tools and implements of a mechanical trade, was made by R.S. § 2799, which also prescribed the contents of such entry, and of the accompanying oath. R.S. § 2800 provided for a bond when the person making entry was not the owner. R.S. § 2801 provided for a landing permit, and for an examination of baggage when deemed proper by the collector and naval officer, and for entry of articles not exempt from duty. All of these sections were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–182, § 662(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Merchandise, imported in the mails or otherwise, when the aggregate value of the shipment does not exceed such amount, not greater than $1,250 as the Secretary of the Treasury shall specify in the regulations, and the specified amount may vary for different classes or kinds of merchandise or different classes of transactions, except that this paragraph does not apply to articles valued in excess of $250 classified in—

''(A) chapters 50 through 63;

''(B) chapters 39 through 43, 61 through 65, 67 and 95; and

''(C) subchapters III and IV of chapter 99;

of the Harmonized Tariff Schedule of the United States, or to any other article for which formal entry is required without regard to value.;''.

Subsec. (a)(2). Pub. L. 103–182, § 662(2), substituted ''such amounts as the Secretary may prescribe'' for ''$10,000'' in introductory provisions.

1988—Subsec. (a)(1). Pub. L. 100–418, substituted ''the Harmonized Tariff Schedule of the United States'' for ''the Tariff Schedules of the United States'' in closing provisions, added subpars. (A) to (C), and struck out former subpars. (A) to (C) which read as follows:

''(A) schedule 3,

''(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

''(C) parts 2 and 3 of the Appendix,''.

1984—Subsec. (a)(1). Pub. L. 98–573 substituted ''$1,250'' for ''$250'' and inserted provision that this paragraph does not apply to articles valued in excess of $250 classified in schedule 3, parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and parts 2 and 3 of the Appendix, of the Tariff Schedules, or to any other article for which formal entry is required without regard to value.

1980—Subsec. (a). Pub. L. 96–609 added par. (2) and redesignated former pars. (2) to (11) as (3) to (12), respectively.

1953—Subsec. (a)(1). Act Aug. 8, 1953, § 16(d), increased valuation figure with respect to informal entries from $100 to $250, and inserted provisions with respect to possible variation for different classes or kinds of merchandise and different classes of transactions.

Subsec. (a)(11). Act Aug. 8, 1953, § 16(e), substituted ''paragraph 1631 of section 1201 of this title'' for ''sections 472 to 574 of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98–573, set out as a note under section 1304 of this title.

EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

CUSTOMS DECLARATIONS; PROXIMITY OF LIVESTOCK

Pub. L. 108–90, title V, § 513, Oct. 1, 2003, 117 Stat. 1154, provided that: ''For fiscal year 2004 and thereafter, none of the funds appropriated or otherwise made available to the Department of Homeland Security may be used for the production of customs declarations that do not inquire whether the passenger had been in the proximity of livestock.''

§ 1499. Examination of merchandise

(a) Entry examination

(1) In general

Imported merchandise that is required by law or regulation to be inspected, examined, or appraised shall not be delivered from customs custody (except under such bond or other security as may be prescribed by the Secretary to assure compliance with all applicable laws, regulations, and instructions which the Secretary or the Customs Service is authorized to enforce) until the merchandise has been inspected, appraised, or examined and is reported by the Customs Service to have been truly and correctly invoiced and found to comply with the requirements of the laws of the United States.

(2) Examination

The Customs Service—

(A) shall designate the packages or quantities of merchandise covered by any invoice or entry which are to be opened and examined for the purpose of appraisement or otherwise;

(B) shall order such packages or quantities to be sent to such place as is designated by the Secretary by regulation for such purpose;

(C) may require such additional packages or quantities as the Secretary considers necessary for such purpose; and

(D) shall inspect a sufficient number of shipments, and shall examine a sufficient number of entries, to ensure compliance with the laws enforced by the Customs Service.

(3) Unspecified articles

If any package contains any article not specified in the invoice or entry and, in the opinion of the Customs Service, the article was omitted from the invoice or entry—

(A) with fraudulent intent on the part of the seller, shipper, owner, agent, importer of record, or entry filer, the contents of the entire package in which such article is found shall be subject to seizure; or

(B) without fraudulent intent, the value of the article shall be added to the entry and the duties, fees, and taxes thereon paid accordingly.

(4) Deficiency

If a deficiency is found in quantity, weight, or measure in the examination of any package, the person finding the deficiency shall make a report thereof to the Customs Service. The Customs Service shall make allowance for the deficiency in the liquidation of duties.

(5) Information required for release

If an examination is conducted, any information required for release shall be provided, either electronically or in paper form, to the Customs Service at the port of examination.

