What Every Member of the
Trade Community Should Know About:

Accreditation of Laboratories And Gaugers

A Basic Level
Informed Compliance Publication of the
U.S. Customs Service

Revised March, 2000

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the Customs Service's position on or interpretation of the applicable laws or regulations as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or "Mod" Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are "***informed compliance***" and "***shared responsibility***," which are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's rights and responsibilities under the Customs and related laws. In addition, both the trade and Customs share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. The Customs Service is then responsible for fixing the final classification and value of the merchandise. An importer of record's failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings has been given a major role in meeting Customs informed compliance responsibilities. In order to provide information to the public, Customs has issued a series of informed compliance publications, and videos, on new or revised Customs requirements, regulations or procedures, and a variety of classification and valuation issues.

The Office of Regulations and Rulings has prepared this publication on ***Accreditation of Laboratories & Gaugers*** as part of a series of informed compliance publications advising the trade community of changes in Customs procedures as a result of the Mod Act and other legislation. This ***revision*** includes clarifications to the notice and appeals procedures. We sincerely hope that this material, together with seminars and increased access to Customs rulings, will help the trade community to improve, as smoothly as possible, voluntary compliance with Customs laws.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant. Reliance solely on the information in this pamphlet may not be considered reasonable care.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Stuart P. Seidel,
Assistant Commissioner
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TABLE OF CONTENTS

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INTRODUCTION

On December 8, 1993, the United States enacted the North American Free Trade Agreement Implementation Act ("the Act"), Pub. L. 103-182, 107 Stat. 2057. Title VI of the Act contains provisions pertaining to Customs Modernization (107 Stat. 2170), and is commonly referred to as the Customs Modernization Act or "Mod Act" for short. Section 613 of the "Mod Act" amended section 499 of the Tariff Act of 1930 (19 U.S.C. 1499), which provides Customs with the authority to conduct examinations and detain imported merchandise, by adding a new paragraph (b) concerning commercial laboratories and gaugers.

Summary

Section 613 authorized Customs to set procedures for the accreditation of commercial laboratories and the approval of commercial gaugers, and the suspension and revocation of accreditation or approvals. Customs accreditation extends only to the performance of functions which are vested in, or delegated to, Customs (for example, the analysis of certain commodities to determine admissibility, quantity, or composition of imported merchandise under the Customs laws). Commercial laboratories and gaugers may be accredited only to perform tests that otherwise would be performed by Customs laboratories. Laboratories and gaugers that are currently accredited under Customs regulations will not be required to reapply, but will be subject to reaccreditation. The "Mod Act" also creates appeal rights for commercial laboratories and gaugers to challenge in the Court of International Trade any final order or decision relating to their accreditation or reaccreditation or the assessment of a penalty within 60 days of its issuance.

In the absence of Customs testing, Customs must accept quantity and analysis results from the Customs-accredited laboratories and Customs-approved gaugers. However, nothing limits or precludes Customs or any other Federal agency from independently testing, analyzing, or quantifying any merchandise.

The Secretary of the Treasury is required to prescribe regulations that establish the conditions under which the Customs Service may suspend or revoke accreditation or institute penalties for violations of law, regulations, or the commercial laboratory or gauger agreement. Such penalties must not exceed $100,000 and will be in addition to recoveries of any actual or potential loss of revenue that may have resulted from an intentionally falsified report or analysis submitted by an accredited laboratory or gauger. Fees for receiving accreditation and reaccreditation are specifically authorized by section 613.

Under the "Mod Act," testing procedures and methodologies will be made available upon request to laboratories and importers or their agents, unless they are proprietary to the Customs Service (i.e. developed by Customs for enforcement purposes) or the holder of a copyright or patent. Test results will, unless they reveal information proprietary to the Customs Service or the holder of a copyright or patent, be made available on request to the importer or its agents.

The regulations implementing section 613 were published as amendments to sections 151.12 and 151.13 of the Customs Regulations (19 CFR §151.12 and §151.13) in the *Federal Register* on September 7,1999 (64 FR 48528) and were effective on October 7, 1999. Because questions were raised concerning time frames, notifications of adverse determinations, and appeals, amendments clarifying these points were published in the *Federal Register* on February 25, 2000 (65 FR 10007). In this publication, references to Part 151, section 151.12 or 151.13, or any of their paragraphs are to the revised regulations.

ACCREDITATION OF COMMERCIAL LABORATORIES

What is a "Customs-accredited laboratory"?

"Commercial laboratories" are individuals and commercial organizations that analyze merchandise, i.e., determine its composition and/or characteristics, through laboratory analysis. A "Customs-accredited laboratory" is a commercial laboratory, within the United States, that has demonstrated, to the satisfaction of the Executive Director, Laboratories & Scientific Services, U.S. Customs Service, ("the Executive Director") pursuant to the new regulations, the capability to perform analysis of certain commodities to determine elements relating to the admissibility, quantity, composition, or characteristics of imported merchandise. Customs accreditation extends only to the performance of functions which are vested in, or delegated to, Customs.

Also, Customs wishes to note that laboratories may be accredited in Puerto Rico, as the United States is defined to include Puerto Rico, see, 19 CFR 101.1, "Customs territory of the United States."

What are the obligations of a Customs-accredited laboratory?

A commercial laboratory accredited by Customs agrees to the following conditions and requirements:

! To comply with the requirements of Part 151, and to conduct professional services in conformance with approved standards and procedures, including

procedures which may be required by the Commissioner of Customs or the Executive Director;

- To have no interest in or other connection with any business or other activity which might affect the unbiased performance of duties as a Customs-accredited laboratory. It is understood that this does not prohibit acceptance of the usual fees for professional services;
- To maintain the ability, i.e., the instrumentation, equipment, qualified staff, facilities, etc., to perform the services for which the laboratory is accredited, and allow the Executive Director to evaluate that ability on a periodic basis by such means as on-site inspections, demonstrations of analysis procedures, reviews of submitted records, and proficiency testing through check samples ("Check samples" are samples which have been distributed by Customs to accredited laboratories to test their proficiency in a certain area of accreditation);
- To retain those laboratory records beyond the five-year record-retention period and samples (see 151.12(j)) specified by Customs as necessary to address matters concerned in pending litigation, and, if laboratory operations or accreditation cease, to contact Customs immediately regarding the disposition of records/samples retained;
- To promptly investigate any circumstance which might affect the accuracy of work performed as an accredited laboratory, to correct the situation immediately, and to notify both the port director and the Executive Director of such matters, their consequences, and any corrective action taken or that needs to be taken; and
- To immediately notify both the port director and the Executive Director of any attempt to impede, influence, or coerce laboratory personnel in the performance of their duties, or of any decision to terminate laboratory operations or accredited status. Further, within 5 days of any changes involving legal name, address, ownership, parent-subsidiary relationships, bond, other offices or sites, or approved signatories to notify the Executive Director by certified mail.

