

Program:	710-S							
Term:	Date of Award to April 30, 2024							
Title:	Custom Regulations of The United States and Supplemental Updates							
			<b>ADVANTAGE</b>					
			<b>MAILING LLC</b>		<b>NPC, INC</b>		<b>CURRENT CONTRACTOR</b>	
			Anaheim, CA		Claysburg, PA		NPC, INC	
ITEM NO.	DESCRIPTION	BASIS OF AWARD	UNIT RATE	COST	UNIT RATE	COST	UNIT RATE	COST
<b>I.</b>	<b>FILE CREATION:</b>							
(a)	Creating Full Text Database.....per page (one time charge)...	1,518	\$2.50	\$3,795.00	\$2.00	\$3,036.00	\$2.00	\$3,036.00
(b)	Update/Maintenance of System Data File.....per page (Text or Tabular) ...	1,518	\$15.00	\$22,770.00	\$21.52	\$32,667.36	\$16.00	\$24,288.00
<b>II.</b>	<b>PRINTING AND BINDING:</b>							
(a)	Text.....per page.....							
(1)	<b>Make-ready and/or Setup</b>	1,518	\$7.50	\$11,385.00	\$3.00	\$4,554.00	\$4.30	\$6,527.40
(2)	<b>Running Per 100 Copies</b>	41,374	\$2.25	\$93,091.50	\$1.76	\$72,818.24	\$1.97	\$81,506.78
(b)	Cover Pages.....per complete cover.....							
(1)	<b>Make-ready and/or Setup</b>	1	\$500.00	\$500.00	\$100.00	\$100.00	\$120.79	\$120.79
(2)	<b>Running Per 100 Copies</b>	27	\$15.00	\$405.00	\$15.75	\$425.25	\$12.76	\$344.52
(c)	Tab Dividers: Printing both sides in black or PMS.....per divider.....							
(1)	<b>Make-ready and/or Setup</b>	62	\$50.00	\$3,100.00	No Charge	\$0.00	No Charge	\$0.00
(2)	<b>Running Per 100 Copies</b>	1,666	\$7.50	\$12,495.00	\$10.75	\$17,909.50	\$6.50	\$10,829.00
<b>III.</b>	<b>PACKING AND DISTRIBUTION (including pallets):</b>							
(a)	Bulk Shipments (other than by mail):							
(1)	Packing and sealing shipping containers.....each container.....	310	\$1.50	\$465.00	\$1.10	\$341.00	\$1.10	\$341.00
(b)	Mailing:							
(1)	Single copy in Kraft envelope (up to 200 leaves) .....per envelope.....	1,249	\$1.00	\$1,249.00	\$1.00	\$1,249.00	\$0.80	\$999.20
(2)	Single or multiple copies over 200 leaves, up to 16.3 kg (36 lbs.) in cushioned shipping bags, wrapped in shipping bundles or packed in shipping containers(at contractor's option) (maximum gross weight 18.1 kg (40-lbs.) .....per bag or bundle.....	804	\$2.50	\$2,010.00	\$2.00	\$1,608.00	\$1.10	\$884.40
(3)	Individual mailing containers printed on spine (includes packing and sealing).....per container.....	150	\$10.00	\$1,500.00	\$1.50	\$225.00	\$0.80	\$120.00
	<b>CONTRACTOR TOTALS</b>			<b>\$152,765.50</b>		<b>\$134,933.35</b>		<b>\$128,997.09</b>
	<b>DISCOUNT</b>		<b>0.50%</b>	\$763.83	<b>0.25%</b>	\$337.33	<b>0.25%</b>	\$322.49
	<b>DISCOUNTED TOTALS</b>			<b>\$152,001.67</b>		<b>\$134,596.02</b>		<b>\$128,674.60</b>
						<b>AWARDED</b>		

**U.S. GOVERNMENT PUBLISHING OFFICE**

Washington DC

GENERAL TERMS, CONDITIONS, AND SPECIFICATIONS

For the Procurement of

**Customs Regulations of the United States and Supplemental Updates**

as requisitioned from the U.S. Government Publishing Office (GPO) by the

**Department of Homeland Security (DHS)  
Bureau of Customs and Border Protection (CBP)**

Single Award

**TERM OF CONTRACT:** The term of this contract is for the period beginning **Date of Award** and ending **April 30, 2024** plus up to *four (4)* optional 12-month extension period(s) that may be added in accordance with the "OPTION TO EXTEND THE TERM OF THE CONTRACT" clause in Section 1 of this contract.

**BID OPENING:** Bids shall be opened at 11:00 a.m., prevailing Washington, DC Time, on **April 20, 2023**, at the Government Publishing Office, Washington, DC. (Due to the COVID-19 pandemic, this will NOT be a public bid opening.)

