reflect all bonds on file in CBP systems during the period from February 2024 to January 2025, including continuous bonds created in other years. Data provided by CBP's Revenue Division subject matter expert on February 26, 2025.

¹⁹ CBP notes that when estimating the bond amount the importer should also include forecasted amounts to cover up to 12 months into the future to avoid getting insufficiency notices and encountering bond stacking liability.

payments in the prior 12 months, the importer must provide to CBP a statement of the duties and taxes it estimates would accrue during the next 12 month period.²⁰

CBP began a National Customs Automation Program (NCAP) test for eBond in 2015, allowing participating sureties to file customs bonds electronically.²¹ CBP also published a final rule in the *Federal Register*, which centralized the filing of continuous bonds at the Revenue Division, and allowed both STBs and continuous bonds to be filed by email or facsimile to the Revenue Division, in addition to paper bond filing.²² The final rule retained the ability for STBs to be filed on paper at the port.

In the years before the 2015 eBond test, and for those not participating in eBond after 2015, a paper import bond was required to be filed by the importer or a licensed customs broker using CBP Form 301 with either the port director of the requisite port or the Director of the Revenue Division of CBP.²³ Before the eBond test or for those not participating, the customs broker or importer filing an import bond could reach out to a surety each time a bond was needed at entry. However, the processing times involved meant that, in practice, sureties would give the broker executed bonds with the importer information and amount left blank. When a bond was needed for entry, the broker added the amount and importer information and filed the bond with CBP, leaving the surety without the chance to decline to issue the bond. The practice of filing by brokers and importers left sureties without enough information to adequately assess their risk position and without an opportunity to decline to issue the bond. Although this method was not the one envisioned in the CBP bond regulations, it was generally adopted for efficiency and competitiveness in a fast-moving and geographically spread-out trade environment.

²⁰ CBP notes that if no imports were made during the preceding year, the bond amount is set based on the duties, taxes, and fees which the principal, co-principal, or user estimates will accrue on imports during the next 12-month period. In no event can the bond amount be less than \$50,000.

²¹ 79 FR 70881 (November 28, 2014).

²² 80 FR 70154, 70155 (November 13, 2015).

²³ CBP has also been accepting CBP Form 301s via email since approximately 2004. Although the bonds are sent by email, for the purposes of being entered into ACE, they are treated the same way as paper forms. As of 2024, the majority of bonds not submitted via eBond are submitted via email.

For import STBs, the bond application requires the value and nature of the merchandise. In practice, STBs were often filed at the port of entry where port personnel review and process the form manually. Before the introduction of ACE and eBond, and depending on operational priorities, the forms were sometimes processed with the entry at cargo release or after entry summary, such that cargo was released without CBP receiving an STB. Records were created and stored at the ports, so sureties rarely had consistent information and sometimes had limited involvement in reviewing the STBs, making risk management particularly difficult.²⁴ CBP had no centralized office responsible for overseeing, storing, or administering STBs, while continuous bonds were centralized to the Revenue Division in 2015. The majority of import STBs are now filed in ACE via eBond, pursuant to the eBond NCAP test, though some bonds are still filed and stored at the ports. This proposed rule centralizes the filing of STBs with the Revenue Division. The use of eBond and resulting centralization of STB processing and storage would mitigate some of the risks for sureties and afford better protection of the revenue for CBP.

The information submitted in the paper bond application for continuous import bonds includes the general nature of the merchandise, as well as an estimate of the total amount of customs duties and taxes due to CBP for all merchandise imported by the principal(s) and authorized user(s) in the previous 12 months. The estimate is then used to calculate the bond amount. In the event that the principal(s) and authorized user(s) did not import any merchandise in the previous 12 months, a statement of the estimated duties and taxes for the next 12-month period is required. Processing for continuous bonds differs from STBs and is centralized. Continuous bonds were entered manually into the Automated Commercial System (ACS), the precursor to ACE, and are now entered into ACE itself, when not filed via eBond, by personnel in the Revenue Division.

²⁴ Industrial Economics, Inc. Report for CBP, “Customs Bonds; eBond Baseline Analysis,” dated August 9, 2019. The document is available in the docket.

eBond is an automated system providing for the transmission of electronic bond contracts, in lieu of paper bonds.²⁵ The eBond system allows only sureties or their authorized agent, rather than other parties to the transaction, to submit both STBs and continuous bonds electronically and without the use of a paper CBP Form 301. The electronic nature of eBond and the fact that it is usable outside of business hours eliminates many processing delays. As of 2024, as part of the eBond NCAP test, 99% of bonds are filed via eBond (see Table 2).²⁶ For those importers or sureties not yet using the eBond system, paper continuous bonds can still be submitted via mail or email to the Revenue Division, pursuant to the regulations, though as of January 1, 2015, 99% of all continuous bonds not submitted with eBond were submitted via email.²⁷ Bond information from the paper application which has been sent by mail or email is then input into the eBond system as part of processing.

Table 2. Bonds Filed Annually From 2015-2024

Year	Number of Bonds Transmitted Via eBond	Number of Bonds Input by CBP	Total Bonds Filed
2015	185,805	5,594	191,399
2016	432,453	2,657	435,110
2017	586,511	1,283	587,794
2018	555,006	93	555,099
2019	570,139	110	570,249
2020	537,781	99	537,880
2021	589,775	57	589,832
2022	604,916	117	605,033
2023	599,305	37	599,342
2024	571,982	39	572,021
Total	5,233,673	10,086	5,243,759

*Source: ACE

The eBond system allows sureties to electronically transmit bond information into ACE. By doing so, the bond can be linked to the transaction or activity it secures. The eBond system allows bonds to be submitted at any time, including outside of CBP's business hours. So long as

²⁵ 79 FR 70881 (November 28, 2014).

²⁶ Bond information provided by CBP's Revenue Division subject matter expert on March 5, 2020.

²⁷ A small number of STBs continued to be submitted on paper at the ports.

all required data elements are submitted, an eBond can be used immediately, eliminating delays due to mailing, correction of errors or omitted data elements, and data entry.

Costs of the Rule

Pre-Regulatory Costs

CBP built the eBond system in preparation for the eBond test in 2015. In addition, the processing of continuous bonds was centralized to the Revenue Division in 2015, so CBP is already prepared to implement eBond. Because eBond is a part of ACE, the costs to develop the system are not tracked separately, but CBP estimates these pre-regulatory and pre-test costs to have been approximately \$3,600,000, based on the estimated labor costs attributed to this development.²⁸ Because this information was provided in 2020 dollars, CBP adjusted the estimate for inflation and estimates that the cost to develop and implement eBond in ACE was approximately \$4,257,058 in 2024 U.S. dollars.²⁹ The eBond system was developed and paid for in preparation for the 2015 eBond test. As they are related to this rule, CBP reports these in the total costs in this analysis, for transparency purposes. However, CBP considers these are sunk costs that cannot be avoided by forgoing the rule.

Set-up Costs

To use eBond, a surety must obtain a filer code from CBP, which is separate from the surety code all sureties must already have. There is no fee for a filer code, but it may take a week or so for CBP to provide due to internal coordination among CBP offices. Once the surety has a code, it may file bonds via eBond, the CBP-approved EDI. Sureties must have an ACE account/profile before securing their filer code. However, sureties generally already have ACE accounts for other activities and would not need to establish a new account to use eBond.

²⁸ This estimate is based on the original estimate obtained for system development costs to CBP and was reported in undiscounted, 2020 dollars. Source: Email correspondence with CBP's Office of Trade Transformation on June 19, 2020, based on ACE development budget information.

²⁹ CBP used the GDP implicit price deflator change from 2020 Q1 to 2024 Q1 which was approximately 18.25%. CBP multiplied this percent change by the 2020 cost estimate to reflect the cost estimate in 2024 U.S. dollars. CBP referenced the GDP implicit price deflator from the Federal Reserve Bank of St. Louis Economic Research Data located publicly here: <https://fred.stlouisfed.org/series/GDPDEF>.

Ongoing system maintenance costs

The eBond system is a part of core ACE development, and as a result, its maintenance costs are not tracked separately.³⁰ ACE development and maintenance are ongoing and would take place regardless of whether or not eBond were implemented. As a result, CBP does not consider eBond maintenance a significant additional cost to CBP.

Costs to sureties

As stated above, to use eBond a surety must have a filer code and an ACE account. The vast majority of sureties already have an ACE account and using eBond does not require any additional programming or software. They may obtain a filer code, which is separate from the surety code provided by the Revenue Division, by applying to CBP. It may take up to a week for CBP to provide the filer code due to coordination requirements between offices. Once the surety has its filer code, using eBond is the same as filling in a CBP Form 301, but electronic. Instead of typing information into the form and sending it by email to the Revenue Division, the surety would fill in the electronic fields and submit the information into ACE, where the system validates and stores the data submitted, and the information can be retrieved for review by CBP. Whereas with a form sent by email, Revenue Division employees would process the form and manually input the information into ACE, eBond allows bond information to be automatically added to ACE. So long as the eBond system does not detect any errors, such as missing information or an incorrectly entered filer code, the bond is usable immediately. Because sureties generally have an ACE account already and because eBond does not require additional information relative to the CBP Form 301, CBP does not believe sureties would face additional costs to submit bond information.

Delinquency Interest

The proposed rule institutes delinquency interest to be paid by the surety in the event that the surety fails to pay any amount due to CBP under the surety's bond, excluding liquidated

³⁰ Information provided by CBP's Office of Trade Transformation subject matter expert on June 15, 2020.

damages and penalties assessed against the bond principal, within 30 days of the date CBP notifies the surety of the amount due.³¹ Interest would accrue by 30-day periods. Although some sureties and importers would likely face increased costs due to this additional interest, CBP typically only includes costs of remaining in compliance with regulations in the analysis, not the costs that result from failing to comply with established regulations. Improving enforcement with existing regulations is a benefit of the rule, not a cost.

Cost Savings of the Rule

Automation of Bond Processing in ACE

Paper bonds are filled out and sent in or filed by sureties and must be manually entered into the eBond system by CBP personnel.³² Upon receipt, CBP reviews the paper bonds checking for errors, and if there are no errors, CBP transcribes each individual form into the eBond system. CBP estimates that typically reviewing a bond requires CBP personnel about five minutes and transcribing the paper bond into eBond takes about another five minutes.³³ Although it only takes around ten minutes for CBP to review and transcribe each individual form into the eBond system, the volume of forms received each day leads to delays in the processing of paper bonds. For instance, in the scenario that a paper bond is submitted, and no errors are identified during CBP review, it can take up to five days from when the surety submits the paper bond to when CBP actually transcribes the paper bond into the eBond system. Additionally, if errors are identified on the paper bond during CBP review, the filer must correct them, and CBP must re-process the form, which further delays the processing of the paper bond into the eBond system. Transcribing a paper bond is inherently vulnerable to errors and processing delays.

³¹ Proposed 19 CFR 113.38.

³² As stated above, before eBond, importers often filled in STBs pre-signed by the surety, though sureties filled out continuous bonds.

³³ Paperwork Reduction Act Supporting Statement for CBP Form 301, accessed on March 27, 2025, publicly available at https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202009-1651-004. According to this supporting statement CBP assumes that CBP staff incur a ten-minute time burden to review and process CBP Form 301s. CBP assumes that automating the bond transcribing process saves CBP staff half (five minutes of time savings) of the ten-minute time burden listed in the supporting statement because they no longer need to manually transcribe bonds into ACE, but staff still incur a time burden to conduct sufficiency reviews.

Bonds are only reviewed and transcribed during business hours, and manual entry by CBP personnel can lead to transcription errors.

Processing for continuous bonds was centralized at the Revenue Division in 2015, though the regulations still require bonds outside the eBond test to be sent using paper, email, or facsimile, and the information in those transmissions must be transcribed into the eBond system. For STBs, bonds can be filed at the port or with the Revenue Division. If the bond is filed at the port, manual processing may take more time due to operational priorities there. Delays may also occur in finding and retrieving documents for sufficiency review and other activities after bonds are in use. Industry participants noted that problems with processing lags and transcription errors were prevalent when using paper or forms sent via email.³⁴ Since the beginning of the eBond test in 2015, the vast majority of bonds have been filed via eBond, which has alleviated many of these concerns (see Table 2 above for the number of bonds filed via eBond vs. paper during the test period).

When a surety submits a bond through eBond, the system immediately rejects the bond if it encounters certain errors or missing information. The surety can make corrections and re-submit the bond as soon as it would like. This functionality significantly reduces processing times. When paper bonds had to be submitted, returned, and re-submitted, processing could take up to 15 days, most of which is wait time rather than active processing time. With eBond, for both the voluntary test period and regulatory period, these simple corrections can be made immediately. This also reduces the burden for CBP, as employees would no longer need to review bonds for completeness and correctness before processing, or work with sureties to fill in all necessary information, a process which can take up to 15 days. Additionally, CBP personnel no longer need to transcribe bond information into ACE for bonds transmitted via eBond, saving

³⁴ Industrial Economics, Inc. Report for CBP, “Customs Bonds; eBond Baseline Analysis,” dated August 9, 2019. The document is available in the docket.

about five minutes per bond submitted. During the voluntary test period from 2015-2024,³⁵ sureties filed 5,233,673 bonds via the eBond system (see Table 2 above). To estimate the time savings to CBP from automating the bond transcribing processing, CBP multiplied the number of bonds filed each year by the time savings per bond of five minutes (0.083 hours). In total, CBP expects that during the test period CBP experienced a total time savings of 436,139 hours or on average 43,614 hours annually. To estimate the cost savings, CBP multiplied the time savings each year by the average hourly loaded wage rate for a CBP trade and revenue employee (\$85.50).³⁶ CBP estimates that during the test period, CBP's total cost savings from no longer having to manually transcribe paper bonds or those sent by email into ACE was approximately \$37.3 million or on average \$3.7 million annually. Table 3 displays CBP's estimates for the time and cost savings from 2015-2024 from the eBond test.

Table 3. Estimated Time and Cost Savings to CBP during the Test Period, 2015-2024 (time in hours, cost savings in undiscounted 2024 U.S. Dollars)

Year	Number of Bonds Transmitted Via eBond	Time Savings Per Bond	Total Time Savings	Wage Rate	Total Cost Savings
2015	185,805	0.083	15,484	\$85.51	\$1,324,015
2016	432,453	0.083	36,038	\$85.51	\$3,081,588
2017	586,511	0.083	48,876	\$85.51	\$4,179,380
2018	555,006	0.083	46,251	\$85.51	\$3,954,880
2019	570,139	0.083	47,512	\$85.51	\$4,062,715
2020	537,781	0.083	44,815	\$85.51	\$3,832,138
2021	589,775	0.083	49,148	\$85.51	\$4,202,638
2022	604,916	0.083	50,410	\$85.51	\$4,310,531
2023	599,305	0.083	49,942	\$85.51	\$4,270,548
2024	571,982	0.083	47,665	\$85.51	\$4,075,848
Total	5,233,673		436,139		\$37,294,282

* Totals may not sum due to rounding.

To determine the number of bonds that would be transmitted via eBond in future years, CBP used the growth in eBond transmissions during the test period. CBP used the number of eBond transmissions for the years 2019 through 2024 to estimate that, on average, the annual

³⁵ Note that the eBond voluntary test period will continue until the proposed rule goes into effect and is bounded by the year 2024 only for purposes of analysis.

³⁶ CBP bases this wage on the FY 2024 salary, benefits, premium pay, non-salary costs and awards of the national average of CBP Trade and Revenue positions, which is equal to a GS-11, Step 1. Source: Email correspondence with CBP's Office of Finance on July 17, 2024.

increase of bonds submitted through eBond was around 0.06 percent.³⁷ CBP used this average annual increase (0.06 percent) to estimate the number of bonds that would be filed through eBond in future years. Table 4 displays CBP’s projections for the number of bonds that would be filed under the terms of the proposed rule for the five-year regulatory period of this analysis from 2025 to 2029. During the regulatory period CBP anticipates that approximately 2.87 million bonds would be transmitted via eBond or, on average, 573,091 annually.

Table 4. Projected Number of Bonds Filed Via eBond 2025-2029

Year	Number of Bonds
2025	572,351
2026	572,721
2027	573,091
2028	573,461
2029	573,831
Total	2,865,454

To estimate the time savings to CBP from eBond during the regulatory period, CBP multiplied the estimated number of bonds filed each year by the estimated time savings to CBP trade and revenue employees per bond submitted, five minutes (0.083 hours). In total, CBP expects that during the regulatory period CBP would experience a total time savings of 238,788 hours or, on average, 47,758 hours annually. To estimate the cost savings, CBP multiplied the time savings each year by the average hourly loaded wage rate for a CBP trade and revenue employee (\$85.51). CBP estimates that during the regulatory period total cost savings to CBP employees from no longer having to manually transcribe bonds into ACE would be approximately \$20.4 million or on average \$4.1 million annually. Table 5 displays CBP’s estimates for the number of bonds filed through eBond, and the transcription time and cost savings to CBP employees over the regulatory period of analysis. In the scenario that CBP identifies an error during review of a paper bond, the bond must be sent back to the surety to be

³⁷ CBP used the number of bonds transmitted via eBond from 2019 through 2024 and calculated a compounded annual growth rate of around 0.06 percent: $((571,982/570,139)^{(1/5)}-1)$. CBP anticipates that this growth rate will be relatively constant in future years.

corrected, resubmitted and then reviewed again by CBP. The additional time burdens associated in such a scenario would be eliminated for bonds submitted via eBond. However, CBP was unable to estimate the time savings from this type of scenario being eliminated because CBP does not track how often paper bonds must be corrected and resubmitted. CBP requests comments on how often paper bonds required corrections and needed to be resubmitted to CBP, and the associated time burdens with making these corrections.

Table 5. Estimated CBP Time and Cost Savings during the Regulatory Period, 2025-2029 (time in hours, cost savings in undiscounted 2024 U.S. dollars)

Year	Number of Bonds	Time Savings per Bond	Total Time Savings	Wage Rate	Total Cost Savings
2025	572,351	0.083	47,696	\$85.51	\$4,078,480
2026	572,721	0.083	47,727	\$85.51	\$4,081,113
2027	573,091	0.083	47,758	\$85.51	\$4,083,749
2028	573,461	0.083	47,788	\$85.51	\$4,086,385
2029	573,831	0.083	47,819	\$85.51	\$4,089,024
Total	2,865,454		238,788		\$20,418,751

*Totals may not sum due to rounding.

Benefits of the Rule

Improved Tracking, Awareness and Reduced Processing Delays

In addition to the cost savings CBP anticipates, there are potential benefits to sureties as a result of this proposed rule. Although continuous bond processing was centralized at the Revenue Division in 2015, STBs could still be filed at the port. The use of eBond centralizes STB filing, allowing importers, sureties, and CBP to keep better track of the number and value of STBs in use.³⁸ With the proposed rule in place, STBs would no longer be filed on paper at the ports, but would be transmitted via eBond.³⁹ With greater centralization and better tracking, sureties are more aware of their liability exposure and can better manage their risk. CBP would

³⁸ The majority of STBs are already filed via eBond as part of the NCAP test, though data limitations at the ports prevent CBP from calculating the exact number of STBs filed at ports. The proposed regulations align the regulations with practice and require the few STBs still filed at ports to move to eBond.

³⁹ Exemptions allowing for or requiring the use of bonds sent via email are listed in proposed 19 CFR 113.11(c). Bonds sent via email will also be transmitted to and processed by the Revenue Division, not filed at any port.

also benefit from improved traceability of bonds and greater efficiency in retrieving and managing bond records.

The eBond system also significantly reduces or eliminates processing delays. So long as the required data elements are all submitted through eBond and ACE accepts the bond, the bond is available to secure a transaction or activity, including outside of CBP business hours. Without eBond, processing can take up to 15 days if information is left off or if errors need to be corrected, and bonds can only be accepted during business hours when CBP personnel are available to process them. Although processing of bonds submitted on paper, by email, or by facsimile takes only about five minutes when there are no errors or data omissions, CBP personnel must work through all the bonds they receive, whereas eBond can process a bond in seconds, depending on system traffic. Eliminating this waiting period does not constitute a time savings and CBP is unable to monetize the benefit of avoiding it, but the immediate certainty that a bond has been accepted and processed is an important benefit for importers and sureties. As CBP is unable to monetize this benefit, CBP is limited to quantifying it at a delay savings of 5-15 days.

Improved Enforcement Efforts

CBP also anticipates that this proposed rule would help CBP enforce existing regulations. Increased use of eBond would help improve enforcement efforts by allowing CBP to charge additional interest on late payments. CBP expects that charging this additional interest on late payments will incentivize sureties to provide the proper payment amounts on time, therefore improving compliance with existing regulations.

Unquantified Costs, Cost Savings and Benefits from Proposed Rule

This proposed rule makes a number of other changes to the bonding requirements that have both costs, cost savings and benefits to CBP and trade members, but which CBP is unable to estimate due to lack of data. See Table 6 for a summary of the qualitative costs and benefits of the rule.