What are the commodity groups for which accreditation may be sought?

Commercial laboratories may apply for accreditation to perform tests without special permission from the Executive Director for any of the following commodity groups:

- *Dairy and Chocolate Products* entered under Chapters 4, 18, and 21 of the Harmonized Tariff Schedule of the United States (HTSUS);
- *Food and Food Products* entered under Chapters 7-12, 15, 16, and 19-21, HTSUS;
- *Botanical Identification* - materials and products entered under Chapters 14 and 44-46, HTSUS;

- *Sugar, Sugar Syrups, and Confectionery products* entered under Chapter 17, HTSUS;
- *Spirituous Beverages* entered under Chapter 22, HTSUS;
- *Building Stone, Ceramics, Glassware, and Other Mineral Substances* entered under Chapters 25 and 68-70, HTSUS;
- *Inorganic Materials, including Inorganic Compounds and Ores*, entered under Chapters 26, 28, 31, and 36-38, HTSUS;
- *Petroleum and Petroleum Products* entered under Chapters 27 and 29, HTSUS;
- *Organic Materials, including Intermediates and Pharmaceuticals*, entered under Chapters 29, 30, 34, 35, and 38, HTSUS;
- *Rubber, Plastics, Polymers, Pigments and Paints* entered under Chapters 32, 39, and 40, HTSUS;
- *Essential Oils and Perfumes* entered under Chapter 33, HTSUS;
- *Leather and Articles of Leather* entered under Chapters 41 and 42, HTSUS;
- *Paper and Paper Products* entered under Chapters 47-49, HTSUS;
- *Textiles and Related Products, including footwear and hats*, entered under Chapters 50-67, HTSUS; and,
- *Metals and Alloys* entered under Chapters 72-83, HTSUS.

Application may be made for accreditation in more than one commodity group. At the discretion of the Executive Director accreditation may be granted for subgroups of tests within a commodity group or for commodity groups not specifically enumerated. Once accredited, a Customs-accredited laboratory may apply at any time to expand its accreditation, to add new testing sites, or increase the number of commodity groups or subgroups accredited.

What are the approved methods of analysis?

Customs-accredited laboratories must follow the general or specific testing methods set forth in Commodity Group Brochures and the U.S. Customs Laboratory Methods Manual in the testing of designated commodities, unless the Executive Director gives written permission to use an alternate method. Alternative methods will be considered and approved on a case-by-case basis.

A “Commodity Group Brochure” is a booklet which contains a listing of laboratory methods which commercial laboratories are required to have the capability to perform to qualify for Customs-accreditation in a particular commodity group. The brochures and the U.S. Customs Laboratory Methods Manual will specify the particular laboratory testing methods required for particular commodity groups, unless written permission from the Executive Director is given to use an alternate method. Procedures required by the Executive Director may reference applicable general industry testing standards, published by such organizations as the American Society for Testing and Materials (ASTM) and the American Petroleum Institute (API). Commodity Group Brochures and a listing of the methods found in the U.S. Customs Laboratory Methods Manual are

available from the U.S. Customs Service, Attention: Executive Director, Laboratories & Scientific Services, Washington, D.C. 20229 and can also be found on the Customs Internet Web Site: http://www.customs.gov.

How would a commercial laboratory become a Customs-accredited laboratory?

What should an application contain?

An application for Customs accreditation must contain the following information:

- The applicant's legal name and the address of its principal place of business and any other facility out of which it will work;
- Detailed statements of ownership and any partnerships, parent-subsidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers, other commercial laboratories, producers, refiners, Customs brokers, and carriers;
- A statement of financial condition;
- If a corporation, a copy of the articles of incorporation and the names of all officers and directors;
- The names, titles, and qualifications of each person who will be authorized to sign or approve analysis reports on behalf of the commercial laboratory;
- A complete description of the applicant's facilities, instruments, and equipment;
- An express agreement that if notified by Customs of pending accreditation to execute a bond in accordance with part 113, Customs Regulations (19 CFR part 113), and submit it to the Customs port nearest to the applicant's main office. (The limits of liability on the bond will be established by the Customs port in consultation with the Executive Director. In order to retain Customs accreditation, the laboratory must maintain an adequate bond, as determined by the port director);
- A listing of each commodity group for which accreditation is being sought and, if methods are being submitted for approval which are not specifically provided for in a Commodity Group Brochure and the U.S. Customs Laboratory Methods Manual, a listing of such methods;
- A listing by commodity group of each method according to its Customs Laboratory Method Number for which the laboratory is seeking accreditation;
- An express agreement to be bound by the obligations contained in paragraph (c) of this section; and,
- A nonrefundable pre-payment equal to 50 percent of the fixed accreditation fee, as published in the *Federal Register* and *Customs Bulletin*, to cover preliminary processing costs. Further, the applicant agrees to pay Customs within 30 days of notification of preliminary accreditation the associated charges assessed for

accreditation, i.e., those charges for actual travel and background investigation costs, and the balance of the fixed accreditation fee.

Where should an application be sent?

A commercial laboratory seeking accreditation or an extension of an existing accreditation must send a letter of application to the U.S. Customs Service, Attention: Executive Director, Laboratories & Scientific Services, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

How will an application be reviewed?

Physical plant and management system

The facility of the applicant will be inspected to ensure that it is properly equipped to perform the necessary tests and that staff personnel are capable of performing required tests. Customs evaluation of an applicant's professional abilities will be in accordance with the general criteria contained in either the American Society for Testing and Materials (ASTM) E548 (*Standard Guide for General Criteria Used for Evaluating Laboratory Competence*) or the ISO/IEC Guide 25 (*General Requirements for the Competence of Calibration and Testing Laboratories*). This review will ascertain the laboratory's ability to manage and control the acquisition of technical data. The review will be performed at the time of initial application and upon reaccreditation at three-year intervals.