**BID SUBMISSION:** Due to the COVID-19 pandemic, the physical office will NOT be open. Based on this, bidders must submit email bids to [bidsapsdc@gpo.gov](mailto:bidsapsdc@gpo.gov) for this solicitation. No other method of bid submission will be accepted at this time.

The Program 710-S and bid opening date must be specified in the subject line of the emailed bid submission. Bids received after 11:00 a.m. on the bid opening date specified above will not be considered for award.

**PRODUCTION AREA:** It is assumed that all production facilities used in the manufacture of the products ordered under this contract will be located within a 125-mile radius of zero milestone, Washington, DC.

Any bidder intending to use production facilities outside this area should furnish information, with the bid, which will on its face demonstrate ability to meet the schedule requirements. The determination by the Government of the acceptability of this information in no way relieves the successful bidder of the responsibility for compliance with these schedule requirements.

**BIDDERS, PLEASE NOTE:** These specifications have been revised; therefore, all bidders are cautioned to familiarize themselves with all provisions of these specifications before bidding.

Abstracts of contract prices are available at: <https://www.gpo.gov/how-to-work-with-us/vendors/contract-pricing>.

For information of a technical nature, call **David Love** at (202) 512-0104 or email [dlove@gpo.gov](mailto:dlove@gpo.gov).

## SECTION 1 - GENERAL TERMS AND CONDITIONS

**GPO CONTRACT TERMS:** Any contract which results from this Invitation for Bid will be subject to the applicable provisions, clauses, and supplemental specifications of GPO Contract Terms (GPO Publication 310.2, effective December 1, 1987 (Rev. 01-18)) and GPO Contract Terms, Quality Assurance through Attributes Program for Printing and Binding (GPO Publication 310.1, effective May 1979 (Rev. 09-19)).

GPO Contract Terms (GPO Publication 310.2) –

<https://www.gpo.gov/docs/default-source/forms-and-standards-files-for-vendors/contractterms2018.pdf>.

GPO QATAP (GPO Publication 310.1) –

<https://www.gpo.gov/docs/default-source/forms-and-standards-files-for-vendors/qatap-rev-09-19.pdf>

**SUBCONTRACTING:** The predominant production functions may be either data capture/composition/computer page creation, or printing. Any bidder who must subcontract both operations will be declared non-responsible.

**QUALITY ASSURANCE LEVELS AND STANDARDS:** The following levels and standards shall apply to these specifications:

Product Quality Levels:

- (a) Printing (page related) Attributes -- Level III.
- (b) Finishing (item related) Attributes -- Level III.

Inspection Levels (from ANSI/ASQC Z1.4):

- (a) Non-destructive Tests - General Inspection Level I.
- (b) Destructive Tests - Special Inspection Level S-2.

Specified Standards: The specified standards for the attributes requiring them shall be:

<u>Attribute</u>	<u>Specified Standard</u>
P-7. Type Quality and Uniformity	Average type dimension in publication

**OPTION TO EXTEND THE TERM OF THE CONTRACT:** The Government has the option to extend the term of this contract for a period of 12 months by written notice to the contractor not later than 30 days before the contract expires. If the Government exercises this option, the extended contract shall be considered to include this clause except, the total duration of this contract may not exceed **five years** as a result of, and including, any extensions added under this clause. Further extension may be negotiated under the "EXTENSION OF CONTRACT TERM" clause. See also "ECONOMIC PRICE ADJUSTMENT" for authorized pricing adjustments.

**EXTENSION OF CONTRACT TERM:** At the request of the Government, the term of any contract resulting from this solicitation may be extended for such period of time as may be mutually agreeable to the GPO and the contractor.

**ECONOMIC PRICE ADJUSTMENT:** The pricing under this contract shall be adjusted in accordance with this clause, provided that in no event will any pricing adjustment be made that would exceed the maximum permissible under any law in effect at the time of the adjustment. There will be no adjustment for orders placed during the first period specified below. Pricing will thereafter be eligible for adjustment during the second and any succeeding performance period(s). For each performance period after the first, a percentage figure will be calculated as described below and that figure will be the economic price adjustment for that entire next period. Pricing adjustments under this clause are not applicable to reimbursable postage or transportation costs, or to paper, if paper prices are subject to adjustment by separate clause elsewhere in this contract.

For the purpose of this clause, performance under this contract will be divided into successive periods. The first period will extend from **Date of Award** through **April 30, 2024**, and the second and any succeeding period(s) will extend for 12 months from the end of the last preceding period, except that the length of the final period may vary. The first day of the second and any succeeding period(s) will be the effective date of the economic price adjustment for that period.

Pricing adjustments in accordance with this clause will be based on changes in the seasonally adjusted “Consumer Price Index For All Urban Consumers - Commodities Less Food” (Index) published monthly in the CPI Detailed Report by the U.S. Department of Labor, Bureau of Labor Statistics.

