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August 21, 2020

Seth Renkema
Branch Chief
Economic Impact Analysis Branch
U.S. Customs and Border Protection
Washington, D.C. 20229

Reference: Docket # 1651-0033

Dear Mr. Renkema:

The International Association of Airport Duty Free Stores (IAADFS) appreciates this opportunity to submit the following comments in response to your July 1, 2020 Federal Register notice on *Agency Information Collection Activities: Bonded Warehouse Proprietor's Submission* (85 FR 39575).

IAADFS represents operators of airport duty free stores. The airport stores and their associated warehouses are licensed as Class 9 Customs Bonded Warehouses. IAADFS members import products in-bond for sale at an airport duty-free store to travelers departing from the U.S.

On its face, the CBP Form 300 annual report by Bonded Warehouse proprietors appears to be straightforward. The Form asks for each item in the warehouse inventory to be identified by customs entry number and date of importation, with the beginning inventory and the ending inventory shown, as well as the date the entry is closed out.

For other classes of bonded warehouses, this exercise may not be difficult. For a Class 9 warehouse, however, it is challenging.

Three years ago, IAADFS submitted comments to CBP's last Federal Register notice proposing to extend the expiration date for the collection of Form 300. At that time, we explained how a Class 9 warehouse differs from customs bonded warehouses because of its retail operations.

In fact, Class 9 customs bonded warehouses are unique in the world of customs bonded warehouses. Class 9 status is given to duty free stores located at airports or land borders and to the distribution warehouses associated with those stores. Class 9 warehouses differ from other classes of bonded warehouses in the following respects:

- Generally, the merchandise entered into a Class 9 warehouse/duty-free store will never enter the commerce of the United States. Instead, merchandise is entered into the Class 9

warehouse for export by travelers departing from the U.S. Therefore, as a general rule, duties are never due or collected.¹

- A Class 9 warehouse is a retail operation, selling to millions of individual purchasers. Moreover, airport duty-free export sales are limited to personal use quantities. By contrast, a Class 3 public bonded warehouse, for example, receives and ships product in wholesale quantities, selling caseloads or even pallet-sized loads.
- Because it is a retail operation, every carton that enters a Class 9 warehouse dedicated to airport sales is broken down and sold in individual units. This contrasts with other types of bonded warehouses. For example, say 100 cases of Remy Martin cognac enter a Class 2 (private warehouse for storage) or a Class 3 (public warehouse for storage) warehouse. When filling orders from the original entry, the Class 2 or 3 bonded warehouse proprietor will typically pull full case lots for the warehouse withdrawal. Depending on the size of the orders, there may be from 2 to 10 withdrawals to decrement against the entry. This differs sharply from a Class 9 warehouse serving an airport duty free enterprise. When 100 cases of Remy Martin are entered into these Class 9 bonded warehouses, typically each of the 1200 bottles in that entry will be a separate withdrawal. Therefore, there may be 1200 separate withdrawals to decrement against this one entry of Remy Martin cognac.

These differences matter significantly when it comes to recordkeeping and paperwork requirements.

It should be noted that, from the commercial side, the duty-free store industry has highly automated Class 9 warehouses/airport duty-free store operations, utilizing state-of-the-art technology to track the movement of product from the time the customs warehouse entry is opened to the time a product is sold to a departing traveler at the airport, with a Point-of-Sale system capable of decrementing each SKU from the entry. For most Class 9 warehouses, the airport duty-free store proprietor can identify the location and status of any item in an entry down to the SKU level through its automated system.

In our 2017 comments, we explained how, in this Class 9 retail environment, the Form 300 becomes very difficult to manage due to its required level of detail. Although duty free stores have fully automated systems as described above, the information required for the Form 300 cannot simply be produced at the push of a button. Because it requires reporting at the SKU level and because Class 9 warehouses have so many open entries, the Form 300 becomes a huge project.

¹ In some circumstances, Class 9 warehouse proprietors do file withdrawals for consumption and pay duties, such as when there are inventory shortages. But as a general rule, the bonded warehouse entries are exported from the US free of duty.

To illustrate, one member reported that at the close of each year, they have an average of *4,000 to 5,000 open entries* with approximately 230,000 SKUs. This requires teams of IT and regulatory people to work, starting at midnight on New Year's Eve and continuing all of New Year's Day and several days thereafter to run the reports and analyze the balances to prepare the Form 300. In recent years, the company's Form 300 was over 5,000 pages in length!

And what happened to this massive paper document? Nothing. CBP never lays eyes on it. Since CBP no longer requires the Form 300 to actually be submitted, a duty free store proprietor sends a letter to CBP confirming that the Form 300 is available. Our member companies report that, although they prepare this voluminous report annually, it is NEVER used by the local CBP audit teams that do either an unannounced spot check audit or a full audit. In fact, when one company offered the document to CBP auditors, the officers were not even familiar with it and preferred their own method for selecting entries for audit. We fail to see the value of this exercise, particularly now with the implementation of ACE and the availability of the ACE reporting tool.

In early 2019, CBP released a notice to its field staff, specifically allowing electronic alternatives to be substituted for the paper formatted Form 300, subject to prior approval by the port director. Port Directors must determine that the proprietor's automated inventory control and recordkeeping systems is capable of providing automated reports and documents to CBP on demand (within 48 hours).

This is a step in the right direction. However, even if kept in an automated format, the report remains a complex undertaking requiring intense manpower for a Class 9 warehouse. While the report is not kept in paper form, it still requires SKU level detail from thousands of open entries to be pulled together in the prescribed manner.

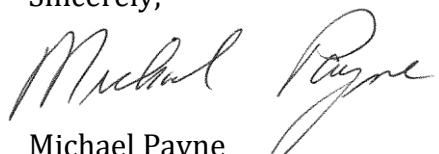
Now that ACE is fully operational, we question whether CBP needs the Form 300 report at all, with its SKU-level detail. As explained earlier, the Form 300 report is not submitted to CBP in either paper or automated form. Instead, it sits untouched either on a shelf or in a database for 5 years, along with the previous 4 years of reports. CBP inspectors rarely, if ever, refer to it when they arrive for an audit or spot check. The ACE reporting tool, with its ability to target entries at the HTS level, should be able to serve the same purpose for CBP, in a more streamlined and effective manner, as requiring SKU-level detail on the Form 300.

We, therefore, recommend that, at least for Class 9 warehouses, the Form 300 Annual Report be eliminated. It no longer serves a useful purpose and yet imposes a tremendous effort for industry to produce this report. This is not to suggest any weakening in the requirement for Class 9 bonded warehouses to maintain strong inventory accounting controls capable of producing an audit trail for each and every product from entry through withdrawal. These controls are already in place through the industry's automated processes and other CBP requirements applicable to Class 9 warehouses. The production of the Form 300 Annual Report is an anachronism, however, and should be discontinued.²

² If eliminating the Form 300 altogether is not possible, then we suggest eliminating the requirement to provide detail at the SKU level.

IAADFS appreciates the opportunity to comment. We are available to provide any additional information or insight that might be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Payne".

Michael Payne
President and CEO