Ability to perform tests on specified commodity groups

For each commodity group applied for, the applicant will undergo a separate review of testing capabilities. The specific accreditation will be based on the laboratory's ability to perform the tests required for that commodity group. This will include the qualifications of the technical personnel in this field and the instrument availability required by the test methods.

Maintenance of accreditation will be on-going and may require the submission of test results on periodic check samples. The criteria for acceptance shall be based on the laboratory's ability to produce a work product that assists in the proper classification and entry of imported merchandise.

Determination of competence

The Executive Director will determine the applicant's overall competence, independence, and character by conducting on-site inspections, which may include demonstrations by the applicant of analysis procedures and a review of analysis records submitted, and background investigations. An "analysis record" is a compilation of all documents which have been generated during the course of analysis of a particular sample which, under normal circumstances, may include, both in paper and electronic-

form, such documents as work sheets, notes, associated spectra (both spectra of the actual product and any standard spectra used for comparison), photographs and microphotographs, and the laboratory report. The Executive Director may also conduct proficiency testing through check samples.

Evaluation of technical and operational requirements

Customs will determine whether the following technical and operational requirements are met:

- Equipment. The laboratory must be equipped with all of the instruments and equipment needed to conduct the tests for which it is accredited. The laboratory shall ensure that all instruments and equipment are properly calibrated, checked, and maintained.
- Facilities. The laboratory must have, at a minimum, adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed for appropriate test procedures.
- Personnel. The laboratory shall be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (e.g., maintaining equipment, calibrating instruments, performing laboratory analyses, evaluating analytical results, and signing analysis reports on behalf of the laboratory). In general, each technical staff member should hold, at a minimum, a bachelor's degree in science or have two years related experience in an analytical laboratory.

How will an applicant be notified concerning accreditation?

Notice of approval or nonselection

When Customs evaluation of a laboratory's credentials is completed, the Executive Director will notify the laboratory in writing of its preliminary accreditation or nonselection. (Final accreditation determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable accreditation fee). All final notices of accreditation, reaccreditation, or extension of existing Customs accreditation will be published in the *Federal Register* and *Customs Bulletin*.

Grounds for nonselection

The Executive Director may deny a laboratory's application for any of the following reasons:

- The application contains false or misleading information concerning a material fact;
- The laboratory, a principal of the laboratory, or a person the Executive Director determines is exercising substantial ownership or control over the laboratory operation is indicted for, convicted of, or has committed acts which would, under United States federal or state law, constitute a felony or misdemeanor involving

misstatements, fraud, theft-related offenses or any other violation which would reflect adversely on the business integrity of the applicant;

! A determination is made that the laboratory-applicant does not possess the technical capability, have adequate facilities or management to perform the approved methods of analysis for Customs purposes;

! A determination is made that the laboratory has submitted false reports or statements concerning the sampling of merchandise, or that the applicant was subject to sanctions by state, local, or professional administrative bodies for such conduct;

! Nonpayment of assessed charges and the balance of the fixed accreditation fee; or

! Failure to execute a bond in accordance with part 113 of the Customs Regulations (19 CFR Part 113).

Adverse accreditation decisions

Preliminary notice

A laboratory which is not selected for accreditation will be sent a preliminary notice of nonselection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the laboratory.

Final notice

If the laboratory does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the laboratory applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the laboratory that it may choose to pursue one of the following two options:

- Submit a new application for accreditation, 180 days after the date of the final notice of nonselection; or
- Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

If the laboratory files a timely response, the Executive Director will issue a final determination regarding the laboratory's accreditation within 30 calendar days of the date the applicant's response is received by the Executive Director. If this final determination is adverse to the laboratory, then the final notice of nonselection will state the specific grounds for nonselection and advise the laboratory that it may choose to pursue one of the two options provided above.

Appeal decision

The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the laboratory, then the decision notice will advise the laboratory that it may choose to pursue one of the following two options:

- Submit a new application for accreditation, 120 days after the date of the appeal decision; or
- File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

What are the accreditation or reaccreditation fee requirements?

In general

A fixed fee, representing Customs administrative overhead expense, will be assessed for each application for accreditation or reaccreditation. In addition, associated assessments, representing the actual costs associated with travel and per diem of Customs employees related to verification of application criteria and background investigations will be charged. The combination of the fixed fee and associated assessments represent reimbursement to Customs for costs related to accreditation and reaccreditation. The fixed fee will be published in the *Customs Bulletin* and the *Federal Register*. Based on a review of the actual costs associated with the program, the fixed fee may be adjusted periodically; any changes shall be published in the *Customs Bulletin* and the *Federal Register*.

The initial fixed fee schedules for accrediting or reaccrediting laboratories are:

General Accreditation Fee	$ 750
Additional Commodities Fee	$ 200
Laboratory Reaccreditation Fee	$ 375
Commodity Reaccreditation Fee	$ 150

The initial variable fee schedules for accrediting or reaccrediting laboratories are approximately $ 1,000 for travel per visit and $ 1,700 per background investigation.

Accreditation fees

A nonrefundable pre-payment equal to 50 percent of the fixed accreditation fee to cover preliminary processing costs must accompany each application for accreditation. Before a laboratory will be accredited, it must remit to Customs, Account Services Division, within the 30 day billing period the associated charges assessed for the accreditation and the balance of the fixed accreditation fee.

Reaccreditation fees

Before a laboratory will be reaccredited, it must submit to Customs, Account Services Division, within the 30 day billing period the fixed reaccreditation fee.

Disputes

In the event a laboratory disputes the charges assessed for travel and per diem costs associated with scheduled inspection visits, it may file an appeal within 30 calendar days of the date of the assessment with the Executive Director. The appeal letter must specify which charges are in dispute and provide such supporting documentation as may be available for each allegation. The Executive Director will make findings of fact concerning the merits of an appeal and communicate the agency decision to the laboratory in writing within 30 calendar days of the date of the appeal.

Can existing Customs-accredited laboratories continue to operate?

Commercial laboratories accredited by the Executive Director prior to December 8, 1993, (except for laboratories which have had their accreditation suspended or revoked) will retain that accreditation under the regulations provided they conduct their business in a manner consistent with the administrative portions of the new regulations in section 151.12. Laboratories which have had their accreditations continued under this section will have their status reevaluated on their next triennial inspection date which is no earlier than three years after the effective date of the new regulation. At the time of reaccreditation, these laboratories must meet the requirements of section 151.12 and remit to Customs, Account Services Division, within the 30 day billing period the fixed reaccreditation fee. Failure to meet these requirements will result in revocation or suspension of the accreditation.