The economic price adjustment will be the percentage difference between Index averages as specified in this paragraph. An index called the variable index will be calculated by averaging the monthly Indexes from the 12-month interval ending three (3) months prior to the beginning of the period being considered for adjustment. This average is then compared to the average of the monthly Indexes for the 12-month interval ending **January 31, 2023**, called the base index. The percentage change (plus or minus) of the variable index from the base index will be the economic price adjustment for the period being considered for adjustment.

The Government will notify the contractor by contract modification specifying the percentage increase or decrease to be applied to invoices for orders placed during the period indicated. The contractor shall apply the percentage increase or decrease against the total price of the invoice less reimbursable postage or transportation costs and separately adjusted paper prices. Payment discounts shall be applied after the invoice price is adjusted.

If the Government exercises an option, the extended contract shall be considered to include this economic price adjustment clause.

**NOTE:** Economic price adjustments are not cumulative and are to be applied to original bid prices only.

**PREAWARD SURVEY:** In order to determine the responsibility of the prime contractor/subcontractor, the Government reserves the right to conduct an on-site preaward survey at the contractor’s/subcontractors’ facility or to require other evidence of technical, production, managerial, financial, and similar abilities to perform, prior to the award of a contract. As part of the financial determination, the contractor in line for award may be required to provide one or more of the following financial documents:

- 1) Most recent profit and loss statement
- 2) Most recent balance sheet(s)
- 3) Statement of cash flows
- 4) Current official bank statement
- 5) Current lines of credit (with amounts available)
- 6) Letter of commitment from paper supplier(s)
- 7) Letter of commitment from any subcontractor

The documents will be reviewed to validate that adequate financial resources are available to perform the contract requirements. Documents submitted will be kept confidential, and used only for the determination of responsibility by the Government. Failure to provide the requested information in the time specified by the Government may result in the Contracting Officer not having adequate information to reach an affirmative determination of responsibility.

If award is predicated on the purchase of production and/or systems equipment to meet the contract requirements, the contractor must provide purchase order(s) with delivery date(s) at least 45 days prior to the established production date.

**PRE-AWARD TEST:** The contractor being considered for award will be required to demonstrate their ability to print the items(s) required in these specifications at the requisite quality level by completing a pre-award test

**NOTE:** The preaward test must be performed at the same facilities and on the same equipment that will be used to produce the requirements for this contract.

**The Government may waive the pre-award test if there is other evidence, in the opinion of the Contracting Officer, which indicates the contractor being considered for award has the capability to successfully produce the item(s) required.**

The prospective contractor must pick up from the Government furnished sample material, conforming in all respects to the specifications and produce a representative order, which will demonstrate their ability to extract data and reformat it as required in the specifications, including the following:

- (1) Locate and download the U.S. Customs Service Customs Regulations of the United States, 2021 Edition (Revised as of September 30, 2021), on the internet, within the following websites:

<http://www.ecfr.gov/cgi-bin/ECFR?page=browse>

<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR&browsePath=2012&isCollapsed=true&leafLevelBrowse=false&ycord=0>

- (2) Create a loose-leaf Full Text Data Base from the required downloaded files, with searchable Index, in accordance with contract specifications.
- (3) Format the document as per contract specifications.
- (4) Proofread document with a quality control of no more than 1 error per 5,000 characters.
- (5) Make corrections if necessary in text.
- (6) Produce a soft proof in PDF, in accordance with these specifications, on CD-R or DVD-R, depending on the size of the publication.

The pre-award test results must be delivered to: U.S. Government Publishing Office, Quality Control for Procured Printing, 732 North Capitol Street NW, Stop: CSPPS, Room C848, Washington, DC 20401.

Samples should be clearly marked as: "Pre-Award Test Samples for Program 710-S"

When the package is shipped a tracking number for the delivery should be emailed to: [QCAPP@gpo.gov](mailto:QCAPP@gpo.gov).

**Approval/Disapproval of Preaward Test:** Approval will be based upon fulfilling all of the requirements of the specifications within the time specified. A single deviation from the contract specifications or failure to complete delivery within the time specified may result in declaring the contractor non-responsible.

At the option of the Government, and if so notified by the Contracting Officer, the contractor may be permitted additional time to correct minor defects or to submit additional test material. The time allowed to provide additional test material may differ depending upon the nature of the defects noted. This will be specified when notification is given.

No charge will be allowed for any materials and services necessary to perform the test or the preaward survey requirements. Pre-award electronic media (i.e. CD-R or DVD-R) will not be returned to the contractor at the conclusion of the testing.

**POSTAWARD CONFERENCE:** Unless waived by the Contracting Officer, the total requirements of the job as indicated in these specifications will be reviewed by Government representatives with the contractor's representatives at the U.S. Government Publishing Office, Washington, DC, immediately after award. At the Government's option, the postaward conference may be held via teleconference.