Table 6. Summary of the Qualitative Costs and Benefits of eBond Implementation

Proposed Regulation	Change	Cost	Cost Savings/Benefit
113.11(a)	All bonds, riders, terminations and changes to power of attorney must be transmitted electronically to CBP by the surety or the surety's authorized filer (elimination of Form 5297 for Power of Attorney)	Brokers accustomed to filing STBs must now go through the surety directly	Better risk management and more likely payment of assessed duties; sureties prefer an electronic option to a paper bond
113.15	All bond processing and retention centralized at CBP's Revenue Division, Office of Finance		Increased efficiency and improved administration by CBP; greater traceability of bonds
	Filing anytime		Increased efficiency for sureties and principals
113.13	More regular sufficiency reviews; more comprehensive criteria for reviews		Increased efficiency for CBP; greater protection of the revenue; more clarity for sureties
113.12; 113.22 (removed); 113.25 (removed)	Witnesses, seals, and signatures are no longer required; use of electronic certification	None	Increased efficiency and reduced costs for sureties
113.24	Clarity on permissible riders	None (all permitted riders listed in the proposed regulations and elimination of existing requirements for execution of a rider)	Easier and more efficient; all information in one place

Cost Savings of an Electronic Option

As stated above, the electronic nature of eBond allows sureties and CBP to avoid the back and forth of correcting errors and collecting omitted information. An electronic system for bond filing also has widespread support among sureties. Email became an option for bond submission in the early 2000s and by 2015, 99 percent of non-eBond bonds were submitted via email. Although eBond would be mandatory for the majority of bonds, CBP expects that sureties would willingly adopt the changes as they are beneficial to them, and the majority already have by participating in the test. Sureties are generally supportive of eBond, and 10 surety agents participate in the eBond test, representing 93 surety companies voluntarily

participating in the eBond test.⁴⁰ These participating sureties and companies represent the majority of active sureties and surety companies. There are some sureties and surety companies not yet participating, but because most were not actively filing bonds in 2024, CBP cannot accurately track their numbers or predict when they might need to use eBond.

Centralization of All Bond Processing and Retention

The centralization of both processing and retention of bonds to the Revenue Division would increase organization and traceability of bonds. This allows for better risk management by sureties and CBP, easier sufficiency reviews and audits, and better enforcement by CBP.

Filing Anytime

The implementation of eBond allows sureties to file bonds at any time, including outside of CBP business hours. Bonds are then active as soon as they are accepted by the system, generally within a few minutes or seconds. This time savings is one of the primary factors leading to surety support of the program.

Sufficiency Review

Sufficiency review refers to the process by which CBP reviews bonds to determine that the bonds are of sufficient value to adequately secure the transactions or activities they cover. In determining whether a bond is sufficient, CBP may consider the prior payment record of the principal and any authorized user, the prior record of the principal in responding to CBP demands, the value and nature of the merchandise, the degree of supervision required by CBP for the transaction or activity, and the principal's prior record in honoring bond obligations.⁴¹ The proposed rule provides increased clarity in the timing of the notification process surrounding sufficiency review of bonds. By further defining the timing and method of sufficiency review notifications, sureties would have a greater understanding of the process and benefit from better and clearer communication from CBP. CBP would also benefit from better oversight.

⁴⁰ Information on surety agents and companies provided by CBP Revenue Division subject matter expert on February 26, 2025.

⁴¹ 19 CFR 113.13.

Witnesses, Signatures, and Seals

Principals and sureties would no longer be required to provide seals, signatures, or witnesses on bonds. Only the surety or the surety's agent may file bonds with eBond, and the filer is required to provide its filer code as proof of identity, eliminating the need for witnesses, signatures, and seals, and saving time and coordination for the surety.

Riders and terminations

The ability to modify or terminate a bond depends on the role of each entity in the transaction or activity. The principal and the surety may agree to make certain changes at certain times in the life cycle of a bond. The surety may make these updates via the eBond system. Although the importer or its broker can view bond activity via their ACE account, they cannot make changes. Still, with eBond, changes and terminations can be made much more quickly, so that more goods are properly bonded at all times.

The role of brokers

As stated above, before eBond, the customs broker or importer filing an import bond could reach out to a surety each time a bond was needed at entry. However, the processing times involved meant that, in practice, sureties would instead give the broker executed bonds with the importer information and amount left blank. When a bond was needed for entry, the broker added the amount and importer information and filed the bond with CBP, often leaving the sureties without the chance to decline to issue a bond.⁴² As a result, sureties lacked a full understanding of their total liability. With eBond, only a surety can transmit a bond to CBP, giving the surety greater awareness of its liability levels without sacrificing speed or efficiency. The surety then provides the information from the already executed bond for the broker or importer to use when filing entry. The eBond system is meant to assist sureties in managing

⁴² Industrial Economics, Inc. Report for CBP, "Customs Bonds; eBond Baseline Analysis," dated August 9, 2019. The document is available in the docket.

their risk by centralizing STBs and requiring bonds to be submitted by sureties or their agents instead of by brokers or importers.

Technical Changes

The proposed rule also includes many technical changes and clarifications such as the addition of a secondary notify party for bonds, or clarification on notification requirements for bond termination. These updates would generally increase efficiency, provide clarity for sureties and importers, and modernize the regulations and are unlikely to increase the costs of the proposed regulation.

Net Impact

The eBond system was initially developed for the eBond test in 2015 and because those costs and time savings generated during the test period (2015-2024) have already been incurred, they are not included in the effects of the regulatory period in this proposed rule. CBP estimates that over the 5-year regulatory period, the implementation of the eBond system and the transition away from paper bonds would likely lead to an annualized net cost savings to CBP of \$4.083 million (discounted 2024 U.S. dollars) using three percent and seven percent discount rate. Table 7 displays CBP’s estimates for the net present value and annualized cost savings from this proposed rule using a three percent and seven percent discount rate. Additionally, CBP notes that there are a number of other cost savings and benefits to sureties that CBP was unable to quantify or monetize and are discussed above.

Table 7. Total Discounted Net Cost Savings in Regulatory Period (2024 U.S. Dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost Savings	\$18,701,667	\$16,742,723
Annualized Cost Savings	\$4,083,594	\$4,083,394

Total Net Impact

To show the total effect of this proposed rule CBP provides estimates for the net cost savings during the entire eBond program (2015-2029). CBP expects the total monetized effects

of this proposed rule include the implementation costs of the eBond system in 2015 (\$4,257,058 in 2024 U.S. dollars) and the estimated cost savings to CBP staff from 2015 to 2029. Table 8 displays CBP’s estimates for total monetized costs and cost savings as a result of this proposed rule.

Table 8. Total Net Cost Savings of EBond from 2015-2029 (2024 U.S. Dollars)

Year	Costs	Cost Savings	Net Cost Savings
2015	0	\$1,324,015	\$1,324,015
2016	0	\$3,081,588	\$3,081,588
2017	0	\$4,179,380	\$4,179,380
2018	0	\$3,954,880	\$3,954,880
2019	0	\$4,062,715	\$4,062,715
2020	0	\$3,832,138	\$3,832,138
2021	0	\$4,202,638	\$4,202,638
2022	0	\$4,310,531	\$4,310,531
2023	0	\$4,270,548	\$4,270,548
2024	\$4,257,058*	\$4,075,848	-\$181,209
2025	\$0	\$4,078,480	\$4,078,480
2026	\$0	\$4,081,113	\$4,081,113
2027	\$0	\$4,083,749	\$4,083,749
2028	\$0	\$4,086,385	\$4,086,385
2029	\$0	\$4,089,024	\$4,089,024
Total	\$4,257,058	\$57,713,033	\$53,455,975

*See footnote ⁴³

Using a three percent and seven percent discount rate, CBP estimates that from 2015-2029 the total discounted present value net costs savings from this proposed rule would range from \$42.1 million (discounted 2024 U.S. dollars) using a three percent interest rate to \$31.7 million (discounted 2024 U.S. dollars) using a seven percent discount rate. CBP estimates that the annualized net cost savings from this proposed rule would range from \$3.53 million to \$3.48 million in discounted 2024 U.S. dollars, using a three and seven percent discount rate respectively. Table 9 below displays CBP’s estimates for the net present value and annualized cost savings from this proposed rule using a three percent and seven percent discount rate.

⁴³ CBP notes that although CBP incurred the implementation and development costs of the eBond system in 2015, the original cost estimates for that development was based in 2020 U.S. dollars. Additionally, CBP adjusted those 2020 U.S. dollar values for the development costs to 2024 U.S. dollars in this analysis. Therefore, CBP displays the implementation and development costs as occurring in 2024 in Table 8 for discounting purposes even though the costs were incurred in 2015.

Table 9. Total Discounted Net Cost Savings 2015-2029 (2024 U.S. Dollars)

	3% Discount Rate	7% Discount Rate
Present Value Cost Savings	\$42,116,499	\$31,675,818
Annualized Cost Savings	\$3,527,955	\$3,477,835

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business concern per the Small Business Act); a small organization (defined as any not-for-profit enterprise which is independently owned and operated and is not dominant in its field); or a small governmental jurisdiction (defined as a locality with fewer than 50,000 people).

The proposed rule results in annualized net cost savings of approximately \$4.1 million and no new costs for the public. Therefore, CBP does not believe the proposed rule would result in a significant new cost burden for small businesses. Additionally, because sureties quickly adopted an email option when it was introduced in 2015 and have, for the most part, already adopted eBond, CBP expects that sureties would willingly adopt these changes. CBP certifies that this rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Public Law 104-13, 44 U.S.C. 3507) 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 collections of information contained in these regulations are provided for by OMB control number 1651-0050 (Importation Bond Structure). CBP anticipates that this proposed rule would not change the time burden to respondents when submitting a CBP Form 301

Customs Bond; however, based on the estimates in the analysis for this proposed rule CBP is revising the total number of CBP Form 301 Customs Bond responses submitted by respondents every year. CBP expects that this proposed rule would result in the following change in the estimated time burdens to the public for the information collection number 1651-0050:

Total Time Burden to Submit CBP Form 301 Customs Bond

Estimated number of respondents annually: 572,390

Average responses per respondent: 1

Total responses: 572,390

Estimated time burden per respondent: 15 minutes (0.25 hours)

Total Time Burden: 143,098 hours

CBP anticipates that based on the estimates from the analysis for this proposed rule the number of CBP Form 301 Customs Bond submissions would decrease by around 177,910 and this updated number of responses reflects a decline of 44,379 hours in total burden to the respondents for this information collection, down from 187,625 hours to 143,098 hours. CBP estimates that the cost to the public from this information collection would now be \$5,101,588.

CBP also expects that this proposed rule would result in a decrease in the time burden and the annual cost to the Federal Government for this information collection. Beyond the estimated reduction in total responses submitted by the public, this proposed rule would also decrease time burdens to the Federal Government by eliminating the need for CBP personnel to manually transcribe and process CBP Form 301 Customs Bond submissions that are transmitted electronically via eBond. CBP estimates that personnel would experience a 5-minute reduction in time burden from no longer having to transcribe and process approximately 572,351 eBond

submissions every year.⁴⁴ These revisions resulted in a reduced time burden of around 77,738 hours and a cost reduction of around \$4,285,714 annually. The total estimated cost to the Federal Government from this collection is now estimated to be \$2,623,922.

D. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

VI. SIGNING AUTHORITY

This rulemaking is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the authority of the Secretary of the Treasury (or that of the Secretary's delegate) to approve regulations concerning the customs revenue functions of CBP. In accordance with Treasury Order 100-20, the Secretary of the Treasury delegated to the Secretary of Homeland Security the authority related to the customs revenue functions vested in the Secretary of the Treasury as set forth in 6 U.S.C. 212 and 215, subject to certain exceptions. This document is being issued in accordance with DHS Delegation 07010.3, Revision 03.2, which delegates to the Commissioner of CBP the authority to prescribe and approve regulations related to customs revenue functions.

Rodney S. Scott, the Commissioner, having reviewed and approved this document, has delegated the authority to electronically sign the document to the Director of the Regulations and Disclosure Law Division of CBP, for purposes of publication in the *Federal Register*.

List of Subjects

19 CFR Part 4

⁴⁴ CBP expects the majority of CBP Form 301 Customs Bond submissions to go through eBond, but a very small number of submissions would remain in paper form (this explains the difference between the total number of CBP Form 301 Custom Bond submissions of 572,390 and the number of eBond submissions of 572,351). These paper form submissions would still need to be transcribed and processed CBP.

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

19 CFR Part 10

Bonds, Exports, Imports, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 11

Labeling, Packaging and containers.

19 CFR Part 12

Cultural exchange programs, Exports, Foreign relations, Freight, Imports, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 18

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

19 CFR Part 19

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

19 CFR Part 24

Accounting, Claims, Exports, Freight, Harbors, Reporting and recordkeeping requirements, Taxes.

19 CFR Part 54

Metals, Reporting and recordkeeping requirements.

19 CFR Part 112

Administrative practice and procedure, Canada, Common carriers, Freight, Harbors, Mexico, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 113

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

19 CFR Part 118

Administrative practice and procedure, Reporting and recordkeeping requirements.

19 CFR Part 122

Administrative practice and procedure, Air carriers, Aircraft, Airports, Alcohol and alcoholic beverages, Cigars and cigarettes, Cuba, Customs duties and inspection, Drug traffic control, Freight, Penalties, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 123

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

19 CFR Part 125

Freight, Government contracts, Harbors, Reporting and recordkeeping requirements.

19 CFR Part 127

Exports, Freight.

19 CFR Part 128

Administrative practice and procedure, Freight, Reporting and recordkeeping requirements.

19 CFR Part 132

Imports, Postal Service.

19 CFR Part 133

Copyright, Reporting and recordkeeping requirements, Trade names, Trademarks.

19 CFR Part 134

Labeling, Packaging and containers.

19 CFR Part 141

Reporting and recordkeeping requirements.

19 CFR Part 142

Canada, Mexico, Reporting and recordkeeping requirements.

19 CFR Part 144

Reporting and recordkeeping requirements, Warehouses.

19 CFR Part 146

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

19 CFR Part 147

Fairs and expositions, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 148

Airmen, Foreign officials, Government contracts, International organizations, Reporting and recordkeeping requirements, Seamen, Taxes.

19 CFR Part 149

Foreign trade, Foreign trade zones, Freight, Imports, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 151

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

19 CFR Part 162

Administrative practice and procedure, Drug traffic control, Exports, Law enforcement, Marihuana, Penalties, Reporting and recordkeeping requirements, Search warrants, Seizures and forfeitures.

19 CFR Part 163

Administrative practice and procedure, Exports, Imports, Penalties, Reporting and recordkeeping requirements.

19 CFR Part 190

Alcohol and alcoholic beverages, Claims, Cuba, Exports, Foreign trade zones, Guantanamo Bay Naval Station, Cuba, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 191

Alcohol and alcoholic beverages, Claims, Exports, Foreign trade zones, Guantanamo Bay Naval Station, Cuba, Packaging and containers, Reporting and recordkeeping requirements, Trade agreements.

VI. PROPOSED AMENDMENTS TO THE CBP REGULATIONS

For the reasons stated above in the preamble, U.S. Customs and Border Protection proposes to amend 19 CFR parts 4, 10, 11, 12, 18, 19, 24, 54, 112, 113, 118, 122, 123, 125, 127, 128, 132, 133, 134, 141, 142, 144, 146, 147, 148, 149, 151, 162, 163, 190, and 191 as set forth below.

PART 4 – VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general and specific authority citations for part 4 continue to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1415, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

* * * * *

Section 4.3 also issued under 19 U.S.C. 288, 1441;

* * * * *

Section 4.10 also issued under 19 U.S.C. 1448, 1451;

* * * * *

Section 4.14 also issued under 19 U.S.C. 1466, 1498; 31 U.S.C. 9701.

* * * * *

Section 4.30 also issued under 19 U.S.C. 288, 1446, 1448, 1450-1454, 1490;

* * * * *

Section 4.32 also issued under 19 U.S.C. 1449;

* * * *

Section 4.75 also issued under 46 U.S.C. 60105;

* * * *

Section 4.85 also issued under 19 U.S.C. 1442, 1623;

* * * *

Section 4.88 also issued under 19 U.S.C. 1442, 1622, 1623;

* * * *

Section 4.94a also issued under 19 U.S.C. 1484b;

* * * *

2. In § 4.3, revise the sixth sentence in paragraph (b)(2) to read as follows:

§ 4.3 Vessels required to enter; place of entry.

* * * *

(b) * *

(2) * * A master, owner, or agent of a vessel who desires that entry be made at an optional location will file with the appropriate port director an application on CBP Form 3171 and must have a single transaction or continuous bond, transmitted to CBP pursuant to part 113 of this chapter and containing the bond conditions set forth in § 113.64 of this chapter, in such amount as CBP deems appropriate but not less than \$1,000. * * *

§ 4.10 [Amended]

3. Amend § 4.10 by:

a. Removing the word “Customs” wherever it appears, and adding in its place the word “CBP”; and

b. Removing the phrase “on Customs Form 301” in the second-to-last sentence, and adding in its place the phrase “transmitted to CBP pursuant to part 113 of this chapter”.

4. In § 4.14, revise paragraph (c) to read as follows:

§ 4.14 Equipment purchases for, and repairs to, American vessels.

* * * * *

(c) *Estimated duty deposit and bond requirements.* Generally, the person authorized to submit a vessel repair declaration and entry must either deposit or transmit estimated duties or produce evidence of a bond transmitted to CBP pursuant to part 113 of this chapter at the first United States port of arrival before the vessel will be permitted to depart from that port. A continuous or single transaction bond of sufficient value to cover all potential duty on the foreign repairs and purchases must be identified by surety, bond number and amount on the vessel repair declaration which is submitted at the port of first arrival. At the time the vessel repair entry is submitted by the vessel operator to the Vessel Repair Unit (VRU) as defined in paragraph (g) of this section, that same identifying information must be included on the entry form. Sufficiency of the amount of the bond is within the discretion of CBP at the arrival port with claims for reduction in duty liability necessarily being subject to full consideration of evidence by CBP. CBP officials at the port of arrival may consult the VRU as identified in paragraph (g) of this section or the staff of the Cargo Security, Carriers & Restricted Merchandise Branch, Office of Trade in CBP Headquarters in setting sufficient bond amounts. These duty, deposit, and bond requirements do not apply to vessels which are owned or chartered by the United States Government and are actually being operated by employees of an agency of the Government. If operated by a private party for a Federal agency under terms whereby that private party is liable under the contract for payment of the duty, there must be a deposit or a bond transmitted to CBP pursuant to part 113 of this chapter in an amount adequate to cover the estimated duty.

* * * * *

5. In § 4.30, revise paragraphs (c) and (i)(2) to read as follows:

§ 4.30 Permits and special licenses for unloading and lading.

* * * * *

(c) The request for a permit or a special license shall not be approved (previously issued term permits or special licenses shall be revoked) unless the carrier complies with the provisions

of paragraphs (l) and (m) of this section regarding terminal facilities and employee lists, and the required cash deposit or bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in §113.64 of this chapter relating to international carriers.⁶² When a carrier has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in §113.63 of this chapter relating to basic custodial bond conditions, no further bond shall be required solely by reason of the unloading or lading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries. Separate bonds shall be required if overtime services are requested by different principals.

* * * * *

[62] “Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to have a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the CBP officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the act of February 13, 1911, as amended (U.S.C. 1952 edition, title 19 sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may obtain a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. * * *” (Tariff Act of 1930, section 451, as amended, 19 U.S.C. 1451)

* * * * *

(i) * * *

(2) A bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, or cash deposit shall have been given; or

* * * * *

6. In § 4.32, revise paragraph (b) to read as follows:

§ 4.32 Vessels in distress; landing of cargo.

* * * * *

(b) A bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, shall be given in an amount to be determined by CBP to insure the proper disposition of the cargo, whether such cargo be dutiable or free.

7. In § 4.33:

a. Amend the introductory text of paragraph (c) and paragraph (c)(2) by removing the word “Customs” and adding in its place “CBP”; and

b. Revise paragraph (d).

The revision reads as follows:

§ 4.33 Diversion of cargo.

* * * * *

(d) *Retention of cargo on board for later return to the United States.* If, as the result of a strike or other emergency at a United States port for which inward foreign cargo is manifested, it is desired to retain the cargo on board the vessel for discharge at a foreign port but with the purpose of having the cargo returned to the United States, an application may be made by the master, owner, or agent of the vessel to amend the vessel's Cargo Declaration, CBP Form 1302, under a procedure similar to that described in paragraph (c) of this section, except that a foreign port must be substituted for the domestic port of discharge. If the application is approved, it will be handled in the same manner as an application filed under paragraph (c) of this section. However, before approving the application, CBP may require such bond as deemed necessary to ensure that export control laws and regulations are not circumvented.

§ 4.34 [Amended]

8. In § 4.34, amend paragraph (g) by:

a. Removing the word “Customs” in the second sentence, and adding in its place the text “CBP”; and

b. Removing the words “on Customs Form 301” in the third sentence, and adding in their place the words “that has been transmitted to CBP pursuant to part 113 of this chapter”.

