

(c) *Liquidated damages.* Whenever liquidated damages arise with regard to any food, drug, device or cosmetic subject to §12.1(a) for failure to redeliver merchandise into Customs custody or for failure to rectify any noncompliance with the applicable provisions of admission, including the failure to export or destroy the merchandise within the time period prescribed by law after the merchandise has been refused admission pursuant to the provisions of the Food, Drug and Cosmetic Act, those liquidated damages will be assessed pursuant to §113.62(l)(1) of this chapter in the amount of the bond prescribed under paragraph (b) of this section.

[T.D. 01-26, 66 FR 16853, Mar. 28, 2001]

#### § 12.4 Exportation.

The exportation of merchandise, the subject of §12.1, refused admission into the United States in accordance with regulations applicable thereto shall be under Customs supervision in accordance with the regulations set forth in §§ 18.25 and 18.26 of this chapter.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

#### § 12.5 Shipment to other ports.

When imported merchandise, the subject of §12.1, is shipped to another port for reconditioning or exportation, such shipment shall be under a Customs carrier's manifest, Customs Form 7512, in the same manner as shipments in bond.

[T.D. 68-191, 33 FR 11019, Aug. 2, 1968]

#### IMPORTATION OF CERTAIN CHEESES

#### § 12.6 Affidavits required to accompany entry.

(a) Cheeses produced in the member states of the European Communities shall not be permitted entry into the Customs territory of the United States (excluding Puerto Rico) if exported from any country or area other than the country of origin, or into Puerto Rico, unless accompanied by:

(1) An affidavit, in the event of shipments into the Customs territory of the United States (excluding Puerto Rico), of the producer or exporter that the cheese has not received and will not receive restitution payments of the type referred to in Executive Order No.

11851, dated April 10, 1975 (40 FR 16645); or

(2) An affidavit, in the event of shipments into Puerto Rico, of the importer that the cheese will be consumed in Puerto Rico or areas outside the Customs territory of the United States. Proof of actual consumption shall be furnished to the appropriate Customs officer within three years after the date such cheese is entered or withdrawn from warehouse, for consumption.

(b) These affidavits shall not be required to accompany importations of cheese produced in the member states of the European Communities if such cheese is shipped directly to the United States (excluding Puerto Rico) from the country of origin on a through bill of lading.

[T.D. 75-210, 40 FR 36767, Aug. 22, 1975]

#### MILK AND CREAM

#### § 12.7 Permits required for importation.

(a) Under the Act of February 15, 1927 (44 Stat. 1101, as amended, 21 U.S.C. 141-149), commonly known as the Federal Import Milk Act, the importation into the United States of milk and cream is prohibited unless the person by whom such milk or cream is shipped or transported into the United States holds a valid permit from the Department of Health and Human Services. Such permits become invalid at the end of one year unless applications for renewal are filed prior to the date of expiration.

(b) The regulations of the Department of Health and Human Services under the said act require that each container of milk or cream shipped or transported into the United States by a permittee shall have firmly attached thereto a tag showing in clear and legible type the product (raw milk, pasteurized milk, raw cream, or pasteurized cream) the permit number and the name and address of the shipper; except that in case of unit shipments consisting of milk only or cream only under one permit number, each container need not be so marked if the vehicle of transportation is sealed and tagged with the above-mentioned tag. In such case the tag is required to

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show, in addition to the other required information, the number of containers and the contents of each. Customs officers shall not permit the importation of any milk or cream that is not tagged in accordance with such regulations.

[28 FR 14710, Dec. 31, 1963, as amended by T.D. 82-145, 47 FR 35475, Aug. 16, 1982; T.D. 89-1, 53 FR 51253, Dec. 21, 1988]

MEAT AND MEAT-FOOD PRODUCTS

§ 12.8 Inspection; bond; release.

(a) All imported meat, meat-food products horse meat and horse meat-food products offered for entry into the United States are subject to the regulations prescribed by the Secretary of Agriculture under section 306, Tariff Act of 1930. The term "meat and meat-food products," for the purpose of this section, shall include any imported article of food or any imported article which enters or may enter into the composition of food for human consumption, which is derived or prepared in whole or in part from any portion of the carcass of any cattle, sheep, swine, or goat, if such portion is all or a considerable and definite portion of the article, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession. Such meat, meat-food products, horse meat and horse meat-food products shall not be released from Customs custody prior to inspection by an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, except when authority is given by such inspector for inspection at the importer's premises or other place not under Customs supervision. In such case a bond for the return to Customs custody of the merchandise shall be given by the consignee or agent on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, and the conveyances or packages in which such merchandise is removed to the place of examination shall be sealed or corded and sealed by a customs officer or an inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, with import-meat seals furnished by the Department of Agriculture unless bearing

United States Customs seals, or in the case of packages otherwise identified as provided for in this section. When cording is necessary for proper sealing, the cords shall be furnished and affixed by the importer or his agent. Import-meat seals or cords and seals may be broken only by a Customs officer or inspector of the Meat Inspection Division, Agricultural Research Service.

In lieu of cording and sealing packages, the carrier or importer may furnish and attach to each package of product a warning notice on bright yellow paper, not less than 5 by 8 inches in size, containing the following legend in black type of a conspicuous size:

(Name of Truck Line or Carrier)

NOTICE

This package of meat or meat product must be delivered intact to an inspector of the Meat Inspection Division, U.S. Department of Agriculture.

WARNING

Failure to comply with these instructions will result in penalty action being taken against the holder of the Customs entry bond.

If the product is found to be acceptable upon inspection the package will be marked "U.S. Inspected and Passeded" and this warning notice defaced.

(b) Liquidated damages assessed for breach of a bond taken under this section, if not in excess of the Fines, Penalties, and Forfeitures Officer's delegated authority, and if a written application for relief is filed, may be canceled by the port director upon the payment of less than the full amount as he shall deem appropriate, or without the payment of any amount, as may be deemed appropriate, but the Fines, Penalties, and Forfeitures Officer shall not act under this paragraph unless the officer in charge of the local office of the Food Safety and Inspection Service, Meat and Poultry Inspection, Department of Agriculture, is in full agreement with the proposed action. If there is no local inspector of the Food Safety and Inspection Service, Meat and Poultry Inspection, the port director shall not act unless he has obtained the full agreement of the Food Safety and Inspection Service,