Person(s) that the contractor deems necessary for the successful implementation of the contract must be in attendance.

**ASSIGNMENT OF JACKETS, PURCHASE AND PRINT ORDERS:** A GPO Jacket Number will be assigned and a Purchase Order issued to the contractor to cover work performed. The Purchase Order will be supplemented by an individual "Print Order" for each job placed with the contractor. The Print Order, when issued, will indicate the quantity to be produced and any other information pertinent to the particular order.

**ORDERING:** Items to be furnished under the contract shall be ordered by the issuance of print orders by the Government. Orders may be issued under the contract from **Date of Award** through **April 30, 2024**, plus for such additional period(s) as the contract is extended. All print orders issued hereunder are subject to the terms and conditions of the contract. The contract shall control in the event of conflict with any print order. A print order shall be "issued" upon notification by the Government for purposes of the contract when it is electronically transmitted or otherwise physically furnished to the contractor in conformance with the schedule.

**REQUIREMENTS:** This is a requirements contract for the items and for the period specified herein. Shipment/delivery of items or performance of work shall be made only as authorized by orders issued in accordance with the clause entitled "Ordering". The quantities of items specified herein are estimates only, and are not purchased hereby. Except as may be otherwise provided in this contract, if the Government's requirements for the items set forth herein do not result in orders in the amounts or quantities described as "estimated", it shall not constitute the basis for an equitable price adjustment under this contract.

Except as otherwise provided in this contract, the Government shall order from the contractor all the items set forth which are required to be purchased by the Government activity identified on page 1.

The Government shall not be required to purchase from the contractor, requirements in excess of the limit on total orders under this contract, if any.

Orders issued during the effective period of this contract and not completed within that time shall be completed by the contractor within the time specified in the order, and the rights and obligations of the contractor and the Government respecting those orders shall be governed by the terms of this contract to the same extent as if completed during the effective period of this contract.

If shipment/delivery of any quantity of an item covered by the contract is required by reason of urgency prior to the earliest date that shipment/delivery may be specified under this contract, and if the contractor will not accept an order providing for the accelerated shipment/delivery, the Government may procure this requirement from another source.

The Government may issue orders which provide for shipment/delivery to or performance at multiple destinations.

Subject to any limitations elsewhere in this contract, the contractor shall furnish to the Government all items set forth herein which are called for by print orders issued in accordance with the "Ordering" clause of this contract.

**ADDITIONAL EMAILED BID SUBMISSION PROVISIONS:** The Government will not be responsible for any failure attributable to the transmission or receipt of the emailed bid including, but not limited to, the following:

1. Illegibility of bid.
2. Emails over 75 MB may not be received by GPO due to size limitations for receiving emails.
3. The bidder's email provider may have different size limitations for sending email; however, bidders are advised not to exceed GPO's stated limit.
4. When the email bid is received by GPO, it will remain unopened until the specified bid opening time. Government personnel will not validate receipt of the emailed bid prior to bid opening. GPO will use the prevailing time (specified as the local time zone) and the exact time that the email is received by GPO's email server as the official time stamp for bid receipt at the specified location.

**PAYMENT:** Prior to submitting billing invoice to GPO for payment, the contractor shall submit an itemized statement for billing to the ordering agency for examination and certification as to the correctness of the billing. Unless otherwise specified, contractor to submit billing to: [tristina.l.mancuso@cbp.dhs.gov](mailto:tristina.l.mancuso@cbp.dhs.gov).

After agency verification, contractor must submit the signed, verified billing invoice to the U.S. Government Publishing Office for payment.

Submitting invoices for payment via the GPO fax gateway (if no samples are required) utilizing the GPO barcode coversheet program application is the most efficient method of invoicing. Instruction for using this method can be found at the following web address:

<http://winapps.access.gpo.gov/fms/vouchers/barcode/instructions.html>.

Invoices may also be mailed to: U.S. Government Publishing Office, Office of Financial Management, Attn: Comptroller, Stop: FMCE, Washington, DC 20401. For more information about the billing process, refer to the General Information of the Office of Finance web page located at: <http://www.gpo.gov/finance/index.htm>.

***Contractor's billing must be itemized in strict accordance with the line items in the "SCHEDULE OF PRICES."***

## SECTION 2- SPECIFICATIONS

**SCOPE:** These specifications cover the production of a loose-leaf book and supplemental updates with transmittal and filing instruction pages, and Index, requiring such operations as initial creation and updating/maintenance of a database file system, downloading and researching data from the internet, keyboarding, page composition, tab dividers, printing, packing, and distribution.

**TITLE:** Customs Regulations and Supplemental Updates

### **FREQUENCY OF ORDERS:**

**NOTE:** Production of the Customs Regulations and Supplemental Updates will pick up where the previous contractor ended. The Customs Regulations is produced after eight supplements have been issued.