9. In § 4.75, revise paragraph (a) to read as follows:

§ 4.75 Incomplete manifest; incomplete or missing Electronic Export Information (EEI); bond.

(a) *Pro forma manifest.* Except as provided for in § 4.75(c), if a master desiring to clear the master’s vessel for a foreign port does not have available for filing with the CBP port director a complete Cargo Declaration Outward with Commercial Forms, CBP Form 1302A (see § 4.63), in accordance with 46 U.S.C. 60105, or all required EEI filing citations, exclusions, and/or exemption legends (see 15 CFR 30.47), the CBP port director may accept in lieu thereof an incomplete manifest (referred to as a pro forma manifest) on the Vessel Entrance or Clearance Statement, CBP Form 1300, if a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, executed by the vessel owner or other person as attorney in fact of the vessel owner. The “Incomplete Manifest for Export” box in item 17 of the Vessel Entrance or Clearance Statement form must be checked.

* * * * *

10. In § 4.85, revise paragraph (a) to read as follows:

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or documented vessel with a registry endorsement, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, in a suitable amount. ^[115] Before the vessel departs from the port of first arrival, the master shall obtain from the port director a certified copy of the complete inward foreign manifest (hereinafter referred to as the

traveling manifest). The certified copy shall have a legend similar to the following endorsed on the Vessel Entrance or Clearance Statement, CBP Form 1300:

PORT

DATE

Certified to be a true copy of the original inward foreign manifest.

Signature and title

* * * * *

[115] “* * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to lading thereof.” (Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

* * * * *

11. In § 4.88, revise paragraph (a) to read as follows:

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or documented vessel with a registry endorsement which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination provided a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, in a suitable amount.^[119]

* * * * *

[119] “Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unlading the same and without the payment of duty thereon. * * *”

(Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

* * * * *

12. Revise and republish § 4.94a to read as follows:

§ 4.94a Large yachts imported for sale.

(a) *General.* An otherwise dutiable vessel used primarily for recreation or pleasure and exceeding 79 feet in length that has been previously sold by a manufacturer or dealer to a retail

consumer and that is imported with the intention to offer for sale at a boat show in the United States may qualify at the time of importation for a deferral of entry completion and deposit of duty. The following requirements and conditions will apply in connection with a deferral of entry completion and duty deposit under this section:

(1) The importer of record must certify to CBP in writing that the vessel is being imported pursuant to 19 U.S.C. 1484b for sale at a boat show in the United States;

(2) The certification referred to in paragraph (a)(1) of this section must be accompanied by the posting of a single transaction bond, transmitted to CBP pursuant to part 113 of this chapter, containing the terms and conditions set forth in § 113.75 of this chapter. The bond will have a duration of 6 months after the date of importation of the vessel, and no extensions of the bond period will be allowed;

(3) The filing of the certification and the transmission of the bond in accordance with this section will permit CBP to determine whether the vessel may be released;

(4) All subsequent transactions with CBP involving the vessel in question, including any transaction referred to in paragraphs (b) through (d) of this section, must be carried out in the same port of entry in which the certification was filed and the bond was posted under this section; and

(5) The vessel in question will not be eligible for issuance of a cruising license under § 4.94 and must comply with the laws respecting vessel entry and clearance when moving between ports of entry during the 6-month bond period prescribed under this section.

(b) *Exportation within 6-month period.* If a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is not sold but is exported within the 6-month bond period specified in paragraph (a)(2) of this section, the importer of record must inform CBP in writing of that fact within 30 calendar days after the date of exportation. The bond transmitted to CBP, containing the terms and conditions set forth in §113.75 of this chapter, will be cancelled and no entry completion and duty payment will be required. The exported

vessel will be precluded from reentry under the terms of paragraph (a) of this section for a period of 3 months after the date of exportation.

(c) *Sale within 6-month period.* If the sale of a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section is completed within the 6-month bond period specified in paragraph (a)(2) of this section, the importer of record within 15 calendar days after completion of the sale must complete the entry by filing an Entry Summary (CBP Form 7501, or its electronic equivalent) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States, or any applicable successor subheading, and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond transmitted to CBP, containing the terms and conditions set forth in § 113.75 of this chapter, will be cancelled, and the Center director may require a new bond, containing the bond conditions set forth in § 113.62 of this chapter to be transmitted to CBP pursuant to part 113 of this chapter.

(d) *Expiration of bond period.* If the 6-month bond period specified in paragraph (a)(2) of this section expires without either the completed sale or the exportation of a vessel for which entry completion and duty payment are deferred under paragraph (a) of this section, the importer of record within 15 calendar days after expiration of that 6-month period must complete the entry by filing an Entry Summary (CBP Form 7501, or its electronic equivalent) and must deposit the appropriate duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States, or any applicable successor subheading, and based upon the value of the vessel at the time of importation). Upon entry completion and deposit of duty under this paragraph, the bond transmitted to CBP, containing the terms and conditions set forth in § 113.75 of this chapter, will be cancelled, and the Center director may require a new bond, containing the bond conditions set forth in § 113.62 of this chapter to be transmitted to CBP pursuant to part 113 of this chapter.

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

13. The general and specific authority citations for part 10 continue 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, 4513.

* * * * *

Sections 10.41, 10.41a, 10.107 also issued under 19 U.S.C. 1322;

Section 10.41b also issued under 19 U.S.C. 1202 (Chapter 98, Subchapter III, U.S. Note 3, HTSUS);

* * * * *

Section 10.59 also issued under 19 U.S.C. 1309, 1371;

Sections 10.61, 10.62, 10.63, 10.64, 10.64a also issued under 19 U.S.C. 1309;

Sections 10.62a, 10.65 also issued under 19 U.S.C. 1309, 1317, 1555, 1556, 1557, 1646a;

* * * * *

Sections 10.70, 10.71, also issued under 19 U.S.C. 1486;

Sections 10.80, 10.81, 10.82, 10.83 also issued under 19 U.S.C. 1313(e) and (i);

* * * * *

14. In § 10.24, revise paragraph (f) to read as follows:

§ 10.24 Documentation.

* * * * *

(f) *Unavailability of documents at time of entry.* If either or both of the documents specified in paragraph (a) of this section are not available at the time of entry, a bond containing the bond conditions set forth in § 113.62 of this chapter for the production of the document(s) may be transmitted to CBP pursuant to part 113 and § 141.66 of this chapter.

* * * * *

15. In § 10.31:

a. Remove the word “Customs” in paragraphs (a) and (e) and add in its place “CBP”

wherever it may appear; and

b. Revise paragraph (f).

The revision reads as follows:

§ 10.31 Entry; bond.

* * * * *

(f) With the exceptions stated herein, a bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to double the duties, including fees, which it is estimated would accrue (or such larger amount as CBP states in writing or by the electronic equivalent to the entrant is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry. In the case of samples solely for use in taking orders entered under subheading 9813.00.20, HTSUS, motion-picture advertising films entered under subheading 9813.00.25, HTSUS, and professional equipment, tools of trade and repair components for such equipment or tools entered under subheading 9813.00.50, HTSUS, the bond required must be in an amount equal to 110 percent of the estimated duties, including fees, determined at the time of entry. If appropriate, a carnet, under the provisions of part 114 of this chapter, may be filed in lieu of a bond transmitted pursuant to part 113 of this chapter (containing the bond conditions set forth in § 113.62 of this chapter). Cash deposits in the amount of the bond may be accepted in lieu of sureties. When the articles are entered under subheading 9813.00.05, 9813.00.20, or 9813.00.50, HTSUS, without formal entry, as provided for in §§ 10.36 and 10.36a, or the amount of the bond for articles entered under any subheading of Chapter 98, Subchapter XIII, HTSUS, is less than \$25, the bond shall be without surety or cash deposit, and the bond must be modified to so indicate. In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting,

cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Singapore, Chile, Morocco, Australia, El Salvador, Guatemala, Honduras, Nicaragua, the Dominican Republic, Costa Rica, Bahrain, Oman, Peru, the Republic of Korea, Colombia, or Panama and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating, within the meaning of General Notes 12, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, HTSUS, in the country of which the importer is a resident.

* * * * *

16. In § 10.41a, revise paragraph (c) to read as follows:

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

* * * * *

(c) The instruments of international traffic designated in paragraph (a) of this section may be released in accordance with the provisions of that paragraph only when secured by a bond containing the bond conditions set forth in § 113.66 of this chapter and transmitted to CBP pursuant to part 113 of this chapter. The required application for release may be filed at the port of arrival or at a subsequent port to which an instrument shall have been transported in bond or to which a container shall have been moved under cover of a TIR carnet (see part 114 of this chapter) showing the characteristics and value of the container on the Goods Manifest of the carnet. If the container is listed on the Goods Manifest of the carnet, the application may be filed at the port of arrival or at the subsequent port. If the container is not listed on the Goods Manifest, the application shall be filed at the port of arrival. When the application is filed at a port other than the port at which the bond is on file, the following procedure applies:

(1) When the application is filed before the applicant has identified the bond covering release, the applicant must submit the CBP-issued bond number with the application.

(2) If the application is filed after the applicant has identified the bond covering release, the CBP-issued bond number need not be filed at the port of release. Upon determination by the appropriate CBP officer that the applicant's bond has been transmitted, and the bond has not been subsequently terminated, the instruments of international traffic will be released as provided for in paragraph (a) of this section.

(3) Upon the request of the applicant, the appropriate CBP officer at the port at which the instruments of international traffic are to be released will determine whether or not the applicant's bond has been transmitted.

* * * * *

17. In § 10.41b, revise the first sentence of paragraph (b)(3) and the first sentence of paragraph (i) to read as follows:

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

* * * * *

(b) * * *

(3) In addition to the application, a continuous bond containing the conditions set forth in § 113.66(c) of this chapter must be transmitted to CBP pursuant to part 113 of this chapter. * * *

* * * * *

(i) A continuous bond containing the conditions set forth in § 113.66 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter. * * *

18. In § 10.49, revise paragraphs (a) and (c) to read as follows:

§ 10.49 Articles for exhibition; requirements on entry.

(a) A declaration, or its electronic equivalent, must be filed in connection with the entry of works of art and other articles claimed to be free of duty under Chapter 98, Subchapter XII, Harmonized Tariff Schedule of the United States (HTSUS), by a qualified officer of the institution in sufficient detail to demonstrate entitlement to entry as claimed. In addition, a bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions

set forth in § 113.62 of this chapter. Claim for free entry under Chapter 98, Subchapter XII, may be made for articles of the character described therein which have been previously entered under any other provision of law and the entry amended accordingly upon compliance with the requirements of this section, provided the articles have not been released from CBP custody.

* * * * *

(c) Articles entered under subheading 9812.00.20, HTSUS, may be transferred from one institution to another upon an application in writing in the case of each transfer describing the articles and stating the name of the institution to which transfer is to be made, provided the sureties on both institutions' bonds assent in writing or a new bond is transmitted to CBP pursuant to part 113 of this chapter. No entry or withdrawal shall be required for such a transfer.

* * * * *

19. In § 10.59, amend paragraph (e) to read as follows:

§ 10.59 Exemption from customs duties and internal-revenue tax.

* * * * *

(e) A documented vessel with a fisheries license endorsement and foreign fishing vessels of 5 net tons or over may be allowed to withdraw distilled spirits (including alcohol), wines, and beer conditionally free under section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), if the port director is satisfied from the quantity requested, in the light of whether the vessel is employed in substantially continuous fishing activities, and the vessel's complement, that none of the withdrawn articles is intended to be removed from the vessel in, or otherwise returned to, the United States without the payment of duty or tax. Such withdrawal shall be permitted only after the approval by the port director of a special written application, in triplicate, on CBP Form 5125, of the withdrawer, supported by a bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. Such application shall be filed with CBP Form 7501, or its electronic equivalent, or 7512, as the case may be. The original and the triplicate copy of the application, after approval, shall be stamped with the

withdrawal number and date thereof and shall be returned to the withdrawer for use as prescribed below. Approval of each such application shall be subject to the condition that the original and the triplicate copy shall be presented thereafter by the withdrawer or the vessel's master to the port director within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a CBP port or station and that an accounting shall be made at the time of such presentation of the disposition of the articles until the port director is satisfied that all of them have been consumed on board, or landed under CBP's supervision, and takes up the original application. (The withdrawer shall retain the triplicate copy as evidence of consumption on board or landing under CBP supervision.) The approval shall be subject to the further conditions that any such withdrawn article remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the district director for the port or place of arrival shall deem necessary and that failure to comply with the conditions upon which a conditionally free withdrawal is approved shall subject the total quantity of withdrawn articles to the assessment and collection of an amount equal to the duties and taxes that would have been assessed on the entire quantity of supplies withdrawn had such supplies been regularly entered, or withdrawn, for consumption. Exemption from internal-revenue tax on distilled spirits, alcohol, wines, and beer removed from any internal-revenue bonded warehouse, industrial alcohol premises, bonded wine cellar, or brewery; and drawback on taxpaid distilled spirits or wines removed from an export storage room, or on taxpaid beer removed from a brewery (or place of storage elsewhere), for use as supplies on vessels under section 309, Tariff Act of 1930, as amended, are governed by regulations of the Internal Revenue Service.

* * * * *

20. In § 10.60, revise paragraphs (c) and (g) to read as follows:

§ 10.60 Forms of withdrawals; bond.

* * * * *

(c) A bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, shall be taken when the withdrawal from warehouse is made by a person other than the principal on the warehouse or rewarehouse entry, as provided for in paragraph (b) of this section.

* * * * *

(g) A withdrawal under § 10.59(e) shall be supported by a bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

§ 10.61 [Amended]

21. In § 10.61, remove the word “execution” and add in its place the word “transmission”.

22. In § 10.64, revise the first sentence of paragraph (a) to read as follows:

§ 10.64 Crediting or cancellation of bonds.

(a) Except as stated below, a bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, may be credited or canceled in respect of such articles upon the vessel’s departure from the port of lading in a class of trade or business entitling the articles to exemption from duty and tax under the statute. * * *

* * * * *

23. In § 10.65, revise paragraph (c)(3) to read as follows:

§ 10.65 Cigars and cigarettes.

* * * * *

(c) * * *

(3) When all the units in such shipping case are not to be withdrawn at the same time or for use on the same vessel, a blanket withdrawal may be filed for the entire case in lieu of a separate withdrawal for each unit. In such event, the withdrawal shall be retained by the

warehouse proprietor until delivery receipts are obtained for the entire quantity covered by the withdrawal, provided the total period of time prior to delivery to the using vessel or aircraft does not exceed five years. A bond containing the bond conditions set forth in § 113.62 of this chapter, when required, must be transmitted to CBP pursuant to part 113 of this chapter at the time of or prior to the removal of any of the merchandise from the warehouse for delivery to the vessel on which it is to be used.

* * * * *

24. In § 10.66:

- a. Revise paragraph (b); and
- b. Remove the words “Customs Form” and replace with the words “CBP Form”

wherever they may appear.

The revision reads as follows:

§ 10.66 Articles exported for temporary exhibition and returned; horses exported for horse racing and returned; procedure on entry.

* * * * *

(b) If it is shown to be impracticable to produce the certificate of exportation required under paragraph (a)(1) of this section, the port director may accept other satisfactory evidence of exportation, or a bond may be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, to secure the production of such certificate or other evidence.

* * * * *

25. In § 10.67:

- a. Revise paragraph (b); and
- b. Remove the words “Customs Form” and replace with the words “CBP Form”

wherever they may appear.

The revision reads as follows:

§ 10.67 Articles exported for scientific or educational purposes and returned; procedure on entry.

* * * * *

(b) If it is shown to be impracticable to produce the certificate of exportation required by paragraph (a)(1) of this section, the port director may accept other satisfactory evidence of exportation or a bond may be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, to secure the subsequent production of any of the evidence or documents required by paragraph (a) of this section which are not available at the time of entry.

* * * * *

26. In § 10.71, revise paragraphs (a) and (e) to read as follows:

§ 10.71 Purebred animals; bond for production of evidence; deposit of estimated duties; stipulation.

(a) The animal may be released from CBP custody upon the transmission of a bond to CBP pursuant to part 113 of this chapter, identifying the importer as principal and containing the bond conditions set forth in § 113.62 of this chapter, for the production within 6 months of (1) a certificate of pure breeding, or its electronic equivalent, issued by the Department of Agriculture, and (2) the declaration required by § 10.70(a) submitted in letter form if such declaration was not filed at the time of entry. The release of the animal from CBP custody requires the presentation of the pedigree certificate and evidence of transfer of ownership in accordance with the regulations of the Department of Agriculture mentioned in § 10.70(b).

* * * * *

(e) When a passenger arriving in the United States with one or more dogs or cats and with the required certificates of pedigree and transfers of ownership in the passenger's possession furnishes a properly executed declaration as required by § 10.70(a) along with an application to the Department of Agriculture on ANH Form 17-338 for a certificate of pure

breeding, the entry of the animal(s) as duty-free under subheading 0106.00.50, Harmonized Tariff Schedule of the United States (HTSUS), may be made on the passenger's baggage declaration if the value of the animals does not exceed \$500. In such case the entry shall be supported by a bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter for the production within six months of a certificate of pure breeding. The bond shall be without surety or cash deposit unless the port director on the basis of information before the port director finds that a bond with surety or a cash deposit is necessary to protect the revenue.

27. Revise § 10.80 to read as follows:

§ 10.80 Remission of duty; withdrawal; bond.

Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish in the shores of the navigable waters of the U.S., whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted. (Section 313(e), Tariff Act of 1930, 19 U.S.C. 1313(e)). Imported salt entered for warehouse may be withdrawn under bond for use in curing fish. Upon proof that the salt has been so used, the duties thereon shall be remitted. In no case shall the quantity of salt withdrawn exceed the reasonable requirements of the case. Withdrawal shall be made on CBP Form 7501, or its electronic equivalent. Each withdrawal shall contain the statement prescribed for withdrawals in § 144.32 of this chapter. When the withdrawal is made by a person other than the importer of record, a bond containing the bond conditions set forth in § 113.62 of this chapter, for the production of proof of proper use, must be transmitted to CBP pursuant to part 113 of this chapter. Upon transmission of the bond, a withdrawal permit must be issued on CBP Form 7501, or its electronic equivalent.

28. In § 10.81, revise paragraph (b) to read as follows:

§ 10.81 Use in any port.

* * * * *

(b) If desired, salt to be used in curing fish on shore at another port than that in which it is warehoused in bond may be withdrawn under a transportation entry and shipped in bond to the other port at which it is to be used, where it may be entered on CBP Form 7501, or its electronic equivalent, which shall show withdrawal of the salt for use in curing fish. Thereupon, and upon the transmission to CBP of a bond pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, such salt may be used without being sent to a bonded warehouse or public store. In such a case the proof of use shall be filed at the latter port.

29. Revise and republish § 10.83 to read as follows:

§ 10.83 Bond; cancellation; extension.

(a) If it shall appear to the satisfaction of the Center director that the entire quantity of salt covered by the bond referred to in § 10.80 of this part has been duly accounted for, either by having been used in curing fish or by the payment of duty, CBP may cancel the charges against the bond. CBP may require additional evidence in corroboration of the proof of use produced.

(b) On application of the person making the withdrawal, the period of the bond may be extended 1 year so as to allow the salt to be used during the time of extension in curing fish with the same privileges as if used during the original period.

30. In § 10.90, revise paragraph (c) to read as follows:

§ 10.90 Master records and metal matrices.

* * * * *

(c) A bond containing the bond conditions set forth in § 113.62 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter for importations under this section.

* * * * *

PART 11—PACKING AND STAMPING; MARKING

31. The general authority citation for part 11 is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States), 1623, 1624.

32. In § 11.12, revise paragraph (c) to read as follows:

§ 11.12 Labeling of wool products to indicate fiber content.

* * * * *

(c) Packages of wool products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if a bond has been transmitted to CBP pursuant to part 113 of this chapter containing the bond conditions set forth in § 113.62 and/or a bond has been transmitted to CBP pursuant to part 113 of this chapter containing the bond conditions set forth in § 113.68 of this chapter, as appropriate, in such amount as CBP may require.

* * * * *

33. In § 11.12a, revise paragraph (c) to read as follows:

§ 11.12a Labeling of fur products to indicate composition.

* * * * *

(c) Packages of fur products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 and/or a bond has been transmitted to CBP pursuant to part 113 of this chapter containing the bond conditions set forth in § 113.68 of this chapter, as appropriate, in such amount as CBP may require.

* * * * *

34. In § 11.12b, revise paragraph (c) as follows:

§ 11.12b Labeling textile fiber products.

* * * * *

(c) Packages of fiber products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing

the bond conditions set forth in § 113.62 and/or a bond has been transmitted to CBP pursuant to part 113 of this chapter containing the bond conditions set forth in § 113.68 of this chapter, as appropriate, in such amount as CBP may require.

* * * * *

PART 12—SPECIAL CLASSES OF MERCHANDISE

35. The general and specific authority citations for part 12 continue 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.

