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Foreign-Trade Zone Measurement Update

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Agenda

- Regulatory Basis/History
- Approval Guidelines
- CBP Approval and Self-Certification
- Recommendations/Best Practices
- Current Issues

FTZ Measurement – U.S. Customs & Border Protection (CBP) Regulatory Basis

- 19 CFR Part 151 (Examination, Sampling, and Testing of Merchandise)
- The Port Director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws enforced by the Customs and Border Protection Service (CBP).
- 19 CFR§151.13(a)(1)&(2) - Approval of Commercial Gaugers
- 19 CFR§151 Subpart C - Petroleum and Petroleum Products
- 19 CFR§146 Subpart B - Inventory Control and Record-keeping System
- 19CFR§158.13 – Allowances for Moisture and Impurities
- HTSUS Chapter 27 and Note 7

CBP Requirements for Custody Transfer Devices in Refinery Foreign-Trade Zones - Guidelines

- Various Guidelines issued by CBP, for example:
- ENT-14:IT:LS:SF NDB 020326sg.doc Guidelines for Requesting Approval of Automatic Sampling Systems for Customs Purposes (March 26, 2002) HQ Memo No. 02-093
- ENT-14:IT:LS:SF NDB 020326mg.doc NDB- Guidelines For Requesting Approval of Petroleum Metering Systems For CBP Purposes (March 26, 2002) HQ Memo No. 02-092
- For-1-3:H:I HL- Alternative Petroleum Measurement Procedures for Coriolis Meters, Truck and Rail Car Loading Facilities (Sept. 23, 1997)
- CBP Bulletin Board Directive (Oct. 24,1997) – Foreign Trade Zone (FTZ) Procedures For Approval of Metering and Sampling Systems in Oil refinery FTZ's (Self-Certification) [CBP HQ FO Memo 6304071 of 10-30-1996]

Measurement Systems Approved by CBP

- **Measurement Systems Approved by CBP** - Guidelines for requesting approval of petroleum metering and sampling systems for CBP purposes are found in various guidelines published by CBP.

Summarized:

- Petroleum metering systems used for CBP purposes must be approved by the CBP Port Director.

Measurement Systems Approved by CBP

- Petroleum metering systems which meet or exceed the installation, operational, proving and performance criteria found in the appropriate American Petroleum Institute (API) Manual of Petroleum Measurement Standards (MPMS) and which are operated in compliance with CBP Regulations are usually acceptable for CBP purposes. [LSS HQ Memo No's 02-092 and 02-093 for meters and samplers respectively]
- **Refinery FTZ Operators** are responsible for:
 - Gathering and submitting the required information. [CBP HQ FO Memo 6304071];
 - Notifying the Port Director in writing of any changes, revisions and any work which requires the removal of any approved system or a relocation of an approved system

Measurement Systems Approved by CBP

- **CBP Port Directors:**
 - Forward the submitted materials to LSS for technical review, comment, and approval coordination;
 - Are Responsible for approval of measurement systems and establishing review procedures.
[19CFR151.42]
- **CBP Laboratory and Scientific Services** (CBP LSS) is responsible for:
 - Technical evaluation and making recommendations on each device and measurement system
[19CFR151.42];
 - Maintaining and storage of measurement records.

Reasons why CBP would not Approve a System?

- Measurement systems that do not meet API standards [API-Manual of Petroleum Measurement Standards (MPMS)] or ASTM (American Society of Testing Materials) Standards
 - Incorrect - TYPE OF MEASUREMENT EQUIPMENT
 - Incorrect - Installation
 - Measurement systems being used outside their design parameters
 - Failure to calibrate/prove on a reasonable interval
- Lack of documentation including but not limited to:
 - Piping & Instrumentation Diagrams (P&ID)
 - Calibration & Proving Reports

Self-Certification of Refinery FTZ

- HQ Field Operations Memo 6304071, dated 10-30-1996 established Self-Certification
- **Refinery Operator is responsible for:**
 - maintenance of measurement system files;
 - Periodic technical evaluation;
 - Maintaining the technical expertise to oversee measurement systems;
 - Maintaining documentation for third party custody measurement systems;
 - This includes all meter proving records and the prove the **Prover** documentation;
 - Meter documentation must be maintained at the zone.

