

Subpart A—General Provisions

- 118.1 Definition.
- 118.2 Establishment of a CES.
- 118.3 Written agreement.
- 118.4 Responsibilities of a CES operator.
- 118.5 Procedures for changes to a fee schedule.

Subpart B—Application to Establish a CES

- 118.11 Contents of application.
- 118.12 Action on application.
- 118.13 Notification of selection or nonselection.

Subpart C—Termination of a CES

- 118.21 Temporary suspension; permanent revocation of selection and cancellation of agreement to operate a CES.
- 118.22 Notice of immediate suspension or proposed revocation and cancellation action.
- 118.23 Appeal to the Assistant Commissioner; procedure; status of CES operations.

AUTHORITY: 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

SOURCE: T.D. 93-6, 58 FR 5604, Jan. 22, 1993, unless otherwise noted.

§ 118.0 Scope.

This part sets forth regulations providing for the making of agreements between Customs and persons desiring to operate a centralized examination station (CES). It covers the application process, the responsibilities of the person or entity selected to be a CES operator, the written agreement to operate a CES facility, the port director's discretion to immediately suspend a CES operator's or entity's selection and the written agreement to operate the CES or to propose the permanent revocation of a CES operator's or entity's selection and cancellation of the written agreement for specified conduct, and the appeal procedures to challenge an immediate suspension or proposed revocation and cancellation action. Procedures and requirements for the transfer of merchandise to a CES are set forth in part 151 of this chapter.

[T.D. 93-6, 58 FR 5604, Jan. 22, 1993; 58 FR 6574, Jan. 29, 1993, as amended by T.D. 96-57, 61 FR 39070, July 26, 1996]

Subpart A—General Provisions**§ 118.1 Definition.**

A centralized examination station (CES) is a privately operated facility, not in the charge of a Customs officer, at which merchandise is made available to Customs officers for physical examination. A CES may be established in any port or any portion of a port, or any other area under the jurisdiction of a port director. To present outbound cargo for inspection at a CES at a port other than the shipment's designated port of exit, either proof of the shipper's consent to the inspection must be furnished or a complete set of transportation documents must accompany the shipment to evidence that exportation of the goods is imminent and that the goods are committed to export, thereby, making them subject to Customs examination.

[T.D. 93-6, 58 FR 5604, Jan. 22, 1993, as amended by T.D. 98-29, 63 FR 16684, Apr. 6, 1998]

§ 118.2 Establishment of a CES.

When a port director makes a preliminary determination that a new CES should be established, or when the term of an existing CES is about to expire and the port director believes that the need for a CES still exists, he will announce, by written notice posted at the customhouse and by any other written methods he may consider appropriate (such as normal port information distribution channels, trade bulletins or local newspapers), that applications to operate a CES are being accepted. This notice will include the general criteria together with any local criteria that applicants must meet (see § 118.11 of this part), and will invite the public to submit any relevant written comments on whether a new CES should be established or on whether there is still a need for a CES. Applications will be accepted only in response to the port notice and must be received within 60 calendar days from the date of the notice. Public comments must be received within 30 calendar days from the date of the notice.

§ 118.3 Written agreement.

The applicant tentatively selected to operate a CES must sign a written

§ 118.4

19 CFR Ch. I (4-1-03 Edition)

agreement with Customs before commencing operations. Failure to execute a written agreement with Customs in a timely manner will result in the revocation of that applicant's tentative selection and may result in tentative selection of another applicant or republication of the notice soliciting applications. In addition to the provisions described elsewhere in this part, the agreement will specify the duration of the authority to operate the CES. That duration will be not less than three years nor more than six years. Such agreements cannot be transferred, sold, inherited, or conveyed in any manner. At the expiration of the agreement, an operator wishing to reapply may do so pursuant to this part and his application will be considered de novo.

§ 118.4 Responsibilities of a CES operator.

By signing the agreement and commencing operation of a CES, an operator agrees to:

(a) Maintain the facility designated as the CES in conformity with the security standards as outlined in the approved application;

(b) Provide adequate personnel and equipment to ensure reliable service for the opening, presentation for inspection, and closing of all types of cargo designated for examination by Customs. Such service must be provided on a "first come-first served" basis;

(c) Assess service fees as outlined in the fee schedule included in the approved application or as changed under § 118.5 of this part and bill users directly for services rendered;

(d) Assume responsibility for any charges or expenses incurred in connection with the operation of the CES;

(e) Maintain, at his own expense, adequate liability insurance with respect to the property within his control and with respect to persons having access to the CES;

(f) Keep current the list filed with the port director pursuant to § 118.11(f) of this part. Additions to or deletions from the list must be submitted in writing to the port director within 10 calendar days of the commencement or termination of employment;

(g) Maintain a Customs custodial bond in an amount set by the port director. The CES operator will accept and keep safe all merchandise delivered to the CES for examination. The bond will include liability for transporting merchandise to the CES from within the district boundaries (see definition of "district" at § 112.1); such liability is assumed by the CES operator when he picks up merchandise for transportation to his facility. The operator also agrees to increase the amount of the bond if deemed appropriate by the port director.

(h) Maintain and make available for Customs examination all records connected with the operation of the CES in accordance with part 162 of this chapter and retain such records for a period of not less than five years from the date of the transaction or examination conducted pursuant to the agreement to operate the CES;

(i) Submit, if requested by Customs, the fingerprints of all employees involved in the CES operation;

(j) Provide office space, parking spaces, appropriate sanitary facilities, and potable water to Customs personnel at no charge or a charge of \$1 per year; and

(k) Perform in accordance with any other reasonable requirements imposed by the port director.

(l) Provide transportation for merchandise to the CES from within the district boundaries (see definition of "district" at § 112.1). This responsibility is optional. If the CES operator chooses to provide transportation, he shall receipt for the merchandise when he picks it up and assume liability for the merchandise at that time.

[T.D. 93-6, 58 FR 5604, Jan. 22, 1993, as amended by T.D. 94-81, 59 FR 51495, Oct. 12, 1994; T.D. 95-77, 60 FR 50020, Sept. 27, 1995; T.D. 98-29, 63 FR 16684, Apr. 6, 1998]

§ 118.5 Procedures for changes to a fee schedule.

Whenever a CES operator intends to increase, add to or otherwise change the service fees set forth in the fee schedule referred to in § 118.4(c) of this part, the operator shall provide 90 calendar days advance written notice to the port director of such proposed fee schedule change and shall include in