* * * * *

Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381;

* * * * *

Section 12.16 also issued under 7 U.S.C. 1592(b);

* * * * *

Section 12.26 also issued under 18 U.S.C. 42;

* * * * *

Section 12.39 also issued under 19 U.S.C. 1337, 1623;

* * * * *

Sections 12.73 and 74 also issued under 19 U.S.C. 1484; 42 U.S.C. 7522, 7601;

* * * * *

Section 12.85 also issued under 19 U.S.C. 1623, 46 U.S.C. 4302, 4306, 4310;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

Sections 12.110 through 12.117 also issued under 7 U.S.C. 136 *et seq.*;

Sections 12.118 through 12.127 also issued under 15 U.S.C. 2601 *et seq.*;

* * * * *

36. In § 12.3:

- a. Amend paragraph (a) by revising the second sentence; and
- b. Amend the introductory text of paragraph (b) by removing the words “the port director” and adding in their place “CBP”.

The revision reads as follows:

§ 12.3 Release under bond; liquidated damages.

(a) * * * When any merchandise that is the subject of § 12.1 is to be released under bond pursuant to regulations applicable to that merchandise, a bond is required to be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

37. In § 12.8(a), revise the fourth sentence to read as follows:

§ 12.8 Inspection; bond; release.

(a) * * * In such case a bond for the return to CBP custody of the merchandise must be obtained by the consignee or agent and transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a CBP officer or an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, with import-meat seals furnished by the Department of Agriculture unless bearing United States CBP seals, or in the case of packages otherwise identified as provided for in this section. * * *

* * * * *

38. Revise § 12.12 to read as follows:

§ 12.12 Release under bond.

Plants or plant products which require fumigation, disinfection, sterilization, or other treatment as a condition of entry may be released to the permittee for treatment at a plant

approved by the Department of Agriculture upon transmission of a bond to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, to insure that the merchandise is treated under the supervision and to the satisfaction of an inspector of the Department of Agriculture or returned to CBP custody when demanded by the port director.

39. In § 12.16, revise paragraph (c) to read as follows:

§ 12.16 Joint regulations of the Secretary of the Treasury and the Secretary of Agriculture.

* * * * *

(c) It is further provided in said joint rules and regulations that after samples have been drawn such seeds and screenings shall be admitted into the commerce of the United States only if they have been found to meet the requirements of the Federal Seed Act of August 9, 1939, and the said regulations, but if the containers bear sufficient marks of identification the port director may release the shipment, pending examination and decision in the matter, upon the transmission of a bond. The bond must be transmitted to CBP pursuant to part 113 of this chapter and contain the bond conditions set forth in § 113.62 of this chapter. In case of default the port director shall issue a claim for liquidated damages under the bond.

40. In § 12.26, revise paragraph (e) to read as follows:

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered and threatened species; designated ports of entry; permits required.

* * * * *

(e) If a shipment contains migratory birds for which a permit is required by the Fish and Wildlife Service of the Department of the Interior, and such permit is not at hand when the birds arrive, an examination thereof shall be made at once by the port director and any duties estimated to be due shall be collected. A stipulation shall be filed with the port director within 24 hours of the entry to produce the necessary permit within 30 days from the date of entry, whereupon final liquidation shall be suspended until the permit is produced or the 30-day period expires. The

shipment may be immediately released if a bond is transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to the entered value plus estimated duties. If the bond conditions are violated the port director shall issue a claim for liquidated damages under the bond. In lieu of transmitting a bond, the merchandise may be left in CBP custody at the risk and expense of the importer pending issuance of the permit.

* * * * *

41. In § 12.39:

- a. Amend the first sentence of the introductory text to paragraph (b)(2) by removing “single entry bond” and adding in its place “single transaction bond”;
- b. Revise paragraph (b)(2)(i); and
- c. Amend the last sentence of paragraph (e)(1) by removing the name “Office of International Trade” and adding in its place “Office of Trade”.

The revision reads as follows:

§ 12.39 Imported articles involving unfair methods of competition or practices.

* * * * *

(b) * * *

(2) * * *

- (i) Have a bond that was transmitted to CBP pursuant to part 113 of this chapter, in the amount determined by the Commission, that contains the conditions identified in the special importation and entry bond set forth in Appendix B to part 113 of this chapter; and

* * * * *

42. In § 12.73, amend paragraph (j) by:

- a. Revising the first sentence; and
- b. Removing from the last sentence the words “single entry bond” wherever they appear, and adding in their place the words “single transaction bond”.

The revision reads as follows:

§ 12.73 Importation of motor vehicle and motor vehicle engines.

* * * *

(j) *Release under bond.* If an EPA declaration form filed in accordance with paragraph (i)(3) of this section states that the entry is being filed under one or more of the exemptions and exclusions identified in paragraph (h)(1), (2), (3), or (4) of this section, the entry will be accepted only if the importer has a basic importation and entry bond containing the bond conditions set forth in § 113.62 of this chapter that has been transmitted to CBP, pursuant to part 113 of this chapter. * * *

* * * *

43. In § 12.74:

- a. Revise paragraph (c)(1); and
- b. Amend paragraph (c)(2) by removing “single entry bond” and adding in its place “single transaction bond” wherever it may appear;

The revision reads as follows:

§ 12.74 Importation of nonroad and stationary engines, vehicles, and equipment.

* * * *

(c) *Release under bond* –

(1) *Conditional admission.* If the EPA declaration form states that the entry for a nonconforming nonroad engine is being filed under one of the exemptions described in paragraph (c)(3) of this section, under which the engine may be conditionally admitted under bond, the entry will be accepted only if the importer has a basic importation and entry bond containing the bond conditions set forth in § 113.62 of this chapter that has been transmitted to CBP, pursuant to part 113 of this chapter.

* * * *

44. In § 12.80:

a. Revise the first sentence of paragraph (e)(1); and

b. Amend paragraph (e)(2) by removing “single entry bond” and adding in its place “single transaction bond” wherever it may appear.

The revision reads as follows:

§ 12.80 Federal motor vehicle safety standards.

* * * * *

(e) Release under bond.

(1) If a declaration is filed under paragraph (b)(1)(iii) of this section, the entry shall be accepted only if the importer or consignee has a bond that was transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. * * *

* * * * *

45. In § 12.85:

a. Revise the first sentence of paragraph (e)(1); and

b. Amend paragraph (e)(3) by removing “single entry bond” and adding in its place “single transaction bond” wherever it may appear.

The revision reads as follows:

§ 12.85 Coast Guard boat and associated equipment safety standards.

* * * * *

(e) Release under bond—

(1) *When bond required.* The importer or consignee must have a bond that was transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, in such amount as CBP deems appropriate, when a declaration is made that a product is to be brought into conformity. * * *

* * * * *

46. Revise § 12.91(d) to read as follows:

§ 12.91 Electronic products offered for importation under the Act.

* * * * *

(d) *Release under bond.* If a declaration filed in accordance with paragraph (b) of this section states that the entry is being made under circumstances described in paragraph (b)(4) of this section, the entry will be accepted only if the owner or importer of record has a bond that was transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, for the production of a notification from the Secretary of Health and Human Services or the Secretary's designee, in accordance with 21 CFR 1005.23, that the electronic product described in the declaration filed by the importer of record is in compliance with the applicable standards. The bond must be in an amount deemed appropriate by CBP. Within 180 days after the entry or such additional period as the port director may allow for good cause shown, the importer of record must take any action necessary to insure delivery to the port director of the notification described in this paragraph. If the notification is not delivered to the director of the port of entry of the electronic products within 180 days of the date of entry or such additional period as may be allowed by the port director, for good cause shown, the importer of record must deliver or cause to be delivered to the port director those electronic products which were released. In the event that any electronic products are not redelivered to CBP custody or exported under CBP supervision within the period allowed by the port director in the Notice of Redelivery (CBP Form 4647, or its electronic equivalent), liquidated damages will be assessed in the full amount of a bond if it is a single transaction bond, or if a continuous bond is used, the amount that would have been taken under a single transaction bond.

* * * * *

47. Revise § 12.104f to read as follows:

§ 12.104f Temporary disposition of materials and articles.

Pending a final determination as to whether any archaeological or ethnological material, or any article of cultural property, has been imported into the U.S. in violation of 19 U.S.C. 2606

or 19 U.S.C. 2607, the Secretary may permit such material or article to be retained at a museum or other cultural or scientific institution in the U.S. if the Secretary finds that sufficient safeguards will be taken by the museum or institution for the protection of such material or article; and the museum or institution has a sufficient bond, transmitted to CBP pursuant to part 113 of this chapter to ensure its return to the Secretary.

48. In § 12.115, revise the second sentence to read as follows:

§ 12.115 Release under bond of shipment detained for examination.

* * * However, a shipment detained for examination may be released to the consignee prior to a determination by the Administrator provided a bond is transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, for the return of the merchandise to CBP custody, and upon entry of the merchandise and the satisfaction of all other applicable laws. * * *

49. In § 12.123, revise the second sentence in paragraph (b) to read as follows:

§ 12.123 Procedure under detention.

* * * * *

(b) * * * Any such release will be conditioned upon transmission of a bond to CBP pursuant to part 113 of this chapter, containing the conditions set forth in § 113.62 of this chapter for the return of the shipment to CBP custody. * * *

* * * * *

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

50. The general and specific authority citations for part 18 are revised 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), 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.

51. Revise § 18.1(e) to read as follows:

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

* * * * *

(e) *Bond required.* A custodial bond transmitted to CBP pursuant to part 113 of this chapter and 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.

* * * * *

52. Revise § 18.3(d) to read as follows:

§ 18.3 Transfers.

* * * * *

(d) *Transfer by bonded cartmen.* All transfers to or from the conveyance or warehouse of merchandise being transported 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 transmitted to CBP pursuant to part 113 of this chapter and 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.

53. In § 18.20, revise paragraph (d) to read as follows:

§ 18.20 General rules.

* * * * *

(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 the port director is satisfied that the revenue will not be endangered. A bond transmitted to CBP pursuant to part 113 of this chapter and 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 transmitted to CBP pursuant to part 113 of this chapter 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.

* * * * *

54. In § 18.25, revise paragraph (e) to read as follows:

§ 18.25 Direct exportation.

* * * * *

(e) *Exportation without landing, vessels.* If the merchandise is exported on the arriving vessel without landing, a representative of the vessel who has knowledge of the facts must certify that the merchandise entered for exportation was not discharged during the vessel's stay in port. A charge will be made against the continuous bond transmitted to CBP pursuant to part 113 of this chapter and containing the bond conditions set forth in § 113.64 of this chapter, if one has been transmitted. If a continuous bond has not been transmitted, a single transaction bond containing the bond conditions set forth in § 113.64 will be required. 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).

* * * * *

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

55. The general authority citation for part 19 continues to read and the specific authority citation is revised 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;

Section 19.1 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562;

Section 19.6 also issued under 19 U.S.C. 1555, 1557;

Section 19.7 also issued under 19 U.S.C. 1555, 1556;

Section 19.11 also issued under 19 U.S.C. 1556, 1562;

Section 19.15 also issued under 19 U.S.C. 1311;

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

Sections 19.35–19.39 also issued under 19 U.S.C. 1555;

Section 19.40(a) also issued under 19 U.S.C. 1450, 1499, 1623;

Sections 19.41–19.43 also issued under 19 U.S.C. 1499;

Section 19.44 also issued under 19 U.S.C. 1448;

Section 19.45 also issued under 19 U.S.C. 1551, 1565;

Section 19.48 also issued under 19 U.S.C. 1499, 1623;

Section 19.49 also issued under 19 U.S.C. 1484.

* * * * *

56. In § 19.2, revise paragraphs (c) and (e) to read as follows:

§ 19.2 Applications to bond.

* * * * *

(c) On approval of the application to bond a warehouse of any class, except Class 1, a bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.63 of this chapter.

* * * * *

(e) Any proprietor of a bonded warehouse may be required on 10 days' notice from the port director to obtain a new bond containing the bond conditions set forth in § 113.63 of this chapter, to be transmitted to CBP pursuant to part 113 of this chapter; and if the proprietor fails

to do so, no more goods shall be sent to the warehouse and those therein shall be removed at the expense of such proprietor. A new bond is required if the bonded warehouse is substantially altered or rebuilt.

* * * * *

§ 19.13 [Amended]

57. In § 19.13, amend paragraph (c) by removing the word “execution” and adding in its place the word “transmission”.

58. In § 19.14, revise paragraphs (b) and (d) to read as follows:

§ 19.14 Materials for use in manufacturing warehouse.

* * * * *

(b) *Bond required.* Before the transfer of the merchandise to the manufacturing warehouse is permitted, a bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

(d) *Domestic spirits and wines.* For the transfer of domestic spirits from the bonded premises of a distilled spirits plant to a bonded manufacturing warehouse, or for the transfer of domestic wines from a bonded wine cellar to a bonded manufacturing warehouse, a bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

59. In § 19.15, revise the last sentence of paragraph (g)(1) to read as follows:

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

* * * * *

(g)(1) * * * A rewarehouse entry shall be made in accordance with § 144.34(b) of this chapter, supported by a bond transmitted to CBP pursuant to part 113 of this chapter and containing the bond conditions set forth in § 113.63 of this chapter.

* * * * *

60. In § 19.17, revise the second sentence of paragraph (e) to read as follows:

§ 19.17 Application to establish warehouse; bond.

* * * * *

(e) * * * A bond containing the bond conditions set forth in § 113.62 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter. * * *

* * * * *

61. In § 19.40, revise paragraph (a) to read as follows:

§ 19.40 Establishment, relocation or alteration of container stations.

(a) A container station, independent of the importing carrier, may be established at any port or portion of a port, or any other area under the jurisdiction of a port director upon the filing of an application therefore and its approval by the port director and the transmission of a bond pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.63 of this chapter in such amount as CBP shall require.

* * * * *

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

62. The general authority for part 24 continues to read and specific authority citation for section 24.11 is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58a-58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 3717, 9701; Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 1 et seq.).

* * * * *

Section 24.11 also issued under 19 U.S.C. 1485(d), 1623;

* * * * *

63. Section 24.11 is revised to read as follows:

§ 24.11 Notice to importer or owner of increased or additional duties, taxes, fees and interest.

Any increased or additional duties, taxes, fees or interest found due upon liquidation or reliquidation will be billed to the importer of record, or to the actual owner if:

(a) A declaration of the actual owner in accordance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), and § 141.20 of this chapter has been filed with CBP; and

(b) A bond has been transmitted to CBP pursuant to part 113 of this chapter in accordance with § 141.20 of this chapter.

64. In § 24.16:

a. Remove the words “Customs Form” and add in their place “CBP Form” wherever they may appear; and

b. Revise the section heading and paragraph (c)(1).

The revisions read as follows:

§ 24.16 Overtime services; overtime compensation and premium pay for CBP Officers; rate of compensation.

* * * * *

(c) *Application and bond.*

(1) Except as provided for in paragraphs (c)(2) and (4) of this section, an application for inspectional services of Customs Officers at night or on a Sunday or holiday, CBP Form 3171, supported by the required cash deposit or bond, must be filed in the office of the port director before the assignment of such officers for reimbursable overtime services. The cash deposit to secure reimbursement will be fixed by CBP in an amount sufficient to pay the maximum probable compensation and expenses of the Customs Officers, or the maximum

amount which may be charged by law, whichever is less, in connection with the particular services requested. The bond to secure reimbursement must be transmitted to CBP pursuant to part 113 of this chapter, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73), and in an amount to be fixed by CBP unless another bond containing a provision to secure reimbursement has been transmitted. A bond transmitted to CBP pursuant to part 113 of this chapter, containing the appropriate bond conditions set forth in subpart G, part 113 of this chapter (see §§ 113.62, 113.63, 113.64 and 113.73), to secure the payment of overtime services rendered private aircraft and private vessels will be taken without surety or cash deposit in lieu of surety, and the bond must be modified to so indicate.

* * * * *

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

65. The general authority citation for part 54 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 3(i); Section XV, Note 5, Harmonized Tariff Schedule of the United States), 1623, 1624.

66. In § 54.6, revise paragraph (b) to read as follows:

§ 54.6 Proof of intent; bond; proof of use; liquidation.

* * * * *

(b) If the articles are entered for consumption or warehouse, a bond must be transmitted to CBP pursuant to part 113 of this chapter containing the bond conditions set forth in § 113.62 of this chapter. Withdrawals from warehouse shall be made on CBP Form 7501, or its electronic equivalent. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

* * * * *

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

67. The general authority citation for part 112 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

68. Revise § 112.11(a)(4)(ii) to read as follows:

§ 112.11 Carriers which may be authorized.

(a) * * *

(4) * * *

(ii) The private carrier has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.63 of this chapter.

* * * * *

69. In § 112.12, revise paragraphs (a) and (b)(3) to read as follows:

§ 112.12 Application for authorization.

(a) *General requirements.* All carriers and freight forwarders desiring to be authorized to receive merchandise for transportation in bond must have a bond, containing the bond conditions set forth in § 113.63 of this chapter, in a sum specified by CBP, and accompanied by a fee of \$50. A check or money order must be made payable to United States Customs and Border Protection.

(b) * * *

(3) *Private Carriers.* The private carrier will ensure that the bond has been transmitted to CBP pursuant to part 113 of this chapter. If the private carrier intends to operate in two or more customs ports, the private carrier must identify the bond number in a list of all ports in which the private carrier intends to operate and provide this list to each port. If the private carrier is the proprietor of one or more customs bonded warehouses or bonded container stations, or the operator of a foreign trade zone, to which imported merchandise will be transported, the private carrier must identify the bond number in a statement showing the location of each warehouse, container station, or zone and provide the list to the port.

* * * * *

70. Revise § 112.14 to read as follows:

§ 112.14 Termination of carrier bonds.

The carrier or its surety may terminate a carrier bond pursuant to § 113.27 of this chapter. CBP may cancel a carrier bond or charges against the bond pursuant to § 113.51 of this chapter.

71. In § 112.22, revise paragraph (a), to read as follows:

§ 112.22 Application for license.

(a) *General requirements.* An applicant for a customhouse cartage or lighterage license must have a bond containing the conditions set forth in § 113.63 of this chapter, in an amount specified by CBP, that has been transmitted to CBP pursuant to part 113 of this chapter, and must file with the director of the port where the applicant proposes to conduct business the following:

(1) Payment of a fee of \$100. A check or money order must be made payable to United States Customs and Border Protection.

(2) If required by the port director, a list showing the names and addresses of the managing officers and members of the organization or of the persons who will receive or transport imported merchandise which has not been released from CBP custody, or a list of all such persons and their addresses.

* * * * *

72. Revise § 112.25 to read as follows:

§ 112.25 Bonded carriers.

A carrier or freight forwarder who has a bond containing the bond conditions set forth in § 113.63 of this chapter, that has been transmitted to CBP pursuant to part 113 of this chapter, may transport merchandise within a port for which the bond provides coverage.

73. In § 112.49, revise paragraph (d) to read as follows:

§ 112.49 Temporary identification cards.

* * * * *

(d) *Bond*. The licensed cartman or lighterman shall as a condition precedent to the issuance of a temporary identification card to an employee be required to post a bond, the amount to be determined by CBP, to guarantee return of the temporary identification card by the holder upon its withdrawal or upon issuance of a permanent identification card and to cover any loss or damage caused to the United States by the holder of the temporary identification card. The bond shall be transmitted to CBP pursuant to part 113 of this chapter and contain the bond conditions set forth in § 113.63 of this chapter and be in such amount as determined by CBP.

PART 113—CBP BONDS

74. The authority citation for part 113 is revised to read as follows:

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

Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

Section 113.74 also issued under 19 U.S.C. 1337.

Section 113.75 also issued under 19 U.S.C. 1484b.

§ 113.0 [Amended]

75. In § 113.0, remove the words “approval and execution” in the second sentence, and add in their place the words “transmission and sufficiency”.

76. Revise subpart A to read as follows:

Subpart A—General Provisions

§ 113.1 Definitions.

§ 113.2 Authority of Commissioner of CBP to require security or execution of bond and powers relating to bonds.

§ 113.3 Liability of principal and surety on a terminated bond.

§ 113.4 Carnets.

§ 113.5 Specific instruction bond.

§ 113.6 Treatment of bonds filed with or transmitted to CBP under prior regulations.

§ 113.1 Definitions.

For purposes of this part, the following terms shall 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 subpart or portion thereof:

Activity code. Activity code means a CBP-assigned number identifying a set of terms and conditions for a bond securing a particular activity or transaction.

Authorized user. Authorized user means an unincorporated unit, trade name, or business name of the identified principal on the bond who is authorized to obligate a bond in the principal's name. An authorized user must also have a CBP filing identification number identical to that of the principal on the bond, except that the optional two-digit suffix code may differ as allowed in § 24.5 of this chapter. To make the regulations easier to read and understand, the singular term "authorized user" is used generally and, unless the context indicates otherwise, includes and applies to several "authorized users" (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).

Bond. Bond means a contract between principal and surety or an agreement by a principal secured by cash in lieu of surety (even when the cash is not required to be deposited with CBP), securing the principal's performance of one or more obligations imposed by the U.S. Government with CBP or another party as beneficiary. A bond is comprised of the elements required under this part, and includes any amendments made to the bond in accordance with this part.