*Supplemental Updates* - Quarterly (three to four orders per year).

*Customs Regulations* – Biannually (approximately one order per year).

### **QUANTITY:**

*Supplemental Updates* - approximately 2,500 to 3,300 copies per order.

*Customs Regulations* - approximately 2,500 to 3,300 copies per order

### **NUMBER OF PAGES:**

*Supplemental Updates* - approximately 20 - 100 pages per order.

**NOTE:** An occasional order may be for less than 20 pages or for more than 100 pages.

*Customs Regulations* - approximately 1,100 to 1,400 pages per order

### **TRIM SIZE:**

Text and Cover: 8-1/2 x 11".

Tab Dividers: 9 x 11" including 1/2" tab. 1/5" up to 1/10" cuts

### **DEFINITIONS:**

- (a) *Supplemental Updates:* Loose-leaf pages containing recently published information and guidance on Customs Regulations.
- (b) *Filing Instructions:* The detailed instructions to users for removing existing pages from, and inserting the new pages into the supplement. If required, all filing instructions are prepared by the contractor.
- (c) *Full Page Makeup System:* A system consisting of hardware with supporting software capable of electronically composing full multi-column text and/or tabular pages WITHOUT MANUAL INTERVENTION.
- (d) *Full Text Data Base (FTDB):* Electronic media (i.e. Email; contractor-hosted FTP server) containing all of a publication's data plus data element identifiers in a prescribed structure, and complete documentation.
- (e) *Loose-leaf System:* The term "loose-leaf system" as used herein includes the following:
  - (1) A publication known as the "Customs Regulations". This publication is initially issued in the form of leaves printed on a single unit basis with 3 holes drilled along the left margin. Leaves may be issued in or out of folio and system reference number sequence. Changes may be made by issuing leaves with pages containing revisions, additions or deletions to any division or group of divisions within a single product.



- (2) A system of updates or supplements with random leaves or groups of leaves containing revisions to existing material. Supplements are grouped into folio sequence. Filing Instructions are prepared indicating the folios to be removed from the current basic publication and the folios from the supplement which are to be inserted. Filing Instructions are not a part of the database.
- (3) A database which contains all text material in the current loose-leaf publication. The database is used to produce the supplements by permitting individual pages to be selected for revising existing materials, adding new materials, or deleting materials no longer required. The contractor prepares all changes, new material or deletions and insures insertion consistent with the program and style requirements of the existing loose-leaf system.

THE DATABASE MUST ALWAYS BE UPDATED TO MATCH THE LOOSELEAF PUBLICATION.

- (4) A pagination/composition system capable of providing compressed text, hyphenated pages, or new pages fully made-up, as necessary, to accomplish the requirements of the loose-leaf system. The pagination/composition system must be capable of duplicating the structure of the existing Customs Regulations publication.

This requirement will be accomplished as follows:

- (a) Deletion of material within a text page. Portions of Text may be re-flowed.
- (b) Deletion of a page or string of pages. A section of text both prior to and following the deletion may be "closed-up" at the discretion of the Government. Automatic "close-up" may be used unless large groups of unnecessary pages must be re-composed and/or re-issued. If "close-up" results in folio gaps, a next page reference will always be used.
- (c) Additions within an established sequence of pages. New text may be inserted at any point within the page. Existing text will be pushed backward or forward, as required, to the amount necessary for all continuous text to be inserted.

**NOTE:** If additional sequential folios are not available, hyphenated folios will be used.

- (d) Additions at the end of an existing section or established sequence of pages. Materials may be added at the end of any division or section within a division by adding folios with the new material. Folio space must be available prior to folios beginning the next division or section. If folios are not available, the Government will decide whether to re-folio and reprint, or move the text to an alternate location. Next page references will always be used for pages within a division, including section endings. Next page references are not used at the end of a division.

**NOTE:** Right hand (odd number) pages are never to be blank.

- (e) *Supplement:* Normally containing between 20 and 100 loose-leaf pages. Supplements are numbered and issued separately for each update and may contain pages with revised or new materials. Each supplement contains filing instructions detailing the pages in the basic Customs Regulations manual to be removed, and the new or revised pages to be inserted.
- (f) *Update:* Any deviations, additions, changes or deletions from the previous edition.
- (g) *Government Project Director:* The person at the U.S. Customs and Border Protection who is responsible for all technical work under the terms of the contract. All work and directions to the contractor will originate with the Government Project Director. The project director may not authorize any work outside the requirements of these specifications.

**EXHIBITS:** Exhibits are representative of printing requirements which will be ordered under this contract. However, it cannot be guaranteed that future orders will correspond exactly to these exhibits.