How will Customs-accredited laboratories operate?

Samples for testing

Upon request by the importer of record of merchandise, the port director will release a representative sample of the merchandise for testing by a Customs-accredited laboratory at the expense of the importer. Under Customs supervision, the sample will be split into two essentially equal parts and given to the Customs-accredited laboratory. One portion of the sample may be used by the Customs-accredited laboratory for its testing. The other portion must be retained by the laboratory, under appropriate storage conditions, for Customs use, as necessary, unless Customs requires other specific procedures. Upon request, the sample portion reserved for Customs purposes must be surrendered to Customs.

Retention of non-perishable samples

Non-perishable samples reserved for Customs and sample remnants from any

testing must be retained by the accredited laboratory for a period of four months from the date of the laboratory's final analysis report, unless other instructions are issued in writing by Customs. At the end of this retention time period the accredited laboratory may dispose of the retained samples and sample remnants in a manner consistent with federal, state, and local statutes.

Retention of perishable samples

Perishable samples reserved for Customs and sample remnants from any testing can be disposed of more expeditiously than provided above, if done in accordance with acceptable laboratory procedures, unless other instructions are issued in writing by Customs.

Reports

Contents of reports

Testing data must be obtained using methods approved by the Executive Director. The testing results from a Customs-accredited laboratory that are submitted by an importer of record with respect to merchandise in an entry, *in the absence of testing conducted by Customs laboratories*, will be accepted by Customs provided that the importer of record certifies that the sample tested was taken from the merchandise in the entry and the report establishes elements relating to the admissibility, quantity, composition, or characteristics of the merchandise entered, as required by law.

Status of commercial reports where Customs also tests merchandise

Nothing in the regulations precludes Customs from sampling and testing merchandise from a shipment which has been sampled and tested by a Customs-accredited laboratory at the request of an importer. In cases where a shipment has been analyzed by both Customs and a Customs-accredited laboratory, all Customs actions will be based upon the analysis provided by the Customs laboratory**,** unless the Executive Director advises otherwise. If Customs tests merchandise, it will release the results of its test to the importer of record or its agent upon request unless the testing information is proprietary to the holder of a copyright or patent, or developed by Customs for enforcement purposes.

Recordkeeping requirements

Customs-accredited laboratories must maintain records of the type normally kept in the ordinary course of business in accordance with the provisions of this chapter and any other applicable provision of law, and make them available during normal business hours for Customs inspection. In addition, these laboratories must maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records must be maintained for five years, unless the laboratory is notified in writing by Customs that a longer retention

time is necessary for particular records. Electronic data storage and transmission may be approved by Customs.

Sample records

Records for each sample tested for Customs purposes must be readily accessible and contain the following information:

- A unique identifying number;
- The date when the sample was received or taken;
- The identity of the commodity (e.g. crude oil);
- The name of the client;
- The source of the sample (e.g., name of vessel, flight number of airline, name of individual taking the sample); and,
- If available, the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

Major equipment records

Records for each major piece of equipment or instrument (including analytical balances) used in Customs-related work must identify the name and type of instrument, the manufacturer's name, the instrument's model and any serial numbers, and the occurrence of all servicing performed on the equipment or instrument, to include recalibration and any repair work, identifying who performed the service and when.

Records of analytical procedures

The Customs-accredited laboratory must maintain complete and up-to-date copies of all approved analytical procedures, calibration methods, etc., and must document the procedures each staff member is authorized to perform. These procedures must be readily available to appropriate staff.

Laboratory analysis records

The Customs-accredited laboratory must identify each analysis by sample record number (see 19 CFR §151.12 (j)(3)(i)) and must maintain all information or data (such as sample weights, temperatures, references to filed spectra, etc.) associated with each Customs-related laboratory analysis. Each analysis record must be dated and initialed or signed by the staff member(s) who did the work.

Laboratory analysis reports

Each laboratory analysis report submitted to Customs must include:

- The name and address of the Customs-accredited laboratory;
- A description and identification of the sample, including its unique identifying number;
- The designations of each analysis procedure used;

- The analysis report itself (i.e., the pertinent characteristics of the sample);
- The date of the report; and,
- The typed name and signature of the person accepting technical responsibility for the analysis report (i.e., an approved signatory).

Representation of Customs-accredited status

Commercial laboratories accredited by Customs must limit statements or wording regarding their accreditation to an accurate description of the tests for the commodity group(s) for which accreditation has been obtained. Use of terms other than those appearing in the notice of approval (see §151.12(g)) is prohibited.

Subcontracting prohibited

Customs-accredited laboratories shall not subcontract Customs-related analysis work to non Customs-accredited laboratories or non Customs-approved gaugers, but may subcontract to other facilities that are Customs-accredited or approved and in good standing.

APPROVAL OF COMMERCIAL GAUGERS

What is a "Customs-approved gauger"?

"Commercial gaugers" are individuals and commercial organizations that measure, gauge, or sample merchandise (usually merchandise in bulk form) and who deal mainly with animal and vegetable oils, petroleum, petroleum products, and bulk chemicals. A "Customs-approved gauger" is a commercial concern, within the United States, that has demonstrated, to the satisfaction of the Executive Director, Laboratories & Scientific Services, U.S. Customs Service, ("the Executive Director") the capability to perform certain gauging and measurement procedures for certain commodities. Customs approval extends only to the performance of such functions as are vested in, or delegated to, Customs.

Also, Customs wishes to note that gaugers may be approved in Puerto Rico, as the United States is defined to include Puerto Rico, see, 19 CFR 101.1, "Customs territory of the United States."

What are the obligations of a Customs-approved gauger?