The absence of such information does not limit the authority of the Customs Service to conduct an examination.

(b) Testing laboratories

(1) Accreditation of private testing laboratories

The Customs Service shall establish and implement a procedure, under regulations promulgated by the Secretary, for accrediting private laboratories within the United States which may be used to perform tests (that would otherwise be performed by Customs Service laboratories) to establish the characteristics, quantities, or composition of imported merchandise. Such regulations—

(A) shall establish the conditions required for the laboratories to receive and maintain accreditation for purposes of this subsection;

(B) shall establish the conditions regarding the suspension and revocation of accreditation, which may include the imposition of a monetary penalty not to exceed $100,000 and such penalty is in addition to the recovery, from a gauger or laboratory accredited under paragraph (1), of any loss of revenue that may have occurred, but the Customs Service—

(i) may seek to recover lost revenue only in cases where the gauger or laboratory intentionally falsified the analysis or gauging report in collusion with the importer; and

(ii) shall neither assess penalties nor seek to recover lost revenue because of a good faith difference of professional opinion; and

(C) may provide for the imposition of a reasonable charge for accreditation and periodic reaccreditation.

The collection of any charge for accreditation and reaccreditation under this section is not prohibited by section 58c(e)(6) of this title.

(2) Appeal of adverse accreditation decisions

A laboratory applying for accreditation, or that is accredited, under this section may contest any decision or order of the Customs Service denying, suspending, or revoking accreditation, or imposing a monetary penalty, by commencing an action in accordance with chapter 169 of title 28 in the Court of International Trade within 60 days after issuance of the decision or order.

(3) Testing by accredited laboratories

When requested by an importer of record of merchandise, the Customs Service shall authorize the release to the importer of a representative sample of the merchandise for testing, at the expense of the importer, by a laboratory accredited under paragraph (1). The testing results from a laboratory accredited under paragraph (1) that are submitted by an importer of record with respect to merchandise in an entry shall, in the absence of testing results obtained from a Customs Service laboratory, be accepted by the Customs Service if the importer of record certifies that the sample tested was taken from the merchandise in the entry. Nothing in this subsection shall be construed to limit in any way or preclude the authority of the Customs Service to test or analyze any sample or merchandise independently.

(4) Availability of testing procedure, methodologies, and information

Testing procedures and methodologies used by the Customs Service, and information resulting from any testing conducted by the Customs Service, shall be made available as follows:

(A) Testing procedures and methodologies shall be made available upon request to any person unless the procedures or methodologies are—

(i) proprietary to the holder of a copyright or patent related to such procedures or methodologies, or

(ii) developed by the Customs Service for enforcement purposes.

(B) Information resulting from testing shall be made available upon request to the importer of record and any agent thereof unless the information reveals information which is—

(i) proprietary to the holder of a copyright or patent; or

(ii) developed by the Customs Service for enforcement purposes.

(5) Miscellaneous provisions

For purposes of this subsection—

(A) any reference to a private laboratory includes a reference to a private gauger; and

(B) accreditation of private laboratories extends only to the performance of functions by such laboratories that are within the scope of those responsibilities for determinations of the elements relating to admissibility, quantity, composition, or characteristics of imported merchandise that are vested in, or delegated to, the Customs Service.

(c) Detentions

Except in the case of merchandise with respect to which the determination of admissibility is vested in an agency other than the Customs Service, the following apply:

(1) In general

Within the 5-day period (excluding weekends and holidays) following the date on which merchandise is presented for customs examination, the Customs Service shall decide whether to release or detain the merchandise. Merchandise which is not released within such 5-day period shall be considered to be detained merchandise.

(2) Notice of detention

The Customs Service shall issue a notice to the importer or other party having an interest in detained merchandise no later than 5 days, excluding weekends and holidays, after the decision to detain the merchandise is made. The notice shall advise the importer or other interested party of—

(A) the initiation of the detention;

(B) the specific reason for the detention;

(C) the anticipated length of the detention;

(D) the nature of the tests or inquiries to be conducted; and

(E) the nature of any information which, if supplied to the Customs Service, may accelerate the disposition of the detention.

(3) Testing results

Upon request by the importer or other party having an interest in detained merchandise, the Customs Service shall provide the party with copies of the results of any testing conducted by the Customs Service on the merchandise and a description of the testing procedures and methodologies (unless such procedures or methodologies are proprietary to the holder of a copyright or patent or were developed by the Customs Service for enforcement purposes). The results and test description shall be in sufficient detail to permit the duplication and analysis of the testing and the results.

(4) Seizure and forfeiture

If otherwise provided by law, detained merchandise may be seized and forfeited.