Differences between the Two Programs

Non Self-Certification

- Responsibility lies with CBP

Self-Certification

- Shift of responsibility to the refinery operator
 - Documentation
 - Technical Expertise
 - Third Party Documentation
 - Third Party Prover Documentation

New in 2009

- Joint CBP LSS Southwest Regional Science Center, Ports of Corpus Christi and Houston, and FTZ/Trade effort to provide clear guidelines for the approval of measurement systems in FTZ refinery sub-zones and non-FTZ import facilities.
- Guidelines for requesting approval of measurement systems for CBP purposes
- Goals:
 - Devices used to record custody transfer volumes are accurate
 - Measurement systems meet or exceed API-MPMS
 - Consistent application for FTZs and non-FTZs
 - Measurement systems are properly maintained
 - Measurement systems are periodically calibrated and/or proved

New in 2009

- Features
 - joint development of measurement system approval guidelines
 - no new regulations
 - no policy changes
 - clear guidance for all parties
- Measurement System Approval Guidelines
 - Pre-Approval/Validation
 - On-site Validation
 - Approval
 - Changes to Measurement Systems
 - Re-Approval

Pre-Approval/Validation of FTZ Measurement Systems

- Letter is initiated seeking approval, to include:
 - Facility information
 - List of devices for which approval is sought
 - Schematic diagram showing location(s) of devices
 - Compliant with Op Manual and performance standards
 - Notification agreement
- Letter sent to CBP Port Director with copy to CBP LSS;
- CBP LSS notifies facility (FTZ) which devices have been selected for on-site review

CBP On-Site Review of FTZ Measurement Systems

- CBP LSS will conduct a 1-day on-site visit
 - Visit will include a physical inspection of select devices and a review of:
 - Piping & Instrumentation Diagram (P&ID)
 - Engineering specification sheets for meter runs
 - Calibration/maintenance of records

Approval of Measurement System for Refinery FTZ

- All information will be evaluated to determine whether the measurement system will provide a petroleum quantity number that is adequate for CBP custody transfer purposes.

Changes to FTZ Measurement Systems

- Facility operation will notify CBP Port Director in writing of the change within 30-days after the applicant has verified/validated the new or changed device is in service and accurately functioning
- Same information submittal requirements apply
- CBP Port Director will forward letter to LSS for review
- LSS will conduct review
- CBP Port Director will provide letter to the applicant

Re-Approval of FTZ Measurement Systems

- CBP will inform applicant 90-days before the 5-year time-frame expires. Same approval process will be followed.

Best Practices for FTZ Measurement

- Keep all custody transfer files updated
 - Regularly review the redline map of FTZ
 - Organization of files
 - Keep current list of technical experts available at the site
- Special Circumstances
 - open lines of communication;
 - compliance with the API-MPMS standards is the technical basis for measurement approval

Petroleum Measurement Guidelines

New in 2009

- Apply to FTZ and non-FTZ facilities
- Apply to meters, samplers, scales, and tanks
- They cover the entire measurement system
- Reasonable Care and Informed Compliance
- Responsibility Rests with the Facility
- CBP Reviews and Approves Periodically

FTZ Measurement – Issues for discussion/resolution between CBP-LSS and the trade

- Vessel Ullage – LSS views this as a last resort for measurement of bulk marine hydrocarbon imports and a temporary solution, not a standing practice – proposed alternative is installation of CT meter at the dock;
- Proposal for 5-year interval for CT tank strapping – LSS desires some type of recommended timed interval;
- Bring measurement to the FTZ fenceline – concern around distances of some CT meters from the refinery FTZ boundary.

Questions/Discussion