A commercial gauger approved by Customs agrees to the following conditions and requirements:

- To comply with the requirements of part 151, and to conduct professional services in conformance with approved standards and procedures, including procedures which may be required by the Commissioner of Customs or the Executive Director;
- To have no interest in or other connection with any business or other activity

which might affect the unbiased performance of duties as a Customs-approved gauger. It is understood that this does not prohibit acceptance of the usual fees for professional services;

- To maintain the ability, i.e., the instrumentation, equipment, qualified staff, facilities, etc., to perform the services for which the gauger is approved, and allow the Executive Director to evaluate that ability on a periodic basis by such means as on-site inspections, demonstrations of gauging procedures, and reviews of submitted records;
- To retain those gauger records beyond the five-year record-retention period specified by Customs as necessary to address matters concerned in pending litigation, and, if gauger operations or approval cease, to contact Customs immediately regarding the disposition of records retained;
- To promptly investigate any circumstance which might affect the accuracy of work performed as an approved gauger, to correct the situation immediately, and to notify both the port director and the Executive Director of such matters, their consequences, and any corrective action taken or that needs to be taken; and
- To immediately notify both the port director and the Executive Director of any attempt to impede, influence, or coerce gauger personnel in the performance of their duties, or of any decision to terminate gauger operations or approval status. Further, within 5 days of any changes involving legal name, address, ownership, parent-subsidiary relationships, bond, other offices or sites, or approved signatories to notify the Executive Director by certified mail.

What are the approved measurement procedures?

Customs-approved gaugers must comply with appropriate procedures published by such professional organizations as the American Society for Testing and Materials (ASTM) and the American Petroleum Institute (API), unless the Executive Director gives written permission to use an alternate method. Alternative methods will be considered and approved on a case-by-case basis.

How would a commercial gauger become a Customs-approved gauger?

What should an application contain?

An application for Customs approval must contain the following information:

- The applicant's legal name and the addresses of its principal place of business and any other facility out of which it will work;
- Detailed statements of ownership and any partnerships, parent-subsidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers; producers; refiners; Customs brokers; or carriers;
- A statement of financial condition;
- If a corporation, a copy of the articles of incorporation and the names of all officers and directors;

- The names, titles, and qualifications of each person who will be authorized to sign or approve gauging reports on behalf of the commercial gauger;
- A complete description of the applicant's facilities, instruments, and equipment;
- An express agreement that if notified by Customs of pending approval to execute a bond in accordance with part 113, Customs Regulations (19 CFR part 113), and submit it to the Customs port nearest to the applicant's main office. (The limits of liability on the bond will be established by the Customs port in consultation with the Executive Director. In order to retain Customs approval, the gauger must maintain an adequate bond, as determined by the port director);
- An express agreement to be bound by the obligations contained in paragraph (b) of this section; and,
- A nonrefundable pre-payment equal to 50 percent of the fixed approval fee, as published in the *Federal Register* and *Customs Bulletin*, to cover preliminary processing costs. Further, the applicant agrees to pay Customs within 30 days of notification of preliminary approval the associated charges assessed for approval, i.e., those charges for actual travel and background investigation costs, and the balance of the fixed approval fee.

Where should an application be sent?

A commercial gauger seeking approval or an extension of an existing approval must send a letter of application to the U.S. Customs Service, Attention: Executive Director, Laboratories & Scientific Services, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

How will an application be reviewed?

Determination of competence

The Executive Director will determine the applicant's overall competence, independence, and character by conducting on-site inspections, which may include demonstrations by the applicant of gauging procedures and a review of records submitted, and background investigations. The Executive Director may also conduct proficiency testing through check samples.

Evaluation of technical and operational requirements

Customs will determine whether the following technical and operational requirements are met:

- Equipment. The facility shall be equipped with all of the instruments and equipment needed to conduct approved services. The gauger shall ensure that all instruments and equipment are properly calibrated, checked, and maintained.
- Facilities. The facility shall have, at a minimum, adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed for appropriate measurements.

! Personnel. The facility shall be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (e.g., maintaining equipment, calibrating instruments, performing gauging services, evaluating gauging results, and signing gauging reports on behalf of the commercial gauger). In general, each technical staff member should have, at a minimum, six months training and experience in gauging.

How will an applicant be notified concerning approval?

Notice of approval or nonselection

When Customs evaluation of a gauger's credentials is completed, the Executive Director will notify the gauger in writing of its preliminary approval or nonselection. (Final approval determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable approval fee). All final notices of approval, reapproval, or extension of existing Customs approval will be published in the **Federal Register** and **Customs Bulletin**.

Grounds for nonselection

The Executive Director may deny a gauger's application for any of the following reasons:

! The application contains false or misleading information concerning a material fact;
! The gauger, a principal of the gauging facility, or a person the Executive Director determines is exercising substantial ownership or control over the gauger operation is indicted for, convicted of, or has committed acts which would, under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, theft-related offenses or which would reflect adversely on the business integrity of the applicant;
! A determination is made that the gauger-applicant does not possess the capability, have adequate facilities, or management to perform the approved methods of measurement for Customs purposes;
! A determination is made that the gauger has submitted false reports or statements concerning the measurement of merchandise, or that the applicant was subject to sanctions by state, local, or professional administrative bodies for such conduct;
! Nonpayment of assessed charges and the balance of the fixed approval fee; or
! Failure to execute a bond in accordance with part 113 of the regulations.

Adverse approval decisions

Preliminary notice

A gauger which is not selected for approval will be sent a preliminary notice of on selection. The preliminary notice of nonselection will state the specific grounds for the proposed nonselection decision and advise the gauger that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of nonselection was received by the gauger.

Final notice

If the gauger does not respond to the preliminary notice, the Executive Director will issue a final notice of nonselection within 60 calendar days of the date the preliminary notice of nonselection was received by the gauger applicant. The final notice of nonselection will state the specific grounds for the nonselection and advise the gauger that it may choose to pursue one of the following two options:

- Submit a new application for approval, 180 days after the date of the final notice of nonselection; or
- Administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of the date of the final notice of nonselection.

If the gauger files a timely response, the Executive Director will issue a final determination regarding the gauger=s approval within 30 calendar days of the date the applicant=s response is received by the Executive Director. If this final determination is adverse to the gauger, then the final notice of nonselection will state the specific grounds for nonselection and advise the gauger that it may choose to pursue one of the two options provided above.

Appeal decision

The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the gauger, then the decision notice will advise the gauger that it may choose to pursue one of the following two options:

- Submit a new application for approval, 120 days after the date of the appeal decision; or
- File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

What are the approval or reapproval fee requirements?

In general

A fixed fee, representing Customs administrative overhead expense, will be assessed for each application for approval or reapproval. In addition, associated assessments, representing the actual costs associated with travel and per diem of Customs employees related to verification of application criteria and background investigations will be charged. The combination of the fixed fee and associated assessments represent reimbursement to Customs for costs related to approval and reapproval. The fixed fee will be published in the *Customs Bulletin* and the *Federal Register*. Based on a review of the actual costs associated with the program, the fixed fee may be adjusted periodically; any changes will be published in the *Customs Bulletin* and the *Federal Register*.