(5) Effect of failure to make determination

(A) The failure by the Customs Service to make a final determination with respect to the admissibility of detained merchandise within 30 days after the merchandise has been presented for customs examination, or such longer period if specifically authorized by law, shall be treated as a decision of the Customs Service to exclude the merchandise for purposes of section 1514(a)(4) of this title.

(B) For purposes of section 1581 of title 28, a protest against the decision to exclude the merchandise which has not been allowed or denied in whole or in part before the 30th day after the day on which the protest was filed shall be treated as having been denied on such 30th day.

(C) Notwithstanding section 2639 of title 28, once an action respecting a detention is commenced, unless the Customs Service establishes by a preponderance of the evidence that an admissibility decision has not been reached for good cause, the court shall grant the appropriate relief which may include, but is not limited to, an order to cancel the detention and release the merchandise.

(June 17, 1930, ch. 497, title IV, § 499, 46 Stat. 728; June 25, 1938, ch. 679, §§ 15, 16(a), 52 Stat. 1084; Pub. L. 91–271, title III, § 301(k), June 2, 1970, 84 Stat. 289; Pub. L. 103–182, title VI, § 613(a), Dec. 8, 1993, 107 Stat. 2171.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 499, 42 Stat. 965. That section was superseded by section 499 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

A prior provision prohibiting delivery of merchandise liable to be inspected or appraised, until it had been inspected or appraised, or until the packages sent to be inspected or appraised, should be found correctly invoiced, and be so reported, with a further provision as to the taking of bonds conditioned for delivery of the merchandise, and the forfeiture of such bonds, was contained in R.S. § 2899.

Provisions substantially similar to those in this section concerning the number of packages to be examined (not including the provision for designation of a less number by the Secretary of the Treasury) and concerning packages found to contain articles not specified in the invoice, with a further provision for remission of the forfeiture, were contained in R.S. § 2901.

A prior provision, concerning deficiencies somewhat similar to that in this section, was contained in R.S. § 2921.

A special provision concerning the number of packages to be examined and appraised at the port of New York was contained in R.S. § 2939.

A provision concerning returns by weighers, gaugers, and measurers, was contained in R.S. § 2890.

All of the foregoing sections of the Revised Statutes were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

AMENDMENTS

1993—Pub. L. 103–182 amended section generally, substituting present provisions for provisions which required imported merchandise to be inspected, examined, appraised, and reported by appropriate customs officer to have been truly and correctly invoiced and found to comply with requirements of laws of the United States prior to release of such merchandise from customs custody.

1970—Pub. L. 91–271 substituted references to appropriate customs officer or such officer for references to collector or appraiser wherever appearing, and struck out references to duties of appraiser.

1938—Act June 25, 1938, amended section generally and among other changes inserted provision relating to invalidity of appraisements made after effective date of Customs Administrative Act of 1938.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91–271, see section 203 of Pub. L. 91–271, set out as a note under section 1500 of this title.

EFFECTIVE DATE OF 1938 AMENDMENT

Amendment by act June 25, 1938, effective on thirtieth day following June 25, 1938, except as otherwise specifically provided, see section 37 of act June 25, 1938, set out as a note under section 1401 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all other officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

EXISTING LABORATORIES

Section § 613(b) of Pub. L. 103–182 provided that: ''Accreditation under section 499(b) of the Tariff Act of 1930 [19 U.S.C. 1499(b)] (as added by subsection (a)) is not required for any private laboratory (including any gauger) that was accredited or approved by the Customs Service as of the day before the date of the enactment of this Act [Dec. 8, 1993]; but any such laboratory is subject to reaccreditation under the provisions of such section and the regulations promulgated thereunder.''

§ 1500. Appraisement, classification, and liquidation procedure

The Customs Service shall, under rules and regulations prescribed by the Secretary—

(a) fix the final appraisement of merchandise by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, other document to the contrary notwithstanding;

(b) fix the final classification and rate of duty applicable to such merchandise;

(c) fix the final amount of duty to be paid on such merchandise and determine any increased or additional duties, taxes, and fees due or any excess of duties, taxes, and fees deposited;

(d) liquidate the entry and reconciliation, if any, of such merchandise; and

(e) give or transmit, pursuant to an electronic data interchange system, notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall by regulation prescribe.

(June 17, 1930, ch. 497, title IV, § 500, 46 Stat. 729; Aug. 2, 1956, ch. 887, § 4(b), 70 Stat. 948; Pub. L. 91–271, title II, § 204(a), June 2, 1970, 84 Stat. 283; Pub. L. 96–39, title II, § 202(a)(4), July 26, 1979, 93 Stat. 202; Pub. L. 103–182, title VI, § 638, Dec. 8, 1993, 107 Stat. 2203.)