Bond amount adjustment. Bond amount adjustment means a retroactive amendment of a single transaction bond's amount or limit of liability, made in accordance with § 113.23 of this part.

Bond rider. Bond rider means a prospective amendment of a bond, made in accordance with this part.

Consolidated bond. Consolidated bond means a bond (single transaction or term) assuring compliance with two or more provisions of law, regulations, or instructions that CBP is authorized to enforce.

Continuous bond. Continuous bond means a term bond with a bond period of one year, that renews automatically for a new one-year period beginning on the anniversary of the effective date of the bond and continuing for each succeeding one-year period, unless terminated sooner by the principal or surety, or cancelled by CBP, in accordance with the regulations in this part. Each one-year period of a continuous bond, or partial-year period if the bond is terminated sooner, constitutes a separate period of liability in the amount of the bond for the transactions or activities that occur within the period.

Electronic Data Interchange (EDI). Electronic Data Interchange (EDI) means any CBP-authorized functionality, including eBond, that allows filers to transmit data electronically to, and receive electronic messaging from, CBP and the CBP-authorized EDI system.

Electronic Data Interchange (EDI) system. Electronic Data Interchange (EDI) system means the Automated Commercial Environment (ACE) or any other established mechanism approved by the Commissioner of CBP through which information can be transferred electronically.

Principal. Principal means a person, business firm, Government agency, or other organization, as identified by a CBP filing identification number, as detailed in § 24.5 of this title, engaged in a transaction or activity for which CBP requires a bond, including the officers, employees, contractors, and/or agents of such person, business firm, Government agency, or other organization. To make the regulations easier to read and understand, the singular term “principal” is used generally and, unless the context indicates otherwise, includes and applies to several “principals” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).

Revenue Division. Revenue Division means the division of the Office of Finance responsible for bond processing and retention for all continuous and single transaction bonds.

Single Transaction Bond (STB). Single Transaction Bond (STB) means a bond securing one transaction or activity covered by a single activity code.

Surety. Surety means a company listed in Treasury Circular 570 as an acceptable surety on Federal bonds or as an acceptable reinsurance company for such bonds, and the officers, employees, and/or agents (including surety agents) of such company. To make the regulations easier to read and understand, the singular term “surety” is used generally and, unless the context indicates otherwise, includes and applies to several “sureties” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).

Surety agent. Surety agent means a person, business firm, or other organization granted power of attorney by a surety pursuant to § 113.37 of this part to transact business on behalf of the surety. To make the regulations easier to read and understand, the singular term “surety agent” is used generally and, unless the context indicates otherwise, includes and applies to several “surety agents” (and the plural usage includes the singular), consistent with the Dictionary Act (1 U.S.C. 1).

Term bond. Term bond means a bond securing one or more transactions or activities with the same activity code over a defined period of time.

Void. Void means an action invalidating an STB transmitted to CBP via EDI, before that STB has been used to secure an activity or transaction. Once voided, that STB will no longer be available to secure any activity or transaction. Only the surety may void an STB.

§ 113.2 Authority of Commissioner of CBP to require security or execution of a bond and powers relating to bonds.

Where a bond or other security is not specifically required by law or regulation, the Commissioner of CBP may by specific instruction require, or authorize the Director, Revenue Division, Center director, or the port director to require, such bonds or other security considered

necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction. Whenever a bond is required or authorized by law, regulation, or instruction, the Commissioner of CBP may:

(a) Prescribe the conditions and form of the bond and fix the amount of the bond, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond, the conditions of which will extend to and cover similar activities or transactions over a period of time, not to exceed one year or such longer period as the Commissioner may fix, when in the Commissioner's opinion special circumstances warrant a longer period.

(d) Authorize the taking of a consolidated bond (single transaction or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulation, or instruction. Such a consolidated bond will have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of CBP may fix the amount of a consolidated bond without regard to any other provision of law, regulation, or instruction.

§ 113.3 Liability of principal and surety on a terminated bond.

The principal and surety remain liable on a terminated bond for transactions or activities that occurred and obligations incurred prior to termination, unless otherwise authorized by the Commissioner or the Commissioner's delegate.

§ 113.4 Carnets.

A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in part 114 of this chapter, are ordinarily acceptable without posting further security under the customs laws or CBP regulations requiring bonds.

§ 113.5 Specific instruction bond.

Notwithstanding the provisions of this part, the Commissioner of CBP, or the Commissioner's delegate, may prescribe any conditions, form, or amount for a bond required by specific instruction that he or she deems appropriate. Where the conditions, form, or amount of a specific instruction bond conflicts with the provisions of this part, the conditions, form, or amount of the specific instruction bond governs.

§ 113.6 Treatment of bonds filed with or transmitted to CBP under prior regulations.

Single transaction bonds and term bonds filed with or transmitted to CBP prior to [*insert effective date of Final Rule here*] will remain subject to the terms and conditions that were in place on the date that the bonds were executed. Principals may continue to secure transactions or activities with a term bond, including a continuous bond, filed with or transmitted to CBP prior to [*insert effective date of Final Rule here*] until the end of that bond's latest period. Principals wishing to secure further transactions or activities with a term bond must transmit a new term bond to CBP on or after [*insert effective date of Final Rule here*] and prior to the end of the latest period of the existing term bond. Any bond filed with or transmitted to CBP prior to [*insert effective date of Final Rule here*] that has not been terminated prior to the end of its latest period is deemed insufficient to secure any transaction or activity occurring thereafter.

77. Revise subpart B to read as follows:

Subpart B—Transmission, Sufficiency, and Retention of Bonds

§ 113.11 General requirements for bond transmission.

§ 113.12 Agreement of surety and principal to be bound.

§ 113.13 Sufficiency of bond.

§ 113.14 Restriction on use of continuous bond.

§ 113.15 Retention of bonds, bond riders, and bond amount adjustments.

§ 113.11 General requirements for bond transmission.

(a) *Transmission by surety.* The surety guaranteeing the bond or a properly empowered surety agent must transmit all bonds secured by a surety to CBP. The bond must contain the elements required in subpart C of this part, unless otherwise permitted by CBP. CBP will reject a transmission missing any required element.

(b) *Transmission via EDI.* The surety or surety agent must transmit bonds secured by a surety via EDI using an authorized EDI system filer code assigned to the surety, except for those bonds enumerated in paragraph (c) of this section or when otherwise permitted by CBP. A bond transmitted via EDI is active and available to secure a transaction or activity once the EDI system has accepted the bond transmission.

(c) *Transmission via email.* Email transmission is available only for the bonds enumerated below or when otherwise permitted by CBP. When secured by a surety, the surety or surety agent must transmit the bond via email to the Revenue Division. For a bond secured by cash in lieu of surety or a bond without surety or cash deposit, the principal on the bond must transmit the bond via email to the Revenue Division, unless otherwise permitted by CBP, and if the bond involves cash in lieu of surety, the principal must transmit the cash deposit to CBP. Unless the bond is a specific instruction bond, bonds transmitted via email must include, as an attachment, a CBP Form 301 containing the elements required in subpart C of this part. Specific instruction bonds transmitted via email pursuant to § 113.5 of this part must include the conditions or form required by specific instruction. Bonds transmitted via email are subject to policies and procedures issued by CBP for the email transmission of bonds. A bond transmitted via email to the Revenue Division is active and available to secure a transaction once the Revenue Division has added the bond to the EDI system.

(1) Email transmission is required for the following bonds:

(i) *Neutrality Bond* (Activity Code 9; *see* § 113.71 of this part).

(ii) *Intellectual Property Rights (IPR) Bond* (Activity Code 15; *see* § 113.70 of this part).

(2) Email transmission is required for all bonds in the following circumstances:

(i) Any bond executed by two or more co-sureties pursuant to § 113.37(d), unless all co-sureties share the same EDI system filer code.

(ii) Any bond executed by two or more sureties pursuant to a reinsurance agreement, as outlined in § 113.37(d).

(iii) Any bond secured by a cash deposit in lieu of surety, pursuant to § 113.40 of this part.

(iv) Any bond without surety or cash deposit.

(v) Any other bond that cannot be transmitted via EDI.

§ 113.12 Agreement of surety and principal to be bound.

(a) *Transmission of bond, bond rider, or bond amount adjustment secured by a surety as binding agreement of surety and principal.* A surety or surety agent who transmits a bond, bond rider, or bond amount adjustment secured by a surety to CBP certifies the following:

(1) The transmitting surety or surety agent has the authority to bind both the surety and the principal identified in the bond, bond rider, or bond amount adjustment;

(2) The transmitting surety and the principal identified in the bond, bond rider, or bond amount adjustment have the legal capacity to enter into a contract; and

(3) Pursuant to the transmitting surety or surety agent's authority, the surety and the principal agree to be bound by the transmitted bond, bond rider, or bond amount adjustment, including the terms and conditions identified therein.

(4) If the transmission is a bond rider or bond amount adjustment, pursuant to the transmitting surety or surety agent's authority, the surety and the principal agree to be bound by the terms and conditions of the identified bond, as amended by the transmitted bond rider or bond amount adjustment. Except for the amendments made pursuant to the bond rider or bond amount adjustment, the surety and principal agree that all other terms and conditions of the identified bond remain unchanged.

(b) *Transmission of bond or bond rider without a surety as binding agreement of principal.* A principal who transmits a bond or bond rider without a surety, pursuant to § 113.40 or § 142.4(c) of this part, to CBP certifies the following:

(1) The transmitting principal has the authority to bind itself and all other principals identified in the bond or bond rider;

(2) The transmitting principal and all other principals identified in the bond or bond rider have the legal capacity to enter into a contract; and

(3) Pursuant to the transmitting principal's authority, all principals agree to be bound by the transmitted bond or bond rider, including the terms and conditions identified therein.

(4) If the transmission is a bond rider, pursuant to the transmitting principal's authority, all principals agree to be bound by the terms and conditions of the identified bond, as amended by the transmitted bond rider. Except for the amendments made pursuant to the bond rider, all principals agree that all other terms and conditions of the identified bond remain unchanged.

(c) *Principal's use of bond as reaffirmation of agreement to be bound.* Identification of a bond to secure an activity or transaction constitutes the reaffirmation of the principal on the identified bond that it has the legal capacity to enter into a contract and agrees to be bound by the terms and conditions of the identified bond and any associated amendments.

§ 113.13 Sufficiency of bond.

(a) *Minimum amount of bond.* The amount of any bond must not be less than \$100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar will be rounded up to the next whole dollar in computing the amount of a bond.

(b) *Guidelines for determining bond sufficiency.* In determining whether the bond is sufficient, CBP may consider:

(1) The prior record of the principal, and any authorized user, in timely payment of duties, taxes, and charges with respect to the transaction(s) or activity(ies) involving such payments;

(2) The prior record of the principal, and any authorized user, in complying with CBP demands for redelivery, the obligation to hold unexamined merchandise intact, CBP demands for information or documents, and other requirements relating to enforcement and administration of customs and other laws and CBP regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

(4) The degree and type of supervision that CBP will exercise over the transaction(s);

(5) The prior record of the principal, and any authorized user, in honoring bond obligations, including the payment of liquidated damages; and

(6) Any additional information considered relevant by CBP.

(c) *Review of bond.* CBP will regularly review the bond for the principal's transaction(s) or activity(ies), and any authorized user's transaction(s) or activity(ies), to determine whether it is sufficient to protect the revenue and ensure compliance with applicable law and regulations. If CBP determines that the bond is insufficient, the principal and surety will be notified in writing or electronically via email. The principal must then obtain additional security deemed sufficient by CBP as described in paragraph (d) of this section, and have such additional security transmitted to CBP pursuant to this part. In general, the principal and surety will have 15 calendar days from the date of CBP's notification to transmit additional security to CBP. However, CBP may notify the principal and surety that additional security is required in a shorter time (including immediately) to protect the revenue or ensure compliance with applicable law and regulations, due to the risks posed by the bond or the transaction(s) or activity(ies) secured by the bond. After receiving notice of an insufficient bond(s) from CBP, the principal may make

a written submission to CBP to demonstrate that the bond is sufficient. CBP will consider the principal's written submission and notify the principal and surety of any change to the sufficiency determination in writing or electronically via email. Notwithstanding the foregoing, if a principal fails to ensure that additional security deemed sufficient by CBP is transmitted to CBP pursuant to this part, in accordance with a CBP notice of an insufficient bond(s), the principal's transaction(s) or activity(ies) and authorized user's transaction(s) or activity(ies) may be rejected, suspended, or otherwise prevented from continuing in accordance with applicable law or regulations.

(d) *Additional security.* Additional security required by CBP for the principal's transaction(s) or activity(ies) and authorized user's transaction(s) or activity(ies) may take the form of:

(1) An increase in the amount of an existing single transaction bond transmitted via EDI for Activity Code 1 (*see* § 113.62 of this part), via a proper bond amount adjustment pursuant to § 113.23(b) of this part;

(2) The termination of an existing continuous bond and replacement with one or more bonds;

(3) One or more additional bonds; or

(4) Other security permitted by CBP.

(e) *Joint and several liability of principal and sureties for obligations arising under all bonds that secure the same transaction or activity.* Where a principal obtains multiple bonds to secure a transaction or activity (i.e., the bonds have the same activity code and, by their terms and conditions, apply to the same transaction or activity), regardless of whether the bonds have the same surety, the principal and sureties on all such bonds are jointly and severally liable for obligations thereunder (e.g., penalties, duties, taxes, liquidated damages, or other charges), even if one or more of the bonds is not expressly identified in connection with the activity or transaction.

§ 113.14 Restriction on use of continuous bond.

(a) *Principal's nonperformance or default.* If a principal has demonstrated an unwillingness or inability to perform its obligations under part 113 on one or more bonds, CBP may restrict the principal's ability to use a continuous bond to secure new transactions or activities, instead requiring a single transaction bond for each transaction. This restriction may be imposed for a temporary period, or as a permanent termination of the principal's ability to engage in transactions or activities using a continuous bond.

(b) *Notice to principal and surety.* Before any restriction under paragraph (a) of this section will take effect, CBP will provide notice to the principal and surety with sufficient information about the restriction CBP intends to impose, the date the restriction will take effect, and the basis for the restriction, to allow the principal to respond. The principal will have 30 calendar days from the date of the notice to respond. If the principal does not respond within 30 calendar days, CBP's restriction will take effect on the date indicated in the notice.

(c) *Review and final decision.* If the principal responds to the notice provided pursuant to paragraph (b) of this section, then, within 30 calendar days of CBP's receipt of the principal's response, CBP will review the response and make a final decision as to whether the proposed restriction will go into effect. CBP may extend the period for a final decision after providing notice of the extension to the principal. CBP will provide notice of the final decision to the principal and the surety on any existing continuous bond, and any restriction imposed will take effect at least five business days after the date of the notice of final decision.

(d) *Continuous bond limits.* Only one continuous bond for a particular activity will be authorized for each principal.

§ 113.15 Retention of bonds, bond riders and bond amount adjustments.

CBP will retain a record of all bonds, bond riders, and bond amount adjustments that parties properly transmit to CBP in accordance with the provisions of this part. Notwithstanding the preceding sentence, the absence of a bond, bond rider, or bond amount adjustment from CBP

records, regardless of the reason for its absence, does not release any party from liability under the bond, bond rider, or bond amount adjustment if the bond, bond rider, or bond amount adjustment otherwise exists. Bonds containing the agreement to pay court costs (condemned goods), whose terms and conditions are in § 113.72 of this part, will be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608) and CBP will retain a record of the bonds.

79. Revise subpart C to read as follows:

Subpart C—Bond Requirements

§ 113.21 Information required in the bond transmission.

§ 113.22 [Reserved]

§ 113.23 Amendments made to the bond.

§ 113.24 Bond riders.

§ 113.25 [Reserved]

§ 113.26 Effective dates of bonds and bond riders.

§ 113.27 Voiding or terminating a bond.

§ 113.21 Information required in the bond transmission.

(a) *Identification of principal and surety.*

(1) *Principals and other authorized users.* Each bond transmitted to CBP must include:

(i) A CBP filing identification number, as detailed in § 24.5 of this title, for each principal on the bond; and

(ii) A CBP filing identification number related to the filing identification number of the principal, as detailed in § 24.5 of this title, for any authorized users of the bond.

(2) *Sureties and surety agents.* Each bond transmitted to CBP must include:

(i) A surety code issued by CBP, as detailed in § 113.37 of this part, for the surety on the bond and any co-sureties. Where there are two or more sureties on the bond,

(i.e., co-sureties or re-insurance) the transmission must include the additional requirements detailed in § 113.37(d) of this part.

(ii) The unique surety agent identification number assigned by the surety, and transmitted to CBP as detailed in § 113.37(c)(1) of this part, for each surety agent.

(b) *Bond Information.* The bond transmission must include the following information regarding the bond:

(1) Bond type. The bond transmission must indicate the type of bond being transmitted (e.g., single transaction bond, continuous bond).

(2) Bond designation type. The bond transmission must indicate the bond designation type (e.g., new bond, substitution bond, superseding bond, additional bond).

(3) Activity Code. The bond transmission must indicate the activity code associated with the terms and conditions of the bond. Subpart G of this part lists the bond terms and conditions, and corresponding activity code for all bonds except specific instruction bonds issued pursuant to § 113.5 of this part.

(4) Amount. The bond transmission must indicate the limit of liability on the bond, in whole U.S. dollars.

(5) Date of execution. The date the bond is transmitted to CBP pursuant to § 113.11 of this part is the date of the bond's execution.

(6) Effective date. If the bond being transmitted is a term bond, the transmission must indicate the first date on which the bond can be obligated, subject to the provisions of § 113.26 of this part.

(7) Transaction identification information. If the bond being transmitted is a single transaction bond, the transmission must indicate:

(i) The transaction identification number for the transaction to be secured (e.g., entry number, Importer Security Filing Transaction number, seizure case number, bill of lading number, or carrier & voyage identification), and

(ii) The entry type code if the single transaction bond has one of the following activity codes: 1, 1A, 6, 7, 8, 12, or 16.

§ 113.22 [Reserved]

§ 113.23 Amendments made to the bond.

CBP will permit the following amendments to a bond:

- (a) Bond riders listed in § 113.24 of this part; and
- (b) A bond amount adjustment of a single transaction bond with Activity Code 1, transmitted to CBP by a surety or surety agent via EDI, if the bond amount adjustment is transmitted to CBP via EDI on or before the tenth business day after the date of entry. The transmission of a bond amount adjustment is subject to the following conditions:

(1) To ensure the protection of the revenue and legal compliance, transmission of a bond amount adjustment to CBP constitutes the surety's and the principal's agreement that the amended bond amount will only limit their liability if it was calculated and transmitted using reasonable care, as that term is used in 19 U.S.C. 1484, and absent reasonable care, the bond amount in effect prior to transmission of the bond amount adjustment remains in effect.

(2) Failure to use reasonable care may also result in penalties or other legal consequences permitted by law. Notwithstanding the foregoing, transmission of a bond amount adjustment to CBP also constitutes the surety's and the principal's agreement that CBP may immediately prohibit either the surety or the principal, or both, from being party to future bond amount adjustments to any bond, if necessary to protect the revenue or to ensure legal compliance.

§ 113.24 Bond riders.

(a) *Types of bond riders.* The permissible bond riders are listed below, with their terms and conditions.

(1) Authorized user addition bond rider. Transmission of an authorized user addition bond rider constitutes agreement by the principal and surety that:

(i) The CBP filing identification numbers transmitted with the bond rider identify unincorporated units of the identified principal or trade or business names used by the identified principal in its business;

(ii) The identified bond covers the activities or transactions of the added authorized user to the same extent as though done by the identified principal; and

(iii) Any such activities or transactions will be considered to be the activities or transactions of the identified principal.

(2) Authorized user deletion bond rider. Transmission of an authorized user deletion bond rider constitutes agreement by the principal and surety that the CBP identification numbers transmitted with the bond rider are no longer authorized users of the identified bond.

(3) Reconciliation bond rider. Transmission of a reconciliation bond rider on a continuous bond constitutes agreement by the principal and surety that the identified bond covers all reconciliations elected pursuant to 19 U.S.C. 1484(b) on entries secured by the identified bond, and that all conditions set out in § 113.62 of this part are applicable to the identified bond.

(4) Removal of a reconciliation bond rider. Transmission of a removal of a reconciliation bond rider constitutes agreement by the principal and surety that the continuous bond identified in the transmission is amended to no longer cover future reconciliations elected pursuant to 19 U.S.C. 1484(b).

(5) U.S. Virgin Islands bond rider. Transmission of a U.S. Virgin Islands bond rider constitutes agreement by the principal and surety that the words “United States,” whenever used in the terms and conditions of the identified bond, include the U.S. Virgin Islands, and that activities or transactions of the principal in the U.S. Virgin Islands are covered by the identified bond as if they occurred in the United States. A U.S. Virgin Islands bond rider may not be removed. Instead, the principal must terminate the existing bond with the rider and obtain a new bond pursuant to § 113.27 of this part.