The initial fixed fee schedules for approving or reapproving gaugers are:

General Approval Fee	$ 400
Reapproval Fee	$ 200

The initial variable fee schedules for approving or reapproving gaugers are approximately $ 1,000 for travel per visit and $ 1,700 per background investigation.

Approval fees

A nonrefundable pre-payment equal to 50 percent of the fixed approval fee to cover preliminary processing costs must accompany each application for approval. Before a gauger will be approved, it must submit to Customs, Account Services Division, within the 30 day billing period the associated charges assessed for the approval and the balance of the fixed approval fee.

Reapproval fees

Before a gauger will be reapproved, it must submit to Customs, Account Services Division, within the 30 day billing period the fixed reapproval fee.

Disputes

In the event a gauger disputes the charges assessed for travel and per diem costs associated with scheduled inspection visits, it may file an appeal within 30 calendar days of the date of the assessment with the Executive Director. The appeal letter must specify which charges are in dispute and provide such supporting documentation as may be available for each allegation. The Executive Director must make findings of fact concerning the merits of an appeal and communicate the agency decision to the gauger in writing within 30 calendar days of the date of the appeal.

Can existing Customs-approved gaugers continue to operate?

Commercial gaugers approved by the Executive Director prior to December 8, 1993, will retain approval under the new regulations provided that they have not had their approval suspended or revoked and they conduct their business in a manner consistent with the administrative portions of this section. Gaugers which have had their approvals continued under this section will have their status reevaluated on their next triennial inspection date which is no earlier than three years after the effective date of the new regulations. At the time of reapproval, these gaugers must meet the requirements of section 151.13 and remit to Customs, Account Services Division, within the 30 day billing period the fixed reapproval fee. Failure to meet these requirements will result in revocation or suspension of the approval.

How will Customs-approved gaugers operate?

Reports

Contents of reports

The measurement results from a Customs-approved gauger that are submitted by an importer of record with respect to merchandise in an entry, in the absence of measurements conducted by Customs, will be accepted by Customs, provided that the importer of record certifies that the measurement was of the merchandise in the entry. All reports must measure net landed quantity, except in the case of crude petroleum of Heading 2709, Harmonized Tariff Schedule of the United States (HTSUS), which may be measured by gross quantity. Reports must be given in the appropriate HTSUS units of quantity, e.g., liters, barrels, or kilograms.

HTSUS	Product	Unit of Quantity
Headings 1501 - 1515	Animal and vegetable oils	Kilogram
Subheadings 2707.10 - 2707.30 and 2902.20 - 2902.44	Benzene, toluene and xylene	Liter
Heading 2709	Crude Petroleum	Barrel
Heading 2710 (various subheadings)	Fuel oils, motor oils, kerosene, naphtha, lubricating oils	Barrel
Chapter 29 (various subheadings)	Organic compounds in bulk and liquid form	Kilogram, liter, etc.

Status of commercial reports where Customs also gauges merchandise

Nothing in the regulations precludes Customs from gauging a shipment which has been gauged by a Customs-approved gauger at the request of an importer. In cases where a shipment has been gauged by both Customs and a Customs-approved gauger, all Customs actions will be based upon the gauging reports issued by Customs, unless the Executive Director advises other actions. If Customs gauges merchandise, it will release the report of its measurements to the importer of record or its agent upon request unless the gauging information is proprietary to the holder of a copyright or patent, or developed by Customs for enforcement purposes.

Recordkeeping requirements

Customs-approved gaugers must maintain records of the type normally kept in the ordinary course of business in accordance with the provisions of the Customs Regulations and any other applicable provisions of law, and make them available during normal business hours for Customs inspection. In addition, these gaugers must maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records must be maintained for five years, unless the gauger is notified in writing by Customs that a longer retention time is necessary for particular records. Electronic data storage and transmission may be approved by Customs.

Transaction records

Records for each Customs-related transaction must be readily accessible and have the following:

$ A unique identifying number;
$ The date and location where the transaction occurred;
$ The identity of the product (e.g. crude oil);
$ The name of the client;
$ The source of the product (e.g., name of vessel, flight number of airline); and,
$ If available, the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

Major equipment records

Records for each major piece of equipment used in Customs-related work must identify the name and type of instrument, the manufacturer's name, the instrument's model and any serial numbers, and the occurrence of all servicing performed on the equipment or instrument, to include recalibration and any repair work, identifying who performed the service and when.

Records of gauging procedures

The Customs-approved gauger must maintain complete and up-to-date copies of

all approved gauging procedures, calibration methods, etc., and must document the procedures that each staff member is authorized to perform. These procedures must be readily available to appropriate staff.

Gauging records

The Customs-approved gauger must identify each transaction by transaction record number (see 19 CFR 151.13 (h)(2)(i)) and must maintain all information or data (such as temperatures, etc.) associated with each Customs-related gauging transaction. Each gauging record (i.e., the complete file of all data for each separate transaction) must be dated and initialed or signed by the staff member(s) who did the work.

Gauging reports

Each gauging report submitted to Customs must include:

- The name and address of the Customs-approved gauger;
- A description and identification of the transaction, including its unique identifying number;
- The designations of each gauging procedure used;
- The gauging report itself (i.e., the quantity of the merchandise);
- The date of the report; and,
- The typed name and signature of the person accepting technical responsibility for the gauging report (i.e., an approved signatory).

Representation of Customs-approved status

Commercial gaugers approved by Customs must limit statements or wording regarding their approval to an accurate description of the commodities for which approval has been obtained. Use of terms other than those appearing in the notice of approval (see 151.13(g)) is prohibited.

Subcontracting prohibited

Customs-approved gaugers must not subcontract Customs-related work to non Customs-approved gaugers or non Customs-accredited laboratories, but may subcontract to other facilities that are Customs approved or accredited and in good standing.

HOW CAN A LABORATORY OR GAUGER HAVE ITS ACCREDITATION OR APPROVAL SUSPENDED OR REVOKED OR BE REQUIRED TO PAY A MONETARY PENALTY?

