

*Customs response:* Claimants will not have to re-file a general drawback ruling request at the Drawback Center designated to receive their claims. If, however, a claimant opts to file a claim at a Drawback Center other than the one designated to receive their claims, that claimant will have to file a new letter of intent to operate under a general drawback ruling at that location.

*Comment:* Several commenters questioned whether consolidating the drawback program would subvert the intent of Congress to assist in increasing U.S. exports.

*Customs response:* Consolidation of the drawback program will not negatively impact U.S. exports.

*Comment:* One commenter objected to the fact that the identity of the independent contractor brought in to perform the review of the Drawback Program was not made public.

*Customs response:* The purpose of retaining an independent contractor was to have an unbiased third party conduct a review of the Drawback Program. Individuals seeking more information may file a request for information pursuant to the Freedom of Information Act (5 U.S.C. 552).

*Comment:* Several commenters noted that although the number of drawback claims has decreased, the volume of import and export shipments that appear on claims has increased.

*Customs response:* Customs has data that reflects that the number of underlying imports in 2001 decreased over 40% from 1999 levels. While it is true that more exports are being claimed in a summarized format, consolidation of the drawback program is a legitimate means of increasing the program's efficiency without impairing U.S. exports.

*Comment:* Two commenters questioned why claimants are not allowed to file a single application for the waivers and privileges set forth in §§ 191.91, 191.92 and 191.95 of the Customs Regulations (*i.e.*, waiver of prior notice of intent to export, accelerated payment, certification in the drawback compliance program).

*Customs response:* Claimants do have the option of filing a single application for these waivers and privileges pursuant to 19 CFR 191.93.

*Comment:* Several commenters noted that all Drawback Specialists must now perform more mandatory audits and/or desk reviews as ordered by the General Accounting Office (GAO).

*Customs response:* Customs has enhanced the processing procedures for drawback so that fewer full desk reviews are completed by each Drawback Specialist. Audits are

completed by Regulatory Auditors with input from the Drawback Specialist. It is noted that the number of audits over the years has remained consistent.

*Comment:* One commenter noted that the proposed rulemaking should have stated that only a customs broker requires a license/permit to file a drawback claim, and not a drawback claimant.

*Customs response:* Customs agrees; the background section of the proposed rulemaking published in the **Federal Register** (67 FR 54137) on August 21, 2002, should have specified that a drawback claimant's customs broker must possess a district or national permit to file a drawback claim.

*Comment:* One commenter questioned whether a broker must file drawback claims via the Automated Broker Interface (ABI) to have a national permit, and noted that the Customs Regulations permit drawback claims to be filed either manually or electronically (via ABI).

*Customs response:* Section 111.19(f) of the Customs Regulations (19 CFR 111.19(f)) allows for national broker permits under any of the circumstances described in § 111.2(b)(2)(i) (19 CFR 111.2(b)(2)(i)). Section 111.2(b)(2)(i)(B) allows for electronic (ABI) drawback claims. There is no allowance in § 111.2(b)(2)(i) for manual drawback claims. Drawback claims may be filed manually by brokers with a district permit. See 19 CFR 111.2(b)(2)(ii).

*Comment:* Several commenters noted that by closing Drawback Centers, Customs will be unable to liquidate and audit drawback claims within the three year time period allowed by law.

*Customs response:* As stated previously, Customs believes that consolidation of the Drawback Program will bring about more efficient and effective drawback claim processing, and thereby claims should get liquidated more expeditiously. It is noted that there is no legal or regulatory requirement to liquidate or audit a drawback claim within three years. A drawback claimant is required to retain records for three years after payment of a drawback claim. See 19 CFR 163.4(b)(1). If drawback is paid via accelerated payment, pursuant to 19 CFR 191.92, and the three year time period to retain records expires prior to the underlying claim being liquidated, there may be instances where the records necessary to verify a claim are no longer available. This problem, however, has no bearing on the consolidation of the Drawback Program.

It is further noted that audits are performed on unliquidated drawback claims, and this document does not

make any changes to the Regulatory Audit functions of drawback.

*Comment:* One commenter viewed the requirement to provide advance notification to Customs of any changes to a drawback claim as impractical, and questioned who, within Customs, should be notified in such instances.

*Customs response:* Notification of changes to a drawback claim should be provided to the Drawback Specialist handling the original claim.

*Comment:* One commenter questioned whether the Government will actually save money by closing three Drawback Centers and reducing personnel, given the fact that no specific information as to the expected savings have been presented.

*Customs response:* The proposed rulemaking published in the August 21, 2002, **Federal Register** stated that the consolidation is "intended to promote operational efficiency in the processing of drawback claims." The document does not suggest savings as a reason for the consolidation.

*Comment:* One commenter noted that consolidation of the Drawback Program will necessitate submission of drawback applications to Customs Drawback Centers that are outside the Customs port areas most familiar with the claimant/company and thereby further increase delays and backlogs. Additionally, if drawback claims are required to be submitted at ports other than the port of import, the process of obtaining records will be more difficult, time-consuming and expensive.

*Customs response:* The Drawback Program is not currently a port-specific program. Therefore, Drawback Specialists are already adept at reviewing claims that originate from outside their geographical area. Also, the process of transmitting or shipping data to other Customs ports is already followed by all ports that do not have a Drawback Center.

*Comment:* One commenter requested that Customs publish each Drawback Center's drawback claims filing statistics (*i.e.*, dollar amounts claimed, number of drawback personnel assigned to the Drawback Center, number of exports being claimed).

*Customs response:* Relevant export data is unavailable because it is not part of Customs automated system. The other types of drawback statistics specified in the comment may be available by information requests made pursuant to the Freedom of Information Act (5 U.S.C. 552).

*Comment:* One commenter noted that a decline in the number of drawback claims suggests that existing Drawback Centers have idle time and that