**GOVERNMENT TO FURNISH:**

Camera copy for cover

Sample from a previous printing, and a distribution list (For first order only.)

U.S. Customs and Border Protection may provide additional changes and or corrections which are not found on the internet.

The contractor will also be required to check various website(s) for changes and or corrections.

**NOTE:** See Preaward test for listing of required websites.

MS Excel distribution list

PS Form 3602-G - Postage Statement - Penalty Permit Imprint. This is a special form printed with the GPO address on it.

Identification markings such as register marks, commercial identification marks of any kind, etc., except GPO imprint, form number, and revision date, carried in the electronic files, must not print on finished product.

**CONTRACTOR TO FURNISH:** All materials and operations, other than those listed under "Government to Furnish," necessary to produce the products in accordance with these specifications.

Contractor must be able to send and accept files electronically via a contractor-hosted File Transfer Protocol (FTP) server. Appropriate log-on instructions and protocol must be provided at time of award. The contractor must provide necessary security for the FTP, which at a minimum, must have a unique user ID and password.

After completion of each print order the contractor will be required to provide to the Agency a searchable pdf copy of the complete publication

*Fonts:* Typefaces and Sizes: Unless otherwise indicated, the contractor is required to furnish the following: Helvetica, Roman, Italic, Bold, Italic Bold, 6 to 24 points.

Contractor will be required to create a database by going to the internet website(s) which contain the Federal Register and then download, create, and format the most recent Biannual issue of the Customs Regulations of the United States, 2021 Edition (Revised as of September 30, 2021) and any supplemental updates that have occurred thereafter.

The contractor must check various websites on a daily basis for Department of Homeland Security Internal Rules and Final Rules that apply to the U.S. Customs and Border Protection to keep these items up to date making any necessary changes and corrections.

**NOTE:** See Preaward test for listing of required websites.

Contractor will be required to examine all furnished material immediately upon receipt. If at that time there is a disagreement with the description or the requirements, or additional time is required to develop interface programs or perform other data manipulation in order to output the products required, due to any fault by the Government, the contractor must notify the Government Publishing Office immediately. Any agreement as to additional performance and/or revisions in the schedule, if appropriate, must be approved in advance by the Government Publishing Office Contracting Officer.

Contractor must establish and maintain the necessary computer software to create a separate database (which will contain the supplement being worked on) from the master database which contains the data/publication which will ultimately become the biannual edition. Both databases must be capable of updating, storing in loose-leaf page form, making revisions to the data for each supplement issued and produce pages in loose-leaf form.

## **MASTER DATABASE AND COMPOSITION REQUIREMENTS:**

The Customs Regulations system is composed of an electronic loose-leaf database. The loose-leaf publication is updated through the process of issuing supplements, which, by being filed in the loose-leaf volumes, create a new current publication.

The master system database, henceforth referred to as the database, is updated by merging the material from a supplement file into the database. The database is based on the folio designations of the loose-leaf publication and, through the merging of current supplements, must always be updated.

Any change (deletion or addition) to the supplement must also be made to the database. As a result, the Government will only pay the per page charge when the contractor bills for the supplement. Contractor will not bill for any changes to the database when billing for the biannual issue.

The data capture and typesetting requirements used to create the supplements are the basis for maintaining the database, which is then used to provide the basis for further supplements. For example, a supplement may result in information added to the database. This information may be updated or modified in a later supplement by "selecting off" the appropriate folios from the database for modification through additional page composition. The database is then again updated based on a merge of the new supplement.

## **DATABASE FILE STRUCTURE:**

All files delivered to the Government either for verification on a quarterly basis, or at termination of the contract, will be organized in the following manner:

- (a) *System folio numbers:* The database is output in the form of a loose-leaf publication. The information is designed to be output as a continuing publication and is also used to create a continuing database. The individual pages can be corrected, revised, added-to or otherwise amended. The data from these changes is then output in the form of new loose-leaf pages.

Folios will be determined by the loose-leaf pagination and composition system. Because the loose-leaf system provides for the revision of materials, which may add more new text than currently exists on a single page, both the pagination and the database must be able to account for this process. Hyphenated pagination should be used for this purpose.

The database must contain a file retrieval sequence based on the folio number of the publication.

- (b) *File Updating/Maintenance:* Each Customs Regulations Supplement results in additions, changes or deletions to one or more divisions of the publication. The Government requires the following database maintenance specifications:

- Master Databases must be maintained in a fully updated form.
- Back-up files must be maintained on a daily basis.
- Master Database file sequence by publication page number. File structure will reflect this sequence.

**NOTE:** Minimum-level changes will not be permitted. Each change to a division requires full updating. The computer text data file must exactly duplicate the printed file (pages).

## **SYSTEM COMPOSITION REQUIREMENTS:**

Contractor must establish and maintain the necessary computer software to accept the loading of MS Word files, or any other files provided by the Government.