(b) *Transmission of bond riders.* A bond rider must be transmitted to CBP using the same method as the underlying bond, pursuant to § 113.11 of this part.

(c) *Information required in the bond rider transmission.* A bond rider transmission must include the following information:

(1) Date of execution: The date the bond rider is transmitted to CBP is the date of the bond rider's execution;

(2) Bond number: The CBP-assigned bond number of the bond being amended by the bond rider;

(3) Information specific to the bond rider:

(i) Addition of authorized users: A bond rider transmission adding an authorized user must include the CBP identification number for the added authorized user and the date the added authorized user may begin using the bond, pursuant to § 113.26 of this part.

(ii) Deletion of authorized users: A bond rider transmission deleting an authorized user must include the CBP identification number for the deleted authorized user and the date the user is no longer permitted to use the bond. The effective date of an authorized user deletion bond rider must comply with the requirements of § 113.26 of this part.

§ 113.25 [Reserved]

§ 113.26 Effective dates of bonds and bond riders.

(a) *Bonds.*

(1) Term bond. A term bond is effective on the effective date indicated in the bond transmission, so long as that effective date is no more than 60 calendar days after the date of the bond transmission. For bonds transmitted by email pursuant to § 113.11 of this part, the effective date must be at least ten business days after the date the bond is received by CBP.

(2) Single transaction bond. A single transaction bond is effective for the transaction indicated in the bond transmission, regardless of the date of the transaction.

(b) *Bond riders.*

(1) For riders transmitted via EDI, the bond rider is effective once the EDI system has accepted the bond rider transmission, except as follows:

(i) Authorized user addition bond riders. An authorized user addition bond rider is effective on or after the date the added authorized user may begin using the bond, as indicated in the bond rider transmission, so long as that date is on or after the effective date of the bond and is no more than 60 calendar days after the date of the bond rider transmission.

(ii) Authorized user deletion bond riders. An authorized user deletion bond rider is effective on or after the date the user is no longer permitted to use the bond, as indicated in the bond rider transmission, so long as that date is on or after the effective date of the bond, after the date the authorized user may begin using the bond, and is no more than 60 calendar days after the date of the bond rider transmission.

(2) For riders transmitted by email, the bond rider is effective on the date indicated in the bond rider email, except as follows:

(i) Authorized user addition, U.S. Virgin Islands, and Reconciliation bond riders. An authorized user addition, U.S. Virgin Islands, or Reconciliation bond rider is effective on the date indicated in the bond rider email, so long as that date is on or after the effective date of the bond and is at least 10 business days, but no more than 60 calendar days, after the date of the bond rider email. If the bond rider is not transmitted by email to CBP at least 10 business days before the requested date, or if no date is indicated in the bond rider email, the bond rider is effective on the close of business of the tenth business day after the bond rider is transmitted by email to CBP.

(ii) Authorized user deletion bond riders. An authorized user deletion bond rider is effective on or after the date indicated in the bond rider email, so long as that date is at least on or after the effective date of the bond, after the date the authorized user may begin using the bond, and at least 10 business days, but no more than 60 calendar days, after the date of the bond rider email. If the bond rider is not transmitted by email to CBP at least 10 business

days before the requested date, or if no date is indicated in the bond rider email, the bond rider is effective on the close of business of the tenth business day after the bond rider is transmitted by email to CBP.

§ 113.27 Voiding or terminating a bond.

(a) *Voiding a Single Transaction Bond.* The surety may void a single transaction bond transmitted to CBP via EDI, prior to obligation of that bond. To ensure the protection of the revenue and legal compliance, voiding a single transaction bond constitutes the surety's and the principal's agreement that the voided bond has not been used to secure any activity or transaction, and that the void was transmitted using reasonable care, as that term is used in 19 U.S.C. 1484. Otherwise, the single transaction bond in effect prior to voiding remains in effect. Failure to use reasonable care may also result in penalties or other legal consequences permitted by law. Notwithstanding the foregoing, voiding a single transaction bond constitutes the surety's and the principal's agreement that CBP may immediately prohibit either the surety or the principal, or both, from voiding any future bonds, if necessary to protect the revenue or to ensure legal compliance.

(b) *Terminating a bond.* No new transactions or activities may be charged against a terminated bond. A new bond in an appropriate amount, containing the appropriate bond conditions set forth in subpart G of this part, must be transmitted to CBP pursuant to this part to secure new transactions or activities. A bond may be terminated by either the principal or the surety on the bond, as follows:

(1) *Termination by principal.* A written request by a principal to terminate a bond must be transmitted by email to the Revenue Division. The termination will take effect on the date requested if that date is at least 15 calendar days after the date the request is transmitted by email to CBP. If no termination date is requested or if the request is not received at least 15 calendar days prior to the requested termination date, the termination will take effect on the fifteenth calendar day after the date the request is transmitted by email to CBP.

(2) *Termination by surety.* A surety wishing to terminate a bond must notify CBP and the principal of the termination. Notice of termination may be transmitted by a surety to CBP via EDI or via email to the Revenue Division. The surety must provide notice of termination to the principal at the same time that the notice of termination is transmitted to CBP. The notice must indicate the date on which the termination will be effective. The effective date of the termination must be at least 15 calendar days after the date that the notice of termination is transmitted to CBP, unless the surety can establish, to the satisfaction of the Director of the Revenue Division, good cause for earlier termination of the bond.

79. Revise subpart D to read as follows:

Subpart D—Principals and Sureties

§ 113.30 Information pertaining to principals and sureties on the bond.

§ 113.31 Same party as principal and surety; attorney in fact.

§ 113.32 Partnerships as principals.

§ 113.33 Corporations as principals.

§ 113.34 Multiple principals and authorized users.

§ 113.35 [Reserved]

§ 113.36 [Reserved]

§ 113.37 Surety requirements.

§ 113.38 Consequences of surety nonperformance or default.

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

§ 113.40 Acceptance of cash deposits in lieu of sureties on bonds.

§ 113.30 Information pertaining to principals and sureties on the bond.

The general information identifying the principal and surety that must be provided as part of the bond transmission is set forth in § 113.21.

§ 113.31 Same party as principal and surety; attorney in fact.

(a) *Same party as principal and surety.* The principal cannot act as surety on its own bond, except as provided in § 113.40 of this part.

(b) *Attorney in fact for principal or surety.* In executing a bond or bond amendment under § 113.23 of this part, a person may act as:

(1) Attorney in fact for both principal and surety; or

(2) Principal and attorney in fact for the surety.

§ 113.32 Partnerships as principals.

A partnership, including a limited partnership, means any business association recognized as such under the laws of the State where the association is organized.

(a) *Transmission.* Partnership bonds must be transmitted using the CBP identification number of the partnership.

(b) *Action of one principal binding on all principals of the partnership.* Pursuant to section 495, Tariff Act of 1930, as amended (19 U.S.C. 1495), when a bond is executed by any member of the partnership, the bond will be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

§ 113.33 Corporations as principals.

(a) *Identification of corporation on the bond.* The CBP identification number of a corporation using a bond as a principal must be included as part of the bond transmission.

(b) *Subsidiaries as principals.* The provisions of this part are applicable to each corporate subsidiary that joins its parent corporation as a principal on the bond. Pursuant to § 113.12 of this part, identification of a bond to secure an activity or transaction constitutes reaffirmation by the principal that it agrees to be bound by the terms and conditions of the identified bond and any associated bond amendments.

§ 113.34 Multiple principals and authorized users.

(a) *Multiple principals.* A bond may be transmitted to CBP with one or more principals, however, principals cannot be added or deleted by bond rider. All principals on the bond are

jointly and severally liable for transactions or activities of any principals and any authorized users that use the bond.

(b) *Authorized Users.* A bond may be transmitted to CBP with one or more authorized users. An authorized user can be added to or deleted from a bond by transmitting a bond rider pursuant to § 113.24 of this part. An authorized user is not liable under the bond for transactions or activities of other principals or authorized users.

§ 113.35 [Reserved]

§ 113.36 [Reserved]

§ 113.37 Surety requirements.

(a) *List of corporations and limits of their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted. Unless otherwise directed by the Commissioner of CBP, no surety will be accepted on a bond if not named in the current Circular, as amended by *Federal Register* notice, and no bond may exceed the respective limit stated in the Circular, unless the excess is protected as prescribed in § 223.11, Bureau of the Fiscal Service Regulations (31 CFR 223.11).

(b) *Identification of surety on the bond.* Each surety executing or transmitting a bond to CBP must first obtain a surety code from the Revenue Division. The surety code must be transmitted to CBP with each bond, as detailed in § 113.21 of this part. In addition, each surety must establish and maintain an ACE Portal Account, obtained by submitting a completed ACE Secure Data Portal Account Application via email to CBP.

(c) *Power of attorney for the surety agent.* A surety may grant power of attorney to a surety agent to act on its behalf in the following manner:

(1) *Transmission and contents.* Surety powers of attorney must be transmitted to CBP through the ACE Portal. The data elements below must be part of that transmission:

(i) Surety code;

(ii) Name and physical address of surety agent;

(iii) Surety-generated 9-digit alphanumeric identification number for the surety agent; and

(iv) Dollar amount of surety agent's authority to obligate the surety for a single bond.

(2) *Term and revocation.* A power of attorney will continue in force and effect until revoked. Any surety desiring that a designated surety agent be divested of a power of attorney must transmit a revocation in the ACE Portal. The revocation will take effect immediately upon transmission.

(3) *Change on the power of attorney.*

(i) No change may be made to a power of attorney after it has been transmitted to CBP except changes to:

(A) surety agent name or

(B) surety agent address.

(ii) To make any other change to the power of attorney, the surety must first revoke the existing power of attorney in the ACE Portal, and then transmit a new power of attorney containing the desired change.

(d) *Two or more sureties on the same bond.*

(1) *Coinurance.* Two or more sureties may be accepted as sureties on the same bond, the amount of which cannot exceed their aggregate underwriting limitation, as stated in Treasury Department Circular 570, or an equivalent publication of the underwriting limitation by the Secretary of the Treasury. The amount for which each surety may act as surety in all cases must be within the underwriting limitation stated in the Circular. Each surety on the same bond must transmit its limit of liability, as follows, to CBP pursuant to §§ 113.11 and 113.12 of this part.

__ (name of surety), __ (surety code), a surety company incorporated under laws of the State of __, authorized to conduct a surety business in the State of __, and having its principal place of business at __ (address), and __ (name of surety), __ (surety code), a surety company incorporated under the laws of the State of __ and having its principal place of business at __ (address), as sureties, and __ (name of principal), as principal, are jointly and severally obligated to the United States in the amount of __ (\$) on a bond transmitted to CBP on __ (date of execution) with each surety jointly and severally obligated with the principal in the amounts listed below and no more:

__ (name of surety) __

(\$)

__ (name of surety) __

(\$)

By this agreement the principal and sureties bind themselves and agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this agreement and the bond under which they are obligated and which is incorporated by reference into this agreement, shall be treated as the joint and several obligation of each of the parties.

Signed this _____ day of _____ 20__

__Principal

__Surety

__Surety

(2) *Reinsurance.* For reinsurance agreements pursuant to § 223.11 of title 31, Bureau of the Fiscal Service Regulations (31 CFR 223.11), each surety must limit its liability to a definite specified amount, in terms, transmitted with the bond. Reinsurance agreements must be executed on Standard Form 275 pursuant to 31 CFR 223.11 and transmitted to CBP pursuant to § 113.11 of this part.

§ 113.38 Consequences of surety nonperformance or default.

(a) *Delinquency interest as a consequence of the surety's default.* Delinquency interest will accrue where a surety fails to pay in full any amount due to CBP under the surety's bond, excluding liquidated damages and penalties. Thirty days after the date such an amount is due, the unpaid balance will be considered delinquent and will bear interest by 30-day periods until the full balance is paid. The interest charged on the unpaid balance of the surety's debt will be in accordance with the rates and procedures described in § 24.3a(c) of this chapter.

(b) *Surety's nonperformance as principal.* No company will be able to act as surety on any bond while it has failed to perform its obligation(s) as principal on any other bond.

(c) *Surety's nonperformance as surety.* If a surety has demonstrated an unwillingness or inability to perform its obligations under this part on one or more bonds, CBP may limit the surety to transmitting bonds only via email or limit the surety's ability to act as surety for new transactions or activities, including, but not limited to, dollar amount limitations, time limitations, volume limitations, bond type limitations, transaction or activity limitations, geographic limitations, commodity limitations, suspension of the surety's ability to act as surety on any bond for a temporary period, or a permanent termination of the surety's ability to act as surety on any bond.

(1) *Notice to surety.* Before any limitation under paragraph (c) of this section will take effect, CBP will provide notice to the surety with sufficient information about the limitations to be imposed, the basis for the limitations, and the date the limitations will take effect, which will be at least 30 calendar days after the date notice is provided to the surety. The surety will have 30 calendar days from the date of the notice to respond. If the surety does not respond within 30 calendar days, CBP's limitations will take effect on the date indicated in the notice, and notice of the limitations will be given to the public by publication in the *Customs Bulletin*.

(2) *Review and final decision.* If the surety responds to the notice provided pursuant to paragraph (c)(1) of this section, then, within 30 calendar days of CBP's receipt of the

response, the appropriate deciding CBP official will review the response and make a final decision as to whether the proposed limitations, or less restrictive limitations, will go into effect. CBP may extend the period for a final decision after providing notice of the extension to the surety. Notice of the final decision will be provided to the surety, and any limitations imposed will take effect at least five business days after the date of the notice of final decision. Notice of the final decision will be given to the public by publishing the decision in the *Customs Bulletin*.

(3) *Final decision by the Commissioner.* The Commissioner of CBP or the Commissioner's delegate will be the deciding official for a final decision to suspend a surety's ability to act as surety on any bond for a temporary period, or a final decision to permanently terminate a surety's ability to act as a surety on any bond.

§ 113.39 Procedure to remove a surety from Treasury Department Circular 570.

If a port director, Center director, Fines, Penalties, and Forfeitures Officer, or the Director, Revenue Division, determines that a surety has failed to pay a valid demand made on the surety's bond or has failed to satisfy an obligation on that bond, the port director, Center director, Fines, Penalties, and Forfeitures Officer, or the Director, Revenue Division, may take the following steps to recommend that the surety company be removed from Treasury Department Circular 570.

(a) *Report to Headquarters.* A port director, Center director, Fines, Penalties, and Forfeitures Officer, or the Director, Revenue Division, will send the following evidence to the Executive Director, Financial Operations, Office of Finance:

- (1) A copy of the bond in issue;
- (2) A copy of the entry or other evidence which shows that there was a default on the bond;
- (3) A copy of all relevant notices, demands or correspondence sent to the surety company requesting the honoring of the bond obligation;
- (4) A copy of all relevant correspondence from the surety; and

(5) A written report of the relevant facts known to the port director, Center director, Fines, Penalties, and Forfeitures Officer, or the Director, Revenue Division, showing the unsatisfactory performance by the surety of the bond obligation(s).

(b) *Review by Headquarters.* The Executive Director, Financial Operations, will review the submitted evidence and determine whether further action against the surety is warranted. If it is determined that further action is warranted, a report recommending appropriate action will be submitted to the Department of the Treasury, in accordance with 31 CFR part 223. The Executive Director, Financial Operations, will notify the port director, Center director, Fines, Penalties, and Forfeitures Officer, or the Director, Revenue Division, of the Executive Director's decision regarding their request for removal of the surety.

§ 113.40 Acceptance of cash deposits in lieu of surety on bonds.

(a) *General provisions.* In lieu of surety on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury, the Secretary of Homeland Security, or the Commissioner of CBP is authorized to enforce, the Director, Revenue Division, may accept United States money in an amount equal to the amount of the bond that would be required. The option to deposit cash in lieu of surety is at the option of the principal, and a CBP Form 301 or other CBP-approved bond designating the appropriate transaction or activity and terms and conditions for the cash deposit in lieu of surety must be transmitted via email pursuant to § 113.11 of this part, unless otherwise provided for by CBP. When cash is provided in lieu of surety, the bond must be for a period of no more than one year. Additional cash deposits in lieu of surety, or other bonds, may be required.

(b) *Application of United States money on principal's default.* If United States cash is deposited in lieu of surety on any bond, the appropriate CBP official is authorized to apply the cash to satisfy any liquidated damages, demand, or deficiency arising from the principal's default under the bond.

(c) *Release of bond and refund of cash.* The appropriate CBP official is authorized to release a bond with cash in lieu of surety upon expiration of all applicable statute(s) of limitations for claims against the cash bond. Release of a bond with cash in lieu of surety will result in a refund to the bond principal, subject to CBP's set off rights as provided in § 24.72 of this chapter.

80. Revise § 113.51 to read as follows:

§ 113.51 Cancellation of bond or charge against the bond.

(a) *Cancellation of any bond or charge against any bond.* Cancellation of a bond is the process by which CBP relinquishes the right to enforce the terms and conditions of a bond, either because the principal has satisfied the terms and conditions secured by the bond, or because the principal has satisfied alternative terms and conditions as agreed to by CBP. The Commissioner of CBP may authorize the cancellation of any bond provided for in this chapter or any charge that may have been made against the bond, in the event of a breach of any condition of the bond, upon payment of a lesser amount or penalty or upon such other terms and conditions as may be deemed sufficient. Notwithstanding the foregoing, the Commissioner of CBP may not authorize the cancellation of any bond or any charge that may have been made against a bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended, as provided for by § 113.74 and Appendix B of this part.

(b) *Cancellation of bond for deferral of duty on large yachts imported for sale at United States boat shows.*

(1) If a large yacht entered with deferral of duties pursuant to 19 U.S.C. 1484b is neither sold nor exported within the six-month period after importation, and entry is completed and duty deposited with CBP pursuant to § 4.94a of this chapter, the bond containing the terms and conditions found in § 113.75 of this part is cancelled.

(2) If a large yacht entered with deferral of duties pursuant to 19 U.S.C. 1484b is sold within the six-month period after importation, and entry is completed and duty deposited

with CBP pursuant to § 4.94a of this chapter, the bond containing the terms and conditions found in § 113.75 of this part is cancelled.

(3) If a large yacht entered with deferral of duties pursuant to 19 U.S.C. 1484b is exported within the six-month period after importation and notice is provided to CBP pursuant to § 4.94a of this chapter, the bond containing the terms and conditions found in § 113.75 of this part is cancelled.

81. Redesignate § 113.61 as § 113.60, and revise to read as follows:

§ 113.60 General.

In addition to the general terms and conditions applicable to all bonds, found in § 113.61 of this part, each section in this subpart identifies specific bond terms and conditions for each particular customs activity or transaction. When a bond is transmitted to CBP, the activity or transaction in which the principal plans on engaging will be identified in the bond transmission using the corresponding activity code, as identified in each section in this subpart. The bond conditions listed in this subpart which correspond to that activity or transaction will be incorporated by reference into the bond.

82. Add a new § 113.61 to read as follows:

§ 113.61 Terms and conditions applicable to all bonds.

(a) The principal and surety agree to the following terms and conditions in all bonds, unless CBP requires additional terms and conditions pursuant to paragraph (c) of this section:

(1) In order to secure payment of any duty, tax or charge, and compliance with laws and regulations as a result of activity(ies) or transaction(s) covered by any condition identified in a bond, the principal and surety identified on the bond bind themselves (jointly and severally) to the United States in the amount or amounts set forth in the bond.

(2) The principal and surety agree that any charge against the bond by any authorized user on the bond is as though it were made by the principal.

(3) The principal and surety agree that they are bound to the same extent as if they executed a separate bond covering each set of conditions incorporated by reference to the CBP regulations into the bond.

(4) If the surety fails to appoint an agent under 31 U.S.C. 9306, the surety consents to service on the Clerk of the U.S. Court of International Trade or any United States District Court in which suit is brought on this bond.

(5) To ensure that the United States receives the full value of the bond on its due date, the principal and surety agree to pay delinquency interest as a consequence of their own default, without regard to the limit of liability of the bond, on any debt arising under the bond, except for liquidated damages and penalties, with the interest accruing from the date CBP provides notice of the debt until the full balance of the debt is paid, as provided in § 113.38(a) of this part.

(6) For a term bond that renews automatically, the principal and surety agree that the terms and conditions applicable to each new bond period are those terms and conditions required by CBP and in effect on the bond renewal date (for example, the first day of the new bond period), unless the bond is terminated or cancelled at an earlier date in accordance with the regulations in this part.

(b) Additional terms and conditions for each bond are identified by the activity code transmitted with the bond. Selection of an activity code constitutes the agreement of the surety and principal to be bound by the terms and conditions in the corresponding regulation in this subpart (for example, selection of Activity Code 1 constitutes agreement to be bound by the terms and conditions found in § 113.62 of this subpart).

(c) To the extent that the additional terms, conditions, form, or amount of a bond requirement conflict with the provisions of § 113.61(a), the additional terms, conditions, form, or amount of the specific bond requirement govern.