General

The Executive Director may immediately suspend or revoke the accreditation or approval of a laboratory or gauger (referred to as “facility” below) only in cases where

the facility's actions are intentional violations of any Customs law or when required by public health or safety. In other situations where the Executive Director has cause, the Executive Director will propose the suspension or revocation of a facility's accreditation or approval or propose a monetary penalty and provide the facility with the opportunity to respond to the notice of proposed action.

Specific grounds for suspension, revocation, or assessment of a monetary penalty

A facility's accreditation or approval may be suspended or revoked, or a monetary penalty may be assessed because:

$ The selection was obtained through fraud or the misstatement of a material fact by the laboratory or gauger;

$ The facility, a principal of the facility, or a person the port director determines is exercising substantial ownership or control over the facility operation is indicted for, convicted of, or has committed acts which would, under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, or a theft-related offense; or would reflect adversely on the business integrity of the applicant. In the absence of an indictment, conviction, or other legal process, a port director must have probable cause to believe the proscribed acts occurred;

$ Staff facility personnel refuse or otherwise fail to follow any proper order of a Customs officer or any Customs order, rule, or regulation;

$ The facility fails to operate in accordance with the obligations of §151.12(c) or §151.13(g), respectively;

$ A determination is made that the facility is no longer technically or operationally proficient at performing the approved methods of analysis or measurement for Customs purposes;

$ The facility fails to remit to Customs, the Accounts Services Division, within the 30 day billing period the associated charges assessed for the accreditation or approval and the balance of the fixed accreditation or approval fee;

$ The facility fails to maintain its bond; or

$ The facility fails to remit to Customs, the Accounts Services Division, within the 30 day billing period the fixed reaccreditation or reapproval fee; or

$ The facility fails to remit any monetary penalties assessed under §151.12 (k) or §151.13(i), respectively.

Assessment of monetary penalties

The assessment of a monetary penalty under sections 151.12 or 151.13, may be in lieu of, or in addition to, a suspension or revocation of accreditation or approval. The monetary penalty may not exceed $100,000 per violation and shall be assessed and mitigated pursuant to published guidelines. Any monetary penalty under this section can be in addition to the recovery of:

$ Any loss of revenue, in cases where the laboratory or gauger intentionally falsified the analysis or gauging report in collusion with the importer; or,

$ Liquidated damages assessed under the facility's Customs bond.

Notice

When a decision to suspend, or revoke accreditation or approval, and/or to assess a monetary penalty is made, the Executive Director will immediately notify the facility in writing of the decision, indicating whether the action is effective immediately or is proposed.

Immediate suspension or revocation

Where the suspension or revocation of accreditation or approval is immediate, the Executive Director will issue a final notice of adverse determination. The final notice of adverse determination will state the specific grounds for the immediate suspension or revocation, direct the facility to cease performing any Customs-accredited or approved functions, and advise the facility that it may choose to pursue one of the following two options:

- Submit a new application for accreditation or approval, 180 days after the date of the final notice of adverse determination; or
- Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

Proposed suspension, revocation, or assessment of monetary penalty

Preliminary notice

Where the suspension or revocation of accreditation or approval, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of action. The preliminary notice of proposed action will state the specific grounds for the proposed action and advise the facility that it may continue to perform those functions requiring Customs-accreditation until the Executive Director's final notice is issued, and advise the laboratory that it may file a response addressing the grounds for the action proposed with the Executive Director within 30 calendar days of the date the preliminary notice of proposed action was received by the facility. The facility may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The facility also may ask for a meeting with the Executive Director or his designee to discuss the proposed action.

Final Notice

If the facility does not respond to the preliminary notice of proposed action, the Executive Director will issue a final notice of adverse determination within 60 calendar days of the date the preliminary notice of proposed action was received by the facility. The final notice of adverse determination will state the specific grounds for the adverse determination, direct the facility to cease performing any Customs-accredited or

approved functions, and advise the facility that it may choose to pursue one of the following two options:

- Submit a new application for accreditation or approval, 180 days after the date of the final notice of adverse determination; or
- Administratively appeal the final notice of adverse determination to the Assistant Commissioner within 30 calendar days of the date of the final notice of adverse determination.

If the facility files a timely response, the Executive Director will issue a final determination regarding the status of the facility's accreditation within 30 calendar days of the date the facility's response is received by the Executive Director. If this final determination is adverse to the facility, then the final notice of adverse determination will state the specific grounds for the adverse action, advise the facility to cease performing any functions requiring Customs accreditation or approval, and advise the facility that it may choose to pursue one of the two options provided above.

Administrative Appeal Decision

The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of the date the appeal is received. If the appeal decision is adverse to the facility, then the decision notice will advise the facility that it may choose to pursue one of the following two options:

- Submit a new application for accreditation or approval, 120 days after the date of the appeal decision; or
- File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days of the date of the appeal decision.

Publication

Any final notices of adverse determination issued by the Executive Director resulting in a laboratory being directed to cease performing Customs-accredited functions will be published in the **Federal Register** and **Customs Bulletin** and the notice published will include the effective date, duration, and scope of the determination.

ADDITIONAL INFORMATION

The Internet

The U. S. Customs Service's home page on the Internet's World Wide Web, provides the trade community with current, relevant information regarding Customs operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, Customs publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your person computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site links to the Customs Electronic Bulletin Board (CEBB), an older electronic system on which Customs notices and drafts were posted. After December, 1999 the CEBB will be only accessible through the web site. The web site also links to the home pages of many other agencies whose importing or exporting regulations Customs helps to enforce. Customs web site also contains a wealth of information of interest to a broader public than the trade community -- to international travelers, for example.

The Customs Service's web address is http://www.customs.gov.

Customs Regulations

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone 202-512-1800. A bound, 1999 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Customs Regulations from April 1998 through March 1999, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin,* described below.

Customs Bulletin

The *Customs Bulletin and Decisions ("Customs Bulletin")* is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as Customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing Into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The 1998 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and the Customs Service by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The 1998 edition contains a new section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between Customs and the import community, wherein Customs communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that Customs is provided accurate and timely data pertaining to his or her importations.

Single copies may be obtained from local Customs offices or from the Office of Public Affairs, U.S. Customs Service, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the Customs web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054.

Video Tapes

The Customs Service has prepared a series of video tapes in VHS format for the trade community and other members of the public. As of the date of this publication, four tapes are available and are described below.

If you would like more information on any of the tapes described below, or if you would like to order them, please send a written request to: U.S. Customs Service, Office of Regulations and Rulings, Suite 3.4A, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, Attn: Operational Oversight Division. Orders must be accompanied by a *check or money order drawn on a U.S. financial institution* and made payable to U.S. Customs Service. Prices include postage.