The Government views the composition segment of this contract as a basic part of the output preparation process.

Format, file structure, and system portability are all equally important.

**FORMATS:** The Customs Regulations system is an existing and constantly evolving publication. The database contains all of the "CODE OF FEDERAL REGULATIONS" which deals with Customs Regulations. Because of the continuing nature of the loose-leaf program, the database continues as the source of both data and text elements.

The contractor must provide all programming or specification development needed to create the database, and provide continued composition of the database, based on new material issued as supplements. This means the contractor must be prepared to duplicate the composition and pagination structure of the existing loose-leaf publication. Accordingly, the Government assumes that the contractor is prepared to continue an ongoing program of issuing supplements to existing publications.

The Government assumes no responsibility for any modification to the contractor's existing composition programs to conform them to the present formats, nor for the purchase of any equipment necessary to perform required future composition operations.

The format pages, as shown in the exhibits are representative of formats that will be ordered under these specifications. While the formats provided will apply to most of the material, variations in the formats will be needed for some portions of the text. In these instances, the Government will indicate how any variations from the formats will be handled.

The fonts will be required to match the Government furnished material. The margins will be as indicated on the print order or furnished copy.

**NOTE:** Any materials provided by the government are legal documents and cannot be altered by the contractor except for cosmetic changes (i.e., spelling, capitalization, punctuation, incorrect citations, etc.) without prior government approval.

**PROOFS:** Contractor to submit one (1) searchable pdf proof.

The contractor will be responsible for performing all necessary proofreading to ensure that the proofs are in conformity with the copy submitted.

**NOTE:** The government will not proofread the material except for quality checks.

Proof must be identified with the jacket number, program number, print order number, and proof date, at least 1/2" from the type area. The contractor's firm name must not appear on any proofs.

On any order where the number of keyboarding errors averages more than 1 per 5,000 characters, the run will be rejected and the contractor must re-proofread the entire submission and make the necessary corrections and reissue a corrected transmittal and instruction page, at no charge to the government. No additional time will be added to the schedule.

THE CONTRACTOR MUST NOT PRINT PRIOR TO RECEIPT OF AN "OK TO PRINT".

**STOCK/PAPER:** The specifications of all paper furnished must be in accordance with those listed herein or listed for the corresponding JCP Code numbers in the "Government Paper Specification Standards No. 13" dated September 2019.

Government Paper Specification Standards No. 13 – [https://www.gpo.gov/docs/default-source/forms-and-standards-files-for-vendors/vol\\_13.pdf](https://www.gpo.gov/docs/default-source/forms-and-standards-files-for-vendors/vol_13.pdf)

Color of paper furnished shall be of a uniform shade and a close match by visual inspection of the JCP and/or attached color sample(s).

The Contracting Officer reserves the right to reject shipments of any order printed on paper the color of which, in their opinion, materially differs from that of the color sample(s) specified.

All paper used in each copy must be of a uniform shade. Color of paper should remain consistent between different print runs throughout the term of the contract.

*Text* - White Uncoated Text, basis weight: 60 lbs. per 500 sheets, 25 x 38", equal to JCP Code A60.

*Cover* - Colored Vellum-Finish Cover (Green, Yellow or Blue), basis weight: 50 lbs. per 500 sheets, 20 x 26", equal to JCP Code L20.

**NOTE:** All cover paper must have the grain parallel to the spine.

*Tab Dividers* - White Index, basis weight: 110 lbs. per 500 sheets, 25-1/2 x 30-1/2", equal to JCP Code K10

**PRINTING:**

*Supplemental Updates* - Text only: Print face and back (head-to-head and/or head-to-side) in black ink

The Supplement must include the notice number, date, a summarization of the topics in the update, and a table of contents including "addition" and "deletion" pages. The material to be incorporated into the Supplement shall be with the approval of the Government. Dating, numbering, indexing, and all additional required preparation of each Supplement shall be a part of the contractor's responsibilities.

**NOTE:** Each update shall be submitted to the project manager at U.S. Customs and Boarder Protection for review and approval prior to the release of each supplemental update.

*Customs Regulations* - Text and Cover: Print face and back (head-to-head and/or head-to-side) in black ink

*Tab Dividers:* Print tabs only, face and back in black or a single Pantone color other than black.

**MARGINS:** Margins will be as indicated on the print order or furnished copy.

**BINDING:** Trim four sides. Drill three 3/8" diameter holes centered on the left (11") side, no less than 1/4" from the left edge, 4-1/4" center to center.

*Tab Dividers:* Reinforced laminated tabs and holes are required. Tabs dividers will be 1/5" cuts up to 1/10" cuts.