Prior Provisions

Provisions similar to those in this section were contained in act Sept. 21, 1922, ch. 356, title IV, § 500, 42 Stat. 965. That section was superseded by section 500 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Provisions dealing with the subject matter of subdivision (a) of this section were contained in act Oct. 3, 1913, ch. 16, § III, K, 38 Stat. 185, reenacting without change the provisions of the Customs Administrative Act of June 10, 1890, ch. 407, § 10, 26 Stat. 136, as reenacted by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 97. A provision somewhat similar to subdivision (a)(5) of this section was contained in section III, M, of the 1913 act, the provisions of which were substituted for provisions of the same nature contained in section 13 of the Customs Administrative Act of June 10, 1890, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 99. Said section III of the 1913 act was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

R.S. §§ 2609, 2610, relative to merchant appraisers, were superseded by the provisions relating to appraisers and appraisements in the Customs Administrative Act of June 10, 1890, ch. 407, 26 Stat. 131, and later acts, and were repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2902 prescribed the mode of appraisal of merchandise, prior to repeal by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

R.S. § 2911 required appraisers to adopt the value of the best article in a package containing articles wholly or in part of wool or cotton of similar kind but different quality, charged at an average price, and R.S. § 2912 related to appraisal of wool of different qualities when imported in the same bale, bag, or package, and of bales of different qualities when embraced in the same invoice, prior to repeal by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2945 imposed a penalty on any merchant chosen by the collector to make any appraisement required under any act respecting imports and tonnage, who should, after due notice, decline or neglect to assess at such appraisement. This section was repealed by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141, and was again repealed by act Sept. 21, 1922, ch. 356, title IV, § 642, 42 Stat. 989.

R.S. § 2946 related to the ascertainment of value at ports where there were no appraisers, prior to repeal by section 642 of the act of Sept. 21, 1922, ch. 356.

A prior provision similar to subdivision (b) was contained in act Oct. 3, 1913, ch. 16, § III, M, 38 Stat. 186, the provisions of which were substitutes for those of the Customs Administrative Act of June 10, 1890, ch. 407, § 13, 26 Stat. 136, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 99. Section III, M, was repealed by act Sept. 21, 1922, ch. 356, title IV, § 643, 42 Stat. 989.

An earlier provision on the subject was contained in R.S. § 2929, prior to repeal by Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141.

Somewhat similar to subdivision (d), R.S. § 2943 provided that one of the assistant appraisers at the port of New York should be detailed for the supervision of examination of merchandise damaged on the voyage of importation, and to make examinations and appraisals and to report, etc. It was repealed, with R.S. § 2927, which provided for appraisal of such goods, and other sections, by the Customs Administrative Act of June 10, 1890, ch. 407, § 29, 26 Stat. 141, reenacted and designated as section 28 by the Payne-Aldrich Tariff Act of Aug. 5, 1909, ch. 6, § 28, 36 Stat. 104.

Amendments

1993—Pub. L. 103–182, § 638(1), substituted ''The Customs Service'' for ''The appropriate customs officer'' in introductory provisions.

Subd. (a). Pub. L. 103–182, § 638(2), substituted ''fix the final appraisement of'' for ''appraise''.

Subd. (b). Pub. L. 103–182, § 638(3), substituted ''fix the final'' for ''ascertain the''.

Subd. (c). Pub. L. 103–182, § 638(4), inserted ''final'' after ''fix the'' and '', taxes, and fees'' after ''duties'' in two places.

Subds. (d) and (e). Pub. L. 103–182, § 638(5), amended subds. (d) and (e) generally. Prior to amendment, subds. (d) and (e) read as follows:

''(d) liquidate the entry of such merchandise; and

''(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations.''

1979—Subd. (a). Pub. L. 96–39 substituted ''by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document'' for ''in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document''.

1970—Pub. L. 91–271 struck out ''(a)'' preceding first sentence and, in such provisions, as so redesignated, substituted provisions which set forth the customs functions to be performed by the appropriate customs officer for provisions which set forth the customs functions to be performed by the appraiser, and struck out subds. (b) to (f), which allocated specific customs functions to appraisers, assistant and deputy appraisers, and examiners, and authorized the designation of acting appraisers where necessary.

1956—Subd. (f). Act Aug. 2, 1956, struck out ''take the oath,'' before ''perform all the duties'' in second sentence, and struck out comma after ''perform all duties''.

Effective Date of 1979 Amendment

Amendment by Pub. L. 96–39 effective July 1, 1980, see section 204(a) of Pub. L. 96–39, set out as a note under section 1401a of this title.

Effective Date of 1970 Amendment

Section 203 of Pub. L. 91–271 provided that: ''Titles II and III of this Act [see Short Title of 1970 Amendment