- *Rules of Origin for Textiles and Apparel Products* is a two-hour tape aimed at increasing understanding of the new rules, which became effective July 1, 1996. Copies of this tape are available from many trade organizations, customs brokers, consultants and law firms, or it can be ordered from the U.S. Customs Service for $20.00.

- *Customs Compliance: Why You Should Care* is a 30-minute tape divided into two parts. Part I, almost 18 minutes in length, is designed to provide senior executives and others in the importing or exporting business with an overview of

the significant features of the Customs Modernization Act and the reasons to adopt new strategies in order to minimize legal exposure under the Act.

Part II is intended primarily for import/export compliance officers, legal departments and company officers. About 12 minutes long, Part II explains why Customs and the trade can benefit from sharing responsibilities under Customs laws. It also provides viewers with legal detail on record keeping, potential penalties for noncompliance, and on the Customs prior-disclosure program. The cost is $15.00.

- *Account Management: Team Building for World Trade,* a 13-½-minute tape on account management, discusses what account management is and why there is a need for it. Account Management is a new approach to working with the trade in which a company is treated as an account, rather than being dealt with on a transaction by transaction basis. The tape includes discussions with Customs account managers and representatives of importers ("accounts") relating to the benefits of account management from the perspectives of the both the Customs Service and the trade community. The cost is $15.00.

- *General-Order Warehousing: Rules for Handling Unclaimed Merchandise*, 90 minutes long, was prepared jointly by the Customs Service and the trade community on the subject of general-order merchandise (unclaimed goods). The tape includes question and answer discussions that define procedures required to implement the new general-order laws and regulations and why there is a need to have effective procedures for handling unclaimed goods. The cost is $15.00.

Informed Compliance Publications

The U. S. Customs Service has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About":* series. As of the date of this publication, the subjects listed below were available.

■[4] 1. Customs Value ([1]*5/96*, [4]Revised 12/99)
■[1] 2. Raw Cotton: Tariff Classification and Import Quotas (5/13/96)
■[1] 3. NAFTA for Textiles & Textile Articles (5/14/96)
■ 4. Buying & Selling Commissions ([1]*6/96*, Revised 1/2000)
■[1] 5. Fibers & Yarn (8/96)
■[3] 6. Textile & Apparel Rules of Origin ([1]*10/96*, Revised 11/98)
■[1] 7. Mushrooms (10/96)
■[1] 8. Marble (11/96)
■[1] 9. Peanuts (11/96)
■ 10. Bona Fide Sales & Sales for Exportation ([1]*11/96*, Revised 1/2000)
■[2] 11. Caviar (2/97)
■[2] 12. Granite (2/97)
■[2] 13. Distinguishing Bolts from Screws (5/97)

■[2] 14. Internal Combustion Piston Engines (5/97)
■[2] 15. Vehicles, Parts and Accessories (5/97)
■[2] 16. Articles of Wax, Artificial Stone and Jewelry (8/97)
■[2] 17. Tariff Classification (11/97)
■[2] 18. Classification of Festive Articles (11/97)
■[3] 19. Ribbons & Trimmings (1/98)
■[3] 20. Agriculture Actual Use (1/98)
■[3] 21. Reasonable Care (1/98)
■[3] 22. Footwear (1/98)
■[3] 23. Drawback (3/98)
■[3] 24. Lamps, Lighting and Candle Holders (3/98)
■[3] 25. NAFTA Eligibility and Building Stone (*3/98*, Revised 12/98)
■[3] 26. Rules of Origin (5/98)
■[3] 27. Records and Recordkeeping Requirements (6/98)
■[3] 28. ABC's of Prior Disclosure (6/98)
■[3] 29. Gloves, Mittens and Mitts (6/98)
■[3] 30. Waste & Scrap under Chapter 81 (6/98)
■[3] 31. Tableware, Kitchenware, Other Household Articles and Toilet Articles of Plastics (11/98)
■[3] 32. Textile & Apparel Rules of Origin Index of Rulings (11/98)
■[4] 33. Knit to Shape Apparel Products (1/99)
■[4] 34. Hats and Other Headgear (under HTSUS 6505) (3/99)
■[4] 35. Customs Enforcement of Intellectual Property Rights (6/99)
■[4] 36. Classification of Children's Apparel (6/99)
■ 37. Accreditation of Laboratories and Gaugers ([4]*9/99,* Revised 3/2000)
■[4] 38. Classification of Sets (9/99)
■[4] 39. Marking Requirements for Wearing Apparel (9/99)
■[4] 40. Fiber Trade Names & Generic Terms (11/99)
■[4] 41. NAFTA Country of Origin Rules for Monumental & Building Stone (12/99)
■ 42. Diodes, Transistors & Similar Semiconductor Devices (1/2000)
■ 43. Soldering and Welding Machines and Apparatus (1/2000)
■ 44. Cane and Beet Sugar (Quota, Classification & Entry) (1/2000)
■ 45. Turbojets, Turbopropellers and Other Gas Turbines, (HTSUS 8411) and Parts Thereof (1/2000)
■ 46. Writing Instruments of Heading 9609 HTSUS (1/2000)
■ 47. New Decisions on Candle Holders v. Decorative Glass Articles (2/2000)
■ 48. Customs Brokers (3/2000)

■ indicates publications which are, or will be, available for downloading from the Customs Electronic Bulletin Board or through Customs Home Page on the Internet: http://www.customs.gov;
[1] denotes reprinted in *30/31 Customs Bulletin No.50/1,* January 2, 1997;
[2] denotes reprinted in *32 Customs Bulletin No.2/3,* January 21, 1998;
[3] denotes reprinted in *32 Customs Bulletin No. 51,* December 23, 1998.
[4]denotes reprinted in *33 Customs Bulletin No. 51,* December 22, 1999

Check the Customs Electronic Bulletin Board and the Customs Internet website for more recent publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 CFR §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from the U.S. Customs Service, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, Customs Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7054. This publication is also available on the Customs Service Internet website.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under Customs Regulations, 19 CFR Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in Customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may be also be obtained from Customs ports of entry. Please consult your telephone directory for a Customs office near you. The listing will be found under U.S. Government, Treasury Department.

"Your Comments are Important"

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT

Visit our Internet website: http://www.customs.gov