83. In § 113.62, revise the introductory text to read as follows:

§ 113.62 Basic importation and entry bond conditions.

A bond for basic importation and entry is a consolidated bond that must contain the conditions listed in this section and may be either a single transaction or a continuous bond. An active continuous bond effective at the time entry is filed is obligated on that entry. These conditions are identified as Activity Code 1.

* * * * *

84. In § 113.63, revise the introductory text to read as follows:

§ 113.63 Basic custodial bond conditions.

A basic custodial bond is a consolidated bond that must contain the conditions listed in this section and must be a continuous bond. These conditions are identified as Activity Code 2.

* * * * *

85. In § 113.64, revise the introductory text to read as follows:

§ 113.64 International carrier bond conditions.

A bond for international carriers is a consolidated bond that must contain the conditions listed in this section and may be either a single transaction or continuous bond. These conditions are identified as Activity Code 3.

* * * * *

86. In § 113.65, revise the introductory text to read as follows:

§ 113.65 Repayment of erroneous drawback payment bond conditions.

A bond for repayment of erroneous drawback must contain the conditions listed in this section and may be either a single transaction or continuous bond. These conditions are identified as Activity Code 1a.

* * * * *

87. In § 113.66, revise the introductory text to read as follows:

§ 113.66 Control of containers and instruments of international traffic bond conditions.

A bond for control of containers and instruments of international traffic is a consolidated bond that must contain the conditions listed in this section and must be a continuous bond. These conditions are identified as Activity Code 3a.

* * * * *

88. In § 113.67:

- a. Add a new sentence at the end of the introductory text in paragraph (a); and
- b. Add a new sentence at the end of the introductory text in paragraph (b).

The additions read as follows:

§ 113.67 Commercial gauger and commercial laboratory bond conditions.

COMMERCIAL GAUGER BOND CONDITIONS

(a) * * * These conditions are identified as Activity Code 5.

* * * * *

COMMERCIAL LABORATORY BOND CONDITIONS

(b) * * * These conditions are identified as Activity Code 5.

* * * * *

89. In § 113.68, revise the introductory text to read as follows:

§ 113.68 Wool and fur products labeling acts and fiber products identification act bond conditions.

A bond to comply with wool and fur products labeling acts and fiber products identification act must contain the conditions listed in this section and must be a single transaction bond. These conditions are identified as Activity Code 6.

* * * * *

90. In § 113.69, revise the introductory text to read as follows:

§ 113.69 Production of bills of lading bond conditions.

A bond to produce a bill of lading must contain the conditions listed in this section and must be a single transaction bond. These conditions are identified as Activity Code 7.

* * * * *

91. In § 113.70:

- a. Add a new sentence at the end of the introductory text of paragraph (a); and
- b. Add a new sentence at the end of the introductory text of paragraph (b).

The additions read as follows:

§ 113.70 Bond conditions for owners of recorded marks or recorded copyrights to obtain samples from CBP relating to importation of merchandise suspected of, or seized for, infringing recorded marks or recorded copyrights, or circumventing copyright protection measures.

(a) * * * These conditions are identified as Activity Code 15.

* * * * *

(b) * * * These conditions are identified as Activity Code 15.

* * * * *

93. In § 113.71, revise the introductory text to read as follows:

§ 113.71 Bond condition to observe neutrality.

A bond to observe neutrality must contain the conditions listed in this section and must be a single transaction bond. These conditions are identified as Activity Code 9.

* * * * *

93. In § 113.72, revise the introductory text to read as follows:

§ 113.72 Bond condition to pay court costs (condemned goods).

A bond to pay court costs (condemned goods) must contain the condition listed in this section and must be a single transaction bond. These conditions are identified as Activity Code 10.

* * * * *

94. In § 113.73, revise the introductory text to read as follows:

§ 113.73 Foreign trade zone operator bond conditions.

A bond of a foreign trade zone operator is a consolidated bond that must contain the conditions listed in this section and must be a continuous bond. These conditions are identified as Activity Code 4.

* * * * *

95. Revise § 113.74 to read as follows:

§ 113.74 Bond conditions to indemnify a complainant under section 337 of Tariff Act of 1930, as amended.

(a) *Conditions of the bond.* A bond to indemnify a complainant under section 337 of the Tariff Act of 1930, as amended, must contain the conditions listed in Appendix B to this part. The bond must be a single transaction bond and must be executed and transmitted in accordance with the provisions set forth in 19 CFR 12.39(b)(2) and the provisions of this section. For the forfeiture or return of this bond, the provisions of 19 CFR 210.50(d) will apply.

(b) *Transmission of the bond.* A copy of the bond, executed as required by paragraph (c) of this section, must be transmitted to the Center or the port of entry, by the principal, with the entry, by email or EDI. In addition to transmitting the bond, when a principal elects to deposit cash in lieu of surety under § 113.40 of this part, the principal must transmit the cash deposit to the port of entry in accordance with the requirements of § 113.11 of this part.

(c) *Execution of the bond.*

(1) *Partnership as principal.* Bonds executed by a partnership, as defined in § 113.32 of this part, must be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(2) *Corporation as principal.* The bond of a corporate principal must be signed by an authorized officer or attorney of the corporation and the corporate seal must be affixed immediately adjoining the signature of the person executing the bond, as provided for in paragraph (d) of this section.

(i) *Corporate bond executed by an officer of the corporation.* When a bond is executed by an officer of a corporation, a power of attorney will not be required if the person signing the bond on behalf of the corporation is known to the Revenue Division, port director, or Center Director to be the president, vice president, treasurer, or secretary of the corporation. The officer's signature is prima facie evidence of that officer's authority to bind the corporation. When a power of attorney is required, it must conform to the requirements of subpart C, part 141, of this chapter.

(ii) *Corporate bond executed by an attorney in fact.* When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the Revenue Division (unless exempted from filing by § 141.46 of this chapter), there must be attached a power of attorney executed by an officer of the corporation whose authority to execute the power must be shown as prescribed in paragraph (c)(2)(i) of this section.

(d) *Other requirements.*

(1) *Witnesses required.* The signature of each party to a bond executed by a noncorporate principal must be witnessed by two persons, who must sign their names as witnesses, and include their addresses.

(2) *Seals.* When a seal is required, the seal must be affixed adjoining the signature of the principal, if an individual, and the corporate seal must be affixed close to the signatures of persons signing on behalf of a corporation. Bonds must be under seal in accordance with the law of the state in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

96. Revise § 113.75 to read as follows:

§ 113.75 Bond conditions for deferral of duty on large yachts imported for sale at United States boat shows.

A bond for the deferral of entry completion and duty deposit pursuant to 19 U.S.C. 1484b and § 4.94a of this chapter for a dutiable large yacht imported for sale at a United States boat show must be a single transaction bond and contain the terms below. These conditions are identified as Activity Code 22. The principal and surety on a bond for deferral of duty on large yachts imported for sale at United States boat shows agree to the following bond conditions:

(a) The principal agrees to provide CBP with all information necessary to complete the transaction provided for in § 4.94a; and

(b) If the principal fails to comply with any requirement or condition set forth in 19 U.S.C. 1484b or 19 CFR 4.94a, the principal and surety jointly and severally agree to pay to CBP an amount of liquidated damages equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States, or any applicable successor subheading. For purposes of this paragraph, the term duty includes any duties, taxes, fees and charges imposed by law.

(c) The principal will exonerate and hold harmless the United States and its officers from or on account of any risk, loss, or expense of any kind or description connected with or arising from the failure to store and deliver the large yacht as required, as well as from any loss or damage resulting from fraud or negligence on the part of any officer, agent, or other person employed by the principal.

98. Add new §§ 113.76 – 113.77 to subpart G to read as follows:

§ 113.76 Bond conditions for the Airport Customs Security Area Bond

An Airport Customs Security Area bond must be a continuous bond containing the condition below. This condition is identified as Activity Code 11.

The principal agrees to comply with the CBP regulations applicable to customs security areas at airports. If the principal defaults on the condition of this obligation, the principal and surety, jointly and severally, agree to pay liquidated damages of \$1,000 for each default; or such other amount as may be authorized by law or regulation.

§ 113.77 Importer Security Filing Bond conditions.

An Importer Security Filing Bond must contain the following terms and conditions.

These conditions are identified as Activity Code 16.

(a) The named principal (including the named principal's employees, agents and contractors) agrees to comply with all Importer Security Filing requirements set forth in 19 CFR part 149, including but not limited to providing security filing information to CBP in the manner and in the time period prescribed by regulation.

(b) If the principal defaults on the conditions of this obligation, the principal and surety jointly and severally, agree to pay liquidated damages of \$5,000 for each violation, or such other amount as may be authorized by law or regulation, upon demand by CBP.

98. Remove and reserve appendices A, C, and D to part 113.

PART 118—CENTRALIZED EXAMINATION STATIONS

99. The general authority citation for part 118 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

100. In § 118.11, revise paragraph (e) to read as follows:

§ 118.11 Contents of application.

* * * * *

(e) A bond containing the conditions set forth in § 113.63 of this chapter, transmitted to CBP pursuant to part 113 of this chapter;

* * * * *

PART 122—AIR COMMERCE REGULATIONS

101. The general authority citation for part 122 continues to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

* * * * *

102. In § 122.38, revise paragraphs (d), (e) and (f) to read as follows:

§ 122.38 Permit and special license to unlade and lade.

* * * * *

(d) *Procedures.* The application for a permit and special license to unlade or lade shall be made by the owner, operator, or agent for an aircraft on CBP Form 3171, and shall be submitted to the port director for the airport where the unloading and lading will take place. The application shall be accompanied by a bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in subpart G of part 113 of this chapter, or a cash deposit, unless this requirement is waived under paragraph (e) of this section.

(e) *Waiver of bond.* To insure prompt and orderly clearance of the aircraft, passengers, baggage, or merchandise, the port director may waive the requirement under paragraph (d) of this section that either a bond be transmitted or a cash deposit be made, if the port director is convinced the revenue is protected and that all CBP requirements are satisfied.

(f) *Automatic renewal of term permit or special license.* Automatic renewal of a term permit or special license may be requested by the owner, operator, or agent for an aircraft when a continuous bond containing the appropriate bond conditions set forth in subpart G of part 113 of this chapter has been transmitted to CBP pursuant to part 113 of this chapter. The request shall be for successive annual periods which conform to the automatic renewal periods of the bond. An application will be approved by the port director unless specific reasons exist for denial. If a request for automatic renewal is not approved, the port director shall notify the requestor, and shall state the reasons for the denial. To apply for automatic renewal, item 10 on CBP Form 3171 shall be changed by adding the following words after the period of time indicated: “And automatic annual renewal thereof for so long as the bond is renewed and remains in effect.”

* * * * *

103. In § 122.74:

- a. Revise paragraph (a)(1); and
- b. Revise the last sentence in paragraph (a)(2).

The revisions read as follows:

§ 122.74 Incomplete (pro forma) manifest.

(a) *Application* —

(1) *Shipments to foreign countries.* Except for aircraft bound for foreign locations referred to in paragraph (b) of this section, clearance, or permission to depart may be given to an aircraft bound for a foreign location by CBP at the departure airport before a complete manifest or all required Electronic Export Information (EEI) has been filed, if a proper bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in subpart G of part 113 of this chapter.

(2) * * * If any required manifest or EEI filing citations, exclusions, and/or exemption legends are not filed with the appropriate CBP officer within one business day after arrival in Puerto Rico, a proper bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in subpart G of part 113 of this chapter.

* * * * *

104. In § 122.81, revise paragraph (b) as follows:

§ 122.81 Application.

* * * * *

(b) *Aircraft arriving with no cargo.* Aircraft arriving in the U.S. from a foreign area with no cargo on board, and requesting immediate examination and release, may proceed if a bond, containing the bond conditions set forth in subpart G of part 113 of this chapter, has been transmitted to CBP pursuant to part 113 of this chapter and covers the aircraft.

105. Revise § 122.82 to read as follows:

§ 122.82 Bond requirements.

A bond containing the bond provisions set forth in subpart G of part 113 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter before an aircraft is given a

permit to proceed with residue cargo under this subpart. The bond must be transmitted in the amount required by CBP.

106. In § 122.117, revise paragraphs (a)(1)(ii), (a)(2) and (c)(4)(ii) to read as follows:

§ 122.117 Requirements for transit air cargo transport.

(a) * * *

(1) * * *

(ii) Has a bond that has been transmitted to CBP pursuant to part 113 of this chapter.

(2) *Exportation from port of arrival.* Transit air cargo may be exported from the port of arrival only if covered by a bond, containing the bond conditions set forth in subpart G of part 113 of this chapter, that has been transmitted to CBP pursuant to part 113 of this chapter, as provided in § 18.25 of this chapter.

* * *

(c) * * *

(4) * * *

(ii) Obtain an appropriate bond, to be transmitted pursuant to part 113 of this chapter; and

* * *

107. In § 122.182, revise the introductory text to paragraph (c)(1) to read as follows:

§ 122.182 Security provisions.

* * *

(c) *Application requirements* —

(1) *Initial application.* An application for an approved Customs access seal, as required by this section, must be filed by the applicant with the port director on CBP Form 3078 and must be supported by a written request and justification for issuance prepared by the applicant's employer that describes the duties that the applicant will perform while in the

Customs security area. The application requirement applies to all employees required to display an approved Customs access seal by this section, regardless of the length of their employment. The application must be supported by the bond of the applicant's employer or principal containing the bond conditions set forth in § 113.62, § 113.63, or § 113.64 of this chapter, relating to importers or brokers, custodians of bonded merchandise, or international carriers. If the applicant's employer is not the principal on a bond for one or more of the activities to which the bond conditions set forth in § 113.62, § 113.63, or § 113.64 relate, the application must be supported by an Airport Customs Security Area Bond, as set forth in § 113.76 of this chapter. The latter bond may be waived, however, for State or local government-related agencies in the discretion of the port director. Waiver of this bond does not relieve the agency in question or its employees from compliance with all other provisions of this subpart. In addition, in connection with an application for an approved Customs access seal under this section:

* * * * *

PART 123—CBP RELATIONS WITH CANADA AND MEXICO

108. The general authority citation for part 123 continues to read and the specific authority citation for Section 123.8 is revised to read as follows:

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1415, 1431, 1433, 1436, 1448, 1624, 2071 note.

* * * * *

Section 123.8 also issued under 19 U.S.C. 1450-1454, 1459, 1623;

* * * * *

109. In § 123.8, revise paragraph (c) to read as follows:

§ 123.8 permit or special license to unlade or lade a vessel or vehicle.

* * * * *

(c) *Cash deposit or bond for overtime services.* A request for reimbursable overtime services shall not be approved unless the required cash deposit or bond, containing the bond

conditions set forth in § 113.64 of this chapter, has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

110. The general authority citation for part 125 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1565, and 1624.

* * * * *

111. In § 125.42, remove the words “on CBP Form 301.”

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

112. The general authority citation for part 127 continues to read and the specific authority citation for Sections 127.31, 127.36, and 127.37 is revised to read as follows:

AUTHORITY: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1493, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

* * *

Sections 127.31, 127.36, 127.37 also issued under 19 U.S.C. 1753, 1623.

* * * * *

§ 127.37 [Amended]

113. In § 127.37, amend paragraph (a) by removing the words “on Customs Form 301”.

PART 128—EXPRESS CONSIGNMENTS

114. The general authority citation for part 128 continues to read as follows:

AUTHORITY: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

115. Revise § 128.22 to read as follows:

§ 128.22 Bonds.

Each express consignment operator or carrier must be recognized by CBP as an international carrier and approved as a carrier of bonded merchandise, and shall have bonds

containing the bond conditions set forth in §§ 113.62, 113.63, 113.64 and 113.66 of this chapter, that have been transmitted to CBP pursuant to part 113 of this chapter, to insure compliance with CBP requirements relating to the importation and entry of merchandise as well as the carriage and custody of merchandise under CBP control.

PART 132—QUOTAS

116. The general authority citation for part 132 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

* * * * *

117. In § 132.14:

a. Revise paragraph (a)(4)(i)(C); and

b. Amend paragraph (a)(4)(ii)(B) by removing the words “on Customs Form 301” and adding in their place the words “that has been transmitted to CBP pursuant to part 113 of this chapter”.

The revision reads as follows:

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) * * *

(4) * * *

(i) * * *

(C) The port director may assess liquidated damages under the bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the basic importation and entry bond conditions set forth in § 113.62 of this chapter, in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (1) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (2)

the merchandise is not returned to CBP custody within 30 days from the date of demand for redelivery; or (3) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely; and

* * * * *

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

119. The general authority citation for part 133 and the specific authority for section 133.47 continues to read as follows:

AUTHORITY: 15 U.S.C. 1124, 1125, 1127; 17 U.S.C. 101, 104, 106, 601, 602, 603; 19 U.S.C. 66, 1202, 1499, 1526, 1595a, 1623, 1624, 1628a; 31 U.S.C. 9701.

* * * * *

Section 133.47 also issued under 17 U.S.C. 1201.

* * * * *

119. In § 133.21:

- a. Revise the third sentence in paragraph (b)(5);
- b. Revise the first sentence in paragraph (c)(2); and
- c. Revise the second sentence in paragraph (f).

The revisions read as follows.

§ 133.21 Articles suspected of bearing counterfeit marks.

* * * * *

(b) * * *

(5) * * * CBP may release a sample under this paragraph when the

owner of the recorded mark has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

(c) * * *

(2) *Bond.* CBP may release a sample under paragraph (b)(3) of this section when the owner of the recorded mark has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

* * *

(f) * * * CBP may release a sample under this paragraph when the owner of the recorded mark has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(b) of this chapter. * * *

* * *

120. In § 133.25, revise the second sentence in paragraph (c) to read as follows:

§ 133.25 Procedure on detention of articles subject to restriction.

* * *

(c) * * * CBP may release a sample under this paragraph when the owner of the recorded mark or trade name has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

* * *

§ 133.26 [Amended]

121. Amend § 133.26 by removing the words “on CBP Form 301,”.

122. In § 133.42:

- a. Revise the third sentence in paragraph (b)(5);
- b. Revise the first sentence in paragraph (c)(2); and
- c. Revise the second sentence in paragraph (f).

The revisions read as follows:

§ 133.42 Piratical articles; Unlawful copies or phonorecords of recorded copyrighted works.

* * * *

(b) * * *

(5) * * * CBP may release a sample under this paragraph when the owner of the recorded copyright has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

(c) * * *

(2) *Bond.* CBP may release a sample under paragraph (b)(3) of this section when the owner of the recorded copyright has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

* * * *

(f) * * * CBP may release a sample under this paragraph when the owner of the recorded copyright has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in the amount specified by CBP and containing the conditions set forth in § 113.70(b) of this chapter. * * *

* * * *

123. Revise § 133.46 to read as follows:

§ 133.46 Demand for redelivery of released articles.

If it is determined that articles which have been released from CBP custody are subject to the prohibitions or restrictions of this subpart, an authorized CBP official shall promptly make demand for redelivery of the articles under the terms of the bond, containing the bond conditions set forth in § 113.62 of this chapter, in accordance with § 141.113 of this

chapter. If the articles are not redelivered to CBP custody, a claim for liquidated damages shall be made in accordance with § 141.113(h) of this chapter.

124. In § 133.47:

- a. Revise the third sentence in paragraph (b)(5);
- b. Revise the first sentence in paragraph (c)(2); and
- c. Revise the second sentence in paragraph (f).

The revisions read as follows:

§ 133.47 Articles suspected of violating the Digital Millenium Copyright Act.

* * * *

(b) * * *

(5) * * * CBP may release a sample under this paragraph when the eligible person has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

(c) * * *

(2) *Bond.* CBP may release a sample under paragraph (b)(3) of this section when the eligible person has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(a) of this chapter. * * *

* * * *

(f) * * * CBP may release a sample under this paragraph when the injured party has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, in an amount specified by CBP and containing the conditions set forth in § 113.70(b) of this chapter. * * *

* * * *

§ 133.48 [Amended]

125. In § 133.48, remove the words “on Customs Form 301,”.

PART 134—COUNTRY OF ORIGIN MARKING

126. The general authority citation for part 134 is revised 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), 1304, 1623, 1624.

127. In § 134.53:

a. Amend the heading of paragraph (a)(1) by removing the word “Customs” and adding in its place “CBP”; and

b. Amend paragraph (a)(2) by removing the word “Customs” at the end of the first sentence and adding in its place “CBP”; and by revising the second sentence.

The revisions read as follows:

§ 134.53 Examination packages.

(a) * * *

(2) * * * CBP may accept a bond transmitted to CBP pursuant to part 113 of this chapter and containing the basic importation and entry bond conditions set forth in § 113.62 of this chapter, as security for the requirements of 19 U.S.C. 1304 (f) and (g).

* * * * *

PART 141—ENTRY OF MERCHANDISE

128. The general and specific authority citations for part 141 are revised to read as follows:

AUTHORITY: 19 U.S.C. 66, 1448, 1484, 1498, 1623, 1624.

Subpart F also issued under 19 U.S.C. 1481;

* * * * *

Section 141.4 also issued under 19 U.S.C. 1202 (General Note 3(e); Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Notes 3 and 4; Harmonized Tariff Schedule of the United States), 1498;

Section 141.19 also issued under 19 U.S.C. 1485, 1486;

Section 141.20 also issued under 19 U.S.C. 1485;

Section 141.66 also issued under 19 U.S.C. 1490;

* * * * *

129. In § 141.4, revise paragraph (d) to read as follows:

§ 141.4 Entry required.

* * * * *

(d) *Railway locomotives and freight cars.* For railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, to be excepted and released in accordance with paragraph (b)(4) of this section, the importer must first have a bond that was transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in either § 113.62 or 113.64 of this chapter.

* * * * *

130. In § 141.15 revise paragraphs (a) and (b) to read as follows:

§ 141.15 Bond for production of bill of lading or air waybill.

(a) *When appropriate.* If the person desiring to make entry is unable to present a bill of lading, air waybill, or other evidence of right to make entry in accordance with § 141.11, CBP may accept a bond for the production of a bill of lading or air waybill under the provisions of section 484(c), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)). The bond shall be for the production of a bill of lading or air waybill, unless the person making entry intends to produce a carrier's certificate or certified duplicate bill of lading or air waybill. In that case, no bond is required because section 484(c) does not apply to entries made on a carrier's certificate or certified duplicate bill of lading or air waybill. If the port director is in doubt as to the propriety of permitting entry on a bond for the production of a bill of lading or air waybill, the port director shall request authority to do so from the Commissioner of CBP.

(b) *Form*. The bond shall be transmitted to CBP pursuant to part 113 of this chapter and contain the bond conditions set forth in § 113.69 of this chapter.

* * * * *

131. In § 141.18, revise paragraph (b) to read as follows:

§ 141.18 Entry by nonresident corporation.

* * * * *

(b) Has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter and having a resident corporate surety to secure the payment of any increased and additional duties which may be found due.

§ 141.19 [Amended]

132. In § 141.19, amend paragraph (b)(2)(ii) by removing the words “on Customs Form 301” wherever they appear.

133. In § 141.20:

a. Amend paragraph (a)(1) by removing the word “Customs” in the final sentence, and adding in its place the text “CBP”; and

b. Revise paragraphs (a)(2), (b) and (c).

The revisions read as follows:

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) * * *

(2) *Bond of actual owner*. If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by the consignee under the single transaction bond transmitted to CBP in connection with the entry documentation and/or entry summary, or under the continuous bond against which the entry and/or entry summary is charged, the bond of the actual owner, containing the bond conditions set forth in §

113.62 of this chapter, must be transmitted to CBP pursuant to part 113 of this chapter within 90 days from the time of entry.

(b) *Appropriate party to execute and file.* The declaration of the actual owner will not be accepted unless executed by the actual owner or the owner's duly authorized agent, and filed by the nominal consignee or the consignee's duly authorized agent. The bond of the actual owner must identify the actual owner as principal on the bond, and the bond must be transmitted to CBP pursuant to part 113 of this chapter.

(c) *Nonresident actual owner.* If the actual owner is a nonresident, the actual owner's declaration shall not be accepted as compliance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), unless a bond identifying the actual owner as principal and containing the bond conditions set forth in § 113.62 of this chapter, with a resident corporate surety, has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

134. Revise § 141.41 to read as follows:

§ 141.41 Surety on CBP bonds.

Powers of attorney to act as an agent for a surety on CBP bonds are subject to the requirements set forth in part 113 of this chapter.

135. In § 141.61, revise the last sentence in the introductory text to paragraph (e)(2) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(e) * * *

(2) * * * The importer must have an appropriate bond that has been transmitted to CBP pursuant to part 113 of this chapter, for the production of the required documentation, as follows:

* * * * *

136. Revise § 141.66 to read as follows:

§ 141.66 Bond for missing documentation.

Unless otherwise prescribed in these regulations, a bond containing the bond conditions set forth in § 113.62 or § 113.69 of this chapter, as appropriate, may be transmitted to CBP pursuant to part 113 of this chapter for the production of any required documentation which is not available at the time of entry. (See § 141.91 for the procedure applicable to incomplete or missing invoices.)

137. In § 141.91, revise the first sentence in paragraph (d) to read as follows:

§ 141.91 Entry without required invoice.

* * * * *

(d) The importer has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, in an amount equal to one and one-half the invoice value of the merchandise, for the production of the required invoice, which must be produced within 120 days after the date of the filing of the entry summary (or the entry, if there is no entry summary) documentation, unless the invoice is needed for statistical purposes. * * *

§ 141.92 [Amended]

138. In § 141.92, amend paragraph (c) by removing the words “on Customs Form 301,”.

139. In § 141.112:

a. In paragraphs (b), (c), (e)(1) and (h), remove the word “Customs” and add in its place “CBP”; and

b. Revise paragraph (g).

The revisions read as follows:

§ 141.112 Liens for freight, charges, or contribution in general average.

* * * * *

(g) *Bond may be required.* When any doubt exists as to the validity of a lien filed with the port director, the port director may require a bond to be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, to hold the port director harmless from any liability which may result from withholding the release of the merchandise.

* * * * *

PART 142—ENTRY PROCESS

140. The general authority citation for part 142 is revised to read as follows:

AUTHORITY: 19 U.S.C. 66, 1448, 1484, 1623, 1624.

141. In § 142.4:

- a. Revise paragraph (a);
- b. Revise paragraph (b)(1);
- c. Revise paragraph (b)(2); and
- d. Remove the word “Customs” from paragraph (c)(1)(iii) and add in its place

“CBP”.

The revisions read as follows:

§ 142.4 Bond requirements.

(a) *At the time of entry.* Except as provided in § 10.101(d) of this chapter, or paragraph (c) of this section, merchandise will not be released from CBP custody at the time CBP receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless a single transaction or continuous bond containing the bond conditions set forth in § 113.62 of this chapter has been transmitted to CBP pursuant to part 113 of this chapter and has been secured by an approved corporate surety or secured by cash deposits as provided for in § 113.40 of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable

quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(b) If entry summary is filed after entry.

(1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, the bond transmitted to CBP at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is transmitted to CBP, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is transmitted to CBP under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is transmitted to CBP, or if a bond is transmitted to CBP under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary must have a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. In this circumstance, the bond obligation of the party in whose name entry was made will be terminated, as to liability which may accrue after the bond of the party named in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner or have the superseding bond otherwise required under § 141.20 of this chapter.

* * * * *

142. In § 142.19:

- a. Revise the introductory text;
- b. Revise the first sentence in paragraph (a); and

c. Amend the introductory text to paragraph (b) by removing the word “filed” and adding in its place the words “transmitted to CBP”.

The revisions read as follows:

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from CBP custody until a bond has been transmitted to CBP, or the entry has been liquidated, as follows:

(a) *Bond*. Merchandise not designated for examination may be released to, or upon the order of, the carrier if a bond has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. * * *

* * * * *

143. In § 142.21:

- a. Revise the first sentence in paragraph (a);
- b. Revise paragraph (b)(2);
- c. Revise the first sentence in paragraph (e)(1);
- d. Revise paragraph (f)(2); and
- e. Revise paragraph (i).

The revisions read as follows:

§ 142.21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(a) *Contiguous countries*. At the discretion of the port director, merchandise arriving by land from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. * * *

(b) * * *

(2) The importer must have a continuous bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter.

* * * * *

(e) * * *

(1) *Tariff rate quotas.* At the discretion of the port director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter. * * *

(f) * * *

(2) The importer must have a bond that has been transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter; and

* * * * *

(i) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in § 142.21(a) through (h) provided a bond containing the bond conditions set forth in § 113.62 of this chapter has been transmitted to CBP pursuant to part 113 of this chapter.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

144. The general authority citation for part 144 is revised to read as follows:

AUTHORITY: 19 U.S.C. 66, 1484, 1557, 1559, 1623, 1624.

* * * * *

145. Revise § 144.2 to read as follows:

§ 144.2 Liability of importers and sureties.

The importer of merchandise entered for warehouse is liable for the payment of all unpaid duties not only as principal on the bond transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions set forth in § 113.62 of this chapter, but also by reason of

the importer's personal liability as consignee. Under the conditions of the bond, the sureties on the bond shall be held liable for the payment of duties and customs charges not paid by the principal on the bond, whether such duties and charges are finally ascertained before the merchandise is withdrawn from CBP custody or thereafter. Liability may be transferred in part along with the right to withdraw the merchandise, in accordance with Subpart C of this part.

146. Revise § 144.13 to read as follows:

§ 144.13 Bond requirements.

A bond containing the bond conditions set forth in § 113.62 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter in the amount required by CBP to support the entry documentation.

147. Revise the introductory text of § 144.14 to read as follows:

§ 144.14 Removal to warehouse.

When the entry summary, CBP Form 7501, or its electronic equivalent has been filed, and the bond containing the bond conditions set forth in § 113.62 of this chapter has been transmitted to CBP pursuant to part 113 of this chapter, the merchandise shall be sent to the bonded warehouse, except for:

* * * * *

148. Revise § 144.21 to read as follows:

§ 144.21 Conditions for transfer.

Under the provisions of section 557(b), Tariff Act of 1930, as amended (19 U.S.C. 1557(b)), the right to withdraw all or part of merchandise entered for warehouse may be transferred by appropriate endorsement on the withdrawal form, provided that the transferee has a bond containing the bond conditions set forth in § 113.62 of this chapter, that has been transmitted to CBP pursuant to part 113 of this chapter. Upon the deposit of the endorsed form, properly executed, with the CBP officer designated to receive such form, and transmission to

CBP of the transferee's bond pursuant to part 113 of this chapter, the transferor and transferor's sureties will be relieved from all undischarged liability.

149. Revise § 144.23 to read as follows:

§ 144.23 Endorsement in blank.

If the transferor wishes to do so, the transferor may endorse the withdrawal form to authorize the right to withdraw the merchandise specified thereon but leave the space for the name of the transferee blank. A holder of a withdrawal form so endorsed and otherwise fully executed may insert the holder's own name in the blank space, deposit such form with the CBP officer designated to receive such form, prove that the holder has a bond that has been transmitted to CBP pursuant to part 113 of this chapter, and thereby establish the holder's right to withdraw the merchandise.

150. Revise § 144.24 to read as follows:

§ 144.24 Transferee's bond.

The transferee's bond must be transmitted to CBP pursuant to part 113 of this chapter and contain the bond conditions set forth in § 113.62 of this chapter.

151. Revise § 144.25 to read as follows:

§ 144.25 Deposit of forms.

Either the transferor or the transferee may deposit the endorsed withdrawal form with the CBP officer designated to receive such form. The transferee's bond must be transmitted to CBP pursuant to part 113 of this chapter.

152. In § 144.41, revise paragraph (d) to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * *

(d) *Bond.* A bond containing the bond conditions set forth in § 113.62 of this chapter must be transmitted to CBP pursuant to part 113 of this chapter before a permit is issued on CBP Form 7501, or its electronic equivalent, for sending the merchandise to the bonded warehouse.

However, no bond will be required if the merchandise is entered by the consignee named in the original bond, or if it is entered by a transferee who has established the right to withdraw the merchandise and has a bond in accordance with subpart C of this part that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 146—FOREIGN TRADE ZONES

153. The general authority citation for part 146 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.

154. In § 146.6, revise paragraphs (d) and (e).

The revisions read as follows:

§ 146.6 Procedure for activation.

* * * * *

(d) *Decision of the port director.* The port director shall promptly notify the applicant in writing of the port director's decision to approve or deny the application to activate the zone. If the application is denied, the notification will state the grounds for denial which need not be limited to those listed in § 146.82. The decision of the port director will be the final CBP administrative determination in the matter. On approval of the application, a Foreign Trade Zone Operator's Bond must be transmitted to CBP pursuant to part 113 of this chapter, containing the bond conditions of § 113.73 of this chapter.

(e) *Activation.* Upon the port director's approval of the application and transmission of the bond to CBP pursuant to part 113 of this chapter, the zone or zone site will be considered activated; and merchandise may be admitted to the zone. Transmission of the operator's bond to CBP does not lessen the liability of the grantee to comply with the Act and implementing regulations.

155. In § 146.7, revise paragraphs (d) and (f).

The revisions read as follows:

§ 146.7 Zone Changes

* * * * *

(d) *New bond.* The port director may require the transmission of a new Foreign Trade Zone Operator's Bond to CBP pursuant to part 113 of this chapter on 10 days' notice. If the new bond is not transmitted to CBP, no more merchandise will be received in the zone in zone status. Merchandise in zone status (other than domestic status) will be removed at the risk and expense of the operator. A new bond may be required if:

(1) the activated zone area is substantially altered;

(2) the character of merchandise admitted to the zone or operations performed in the zone are substantially changed;

(3) the existing bond lacks good and sufficient surety; or

(4) for any other reason that substantially affects the liability of the operator under the bond. Although a new bond may not be required, the operator must obtain the consent of the surety to any material alteration in the boundaries of the zone.

* * * * *

(f) The bond in § 146.6 must be transmitted to CBP pursuant to part 113 of this chapter before the operating agreement may become effective in respect to merchandise in zone status. The port director shall promptly notify the grantee, in writing, of the approval or disapproval of the application.

* * * * *

156. In § 146.67, revise paragraph (b) 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 transmit a bond to CBP pursuant to part 113 of this chapter, containing the bond conditions provided for in § 113.63 of this chapter.

* * * * *

157. In § 146.69, revise paragraph (a).

The revision reads as follows:

§ 146.69 Supplies, equipment, and repair material for vessels or aircraft.

(a) *General.* Any merchandise which may be withdrawn duty and tax free in Customs territory under section 309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317), and under §§ 10.59 through 10.65 of this chapter, may similarly be transferred from a zone, regardless of its zone status, under those statutes and regulations. Each transfer from a zone for delivery to a qualified vessel or aircraft, will be made on CBP Form 5512 (see § 10.60 of this chapter). The person making entry must have a bond containing the bond conditions provided for in § 113.62 of this chapter, that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 147—TRADE FAIRS

158. The general authority citation for part 147 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1623, 1624, 1751-1756, unless otherwise noted.

159. Revise § 147.3 to read as follows:

§ 147.3 Bond required.

The fair operator must have a bond containing the bond conditions set forth in § 113.62 of this chapter and in such amount as CBP requires, that has been transmitted to CBP pursuant to part 113 of this chapter. Liquidated damages shall be assessed by the port director under the bond if payments required by §§ 147.33, 147.41 or 147.43 are not paid upon demand.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

160. The general authority citation for part 148 continues to read as follows:

AUTHORITY: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States).

* * * * *

161. In § 148.52, revise paragraph (c) to read as follows:

§ 148.52 Exemption for household effects used abroad.

* * * * *

(c) *Declaration.* When household effects are claimed to be free of duty a declaration of the owner on CBP Form 3299, or its electronic equivalent, shall be required to support the claim for free entry. If it is impracticable to produce the declaration at the time of entry, the importer may instead have a bond containing the bond conditions set forth in § 113.62 of this chapter, for the production of the owner's declaration within 6 months, that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 149—IMPORTER SECURITY FILING

162. The general authority citation for part 149 is revised to read as follows:

AUTHORITY: 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1415, 1623, 1624, 2071 note.

163. In § 149.5, revise paragraph (b) to read as follows:

§ 149.5 Eligibility to file an Importer Security Filing, authorized agents.

* * * * *

(b) *Bond required.* The ISF Importer must have a basic importation and entry bond containing all the necessary provisions of § 113.62 of this chapter, a basic custodial bond containing all the necessary provisions of § 113.63 of this chapter, an international carrier bond containing all the necessary provisions of § 113.64 of this chapter, a foreign trade zone operator bond containing all the necessary provisions of § 113.73 of this chapter, or an importer security

filing bond containing all the necessary provisions of § 113.77 of this chapter. The bond must have been transmitted to CBP pursuant to part 113 of this chapter. If an ISF Importer does not have a required bond, the agent submitting the Importer Security Filing on behalf of the ISF Importer may use the agent's bond.

* * * * *

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

164. The general authority provision for part 151 is revised 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)), 1623, 1624;

* * * * *

165. In § 151.7:

a. Amend paragraphs (a)-(c) by removing the word “Customs” wherever it appears, and adding in its place “CBP”; and

b. Revise paragraph (d).

The revision reads as follows:

§ 151.7 Examination elsewhere than at place of arrival or public stores.

* * * * *

(d) *Bond for removal from CBP custody.* Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place under the control of CBP, the port director will require the importer to have a bond containing the bond conditions set forth in § 113.62 of this chapter, that has been transmitted to CBP pursuant to part 113 of this chapter.

166. In § 151.12, revise paragraphs (f)(1)(vii) and (g)(2)(vi) to read as follows:

§ 151.12 Accreditation of commercial laboratories.

* * * * *

(f) * * *

(1) * * *

(vii) An express agreement that if notified by CBP of pending accreditation, that the applicant will obtain a bond and ensure that it is transmitted to CBP pursuant to part 113 of this chapter. (The limits of liability on the bond will be established by the port in consultation with the Executive Director, Laboratories & Scientific Services, and the Director, Revenue Division. In order to retain customs accreditation, the laboratory must maintain an adequate bond, as determined by the port director, Executive Director, Laboratories & Scientific Services, and Director, Revenue Division.);

* * * * *

(g) * * *

(2) * * *

(vi) Failure to have a bond that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

167. In § 151.13, revise paragraphs (d)(1)(vii) and (e)(2)(vi) to read as follows:

§ 151.13 Approval of commercial gaugers.

* * * * *

(d) * * *

(1) * * *

(vii) An express agreement that, if notified by CBP of pending approval, the applicant will obtain a bond and ensure that it is transmitted to CBP pursuant to part 113 of this chapter. (The limit of liability on the bond will be established by the port in consultation with the Executive Director, Laboratories & Scientific Services, and the Director, Revenue Division. In order to retain CBP approval, the gauger must maintain an adequate bond, as determined by the port director, Executive Director, Laboratories & Scientific Services, and Director, Revenue Division.);

* * * * *

(e) * * *

(2) * * *

(vi) Failure to have a bond that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 162—INSPECTION, SEARCH, AND SEIZURE

168. The general and specific authority citations for part 162 continue to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624, 6 U.S.C. 101, 8 U.S.C. 1324(b).

* * * * *

Section 162.47 also issued under 19 U.S.C. 1608;

* * * * *

169. In § 162.47, revise paragraph (b) to read as follows:

§ 162.47 Claim for property subject to summary forfeiture.

* * * * *

(b) *Bond for costs.* Except as provided in paragraph (e) of this section, the bond in the amount of \$5,000 or 10% of the value of the claimed property, whichever is lower, but not less than \$250, required by section 608, Tariff Act of 1930, as amended, for a claim for seized property must contain the bond conditions set forth in § 113.72 of this chapter and must be transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 190—MODERNIZED DRAWBACK

172. The general authority citation for part 190 is revised 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), 1313, 1623, 1624;

* * * * *

173. In § 190.92, revise paragraphs (d) and (e)(3) to read as follows:

§ 190.92 Accelerated payment.

* * * * *

(d) *Bond required.* If approved for accelerated payment, the claimant must have a bond in an amount sufficient to cover the estimated amount of drawback to be claimed during the term of the bond, that has been transmitted to CBP pursuant to part 113 of this chapter. If outstanding accelerated drawback claims exceed the amount of the bond, the drawback office will require additional bond coverage as necessary before additional accelerated payments are made.

(e) * * *

(3) *Approval.* The approval of an application for accelerated payment, under this section, will be effective as of the date of CBP's written notification of approval under paragraph (e)(2) of this section. Accelerated payment of drawback will be available under this section to unliquidated drawback claims filed before and after such date. For claims filed before such date, accelerated payment of drawback will be paid only if the claimant has a bond covering the claim, in an amount sufficient to cover the amount of accelerated drawback to be paid on the claim, that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

PART 191—DRAWBACK

174. The general authority citation for part 191 is revised 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), 1313, 1623, 1624;

* * * * *

175. In § 191.92, revise paragraphs (d) and (e)(3) to read as follows:

§ 191.92 Accelerated payment.

* * * * *

(d) *Bond required.* If approved for accelerated payment, the claimant must have a bond in an amount sufficient to cover the estimated amount of drawback to be claimed during the term of the bond, that has been transmitted to CBP pursuant to part 113 of this chapter. If outstanding accelerated drawback claims exceed the amount of the bond, the drawback office will require additional bond coverage as necessary before additional accelerated payments are made.

(e) * * *

(3) *Approval.* The approval of an application for accelerated payment, under this section, will be effective as of the date of CBP's written notification of approval under paragraph (e)(2) of this section. Accelerated payment of drawback will be available under this section to unliquidated drawback claims filed before and after such date. For claims filed before such date, accelerated payment of drawback will be paid only if the claimant has a bond covering the claim, in an amount sufficient to cover the amount of accelerated drawback to be paid on the claim, that has been transmitted to CBP pursuant to part 113 of this chapter.

* * * * *

Robert F. Altneu,
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