Tabs must be reinforced after printing and drilling by the lamination method of a single thickness of green tinted plastic, cellulose acetate, polyethylene terephthalate, or equal material, securely bonded to each side of the divider, which shall overlap at least 3/8" onto the base sheet and extend at least 3/8" beyond the tab end. The outer edge of the tab must be smooth. Note: type must be readable through green tint of laminate on tabs. The binding edge is to be reinforced on back with the same type material in a clear laminate extending the full 11" length and approximately 5/8" wide.

**PACKING:** Shrink-film wrap in units of one (1) each.

*Tab Dividers:* Tabs to be shrink-film wrapped separately in quantities as indicated on the print order.

***Bulk Shipments***

Pack in shipping containers not to exceed 40 pounds when fully packed.

Shipping containers shall have a minimum bursting strength of 275 pounds per square inch or a minimum edge crush test (ECT) of 44 pounds per inch width.

***Mailed Shipments:***

Insert single or multiple copies (up to 200 leaves) into kraft envelopes.

Quantities over 200 leaves, up to 36 pounds, must be inserted into cushioned shipping bags, wrapped in shipping bundles or shipping containers (maximum gross weight 40 pounds).

Pallets are required for shipments to GPO only.

**GPO Copies** (When required)

*Supplemental Updates* The supplement is printed, gathered, trimmed, drilled, shrink-film wrapped, inserted into envelopes, and mailed, with one supplement per envelope.

*Customs Regulations* – Publications in excess of 500 pages, pack all copies in individual mailing containers with the title and stock number on the spine of each carton.

Top flaps of the container, when folded over the inside tucks, should meet flush or have a gap of no more than 1” and must NOT overlap. Container must be closed with 3” wide, gummed, reinforced tape which must completely cover the edges of both of the top flaps and extend around both ends of the mailing container.

**LABELING AND MARKING:** Contractor to download GPO Form 905 (R. 7-15) – Labeling and Marking Specifications which can be located on [www.GPO.gov](http://www.GPO.gov), fill in appropriate blanks, and attach to shipping containers. In addition to regular markings, include stock number and control number on all labels.

Affix a label to each unit of mail packaged in envelopes, cushioned shipping bags, shipping bundles and containers.

**NOTE:** When sets of a publication require more than one container, the container label must be so marked (i.e., 1 of 3, 2 of 3, etc.).

**DEPARTMENTAL RANDOM COPIES (BLUE LABEL):** All orders must be divided into equal sublots in accordance with the chart below. A random copy must be selected from each subplot. Do not choose copies from the same general area in each subplot. The contractor will be required to certify that copies were selected as directed using GPO Form 917-Certificate of Selection of Random Copies (located on [www.GPO.gov](http://www.GPO.gov)). The random copies constitute a part of the total quantity ordered, and no additional charge will be allowed.

<u>Quantity Ordered</u>	<u>Number of Sublots</u>
500 - 3,200	50
3,201 - 10,000	80
10,001 - 35,000	125
35,001 and over	200

These randomly selected copies must be packed separately and identified by a special label (GPO Form 2678-Departmental Random Copies (Blue Label)) that must be printed on blue paper and affixed to each affected container. This form can be downloaded from [www.GPO.gov](http://www.GPO.gov). The container and its contents shall be recorded separately on all shipping documents and sent in accordance with the distribution list to: U.S. Customs and Border Protection, Room 3.2B, Attn: Trish Mancuso, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

A copy of the print order/specification and a signed Certificate of Selection of Random Copies must be included.

A copy of the signed Certificate of Selection of Random Copies must accompany the invoice sent to U.S. Government Publishing Office, Financial Management Services, for payment. Failure to furnish the certificate may result in delay in processing the invoice.

**QUALITY ASSURANCE RANDOM COPIES:** In addition to the Departmental Random Copies (Blue Label), the contractor may be required to submit quality assurance random copies to test for compliance against the specifications. The print order will indicate the number required, if any. When ordered, the contractor must divide the entire order into equal sublots and select a copy from a different general area of each subplot. The contractor will be required to certify that the copies were selected as directed using GPO Form 917 – Certificate of Selection of Random Copies which can be located on [www.GPO.gov](http://www.GPO.gov). Copies will be paid for at the running rate offered in the contractor’s bid, and their cost will not be a consideration for award. A copy of the print order must be included with the samples.

Business Reply Mail labels will be furnished for mailing the quality assurance random copies. The copies are to be mailed at the same time as the first scheduled shipment. A U.S. Postal Service approved Certificate of Mailing, identified by GPO program, jacket, and print order numbers must be furnished with billing as evidence of mailing.

**DISTRIBUTION:** All expenses incidental to returning materials, submitting proofs, and furnishing samples must be borne by the contractor.

***FOB destination***

All deliveries within the commercial zone of Washington, DC

***FOB contractor's city***

All copies delivering by mail.

All mailing shall be made at the Fourth-Class rate.

Complete addresses and quantities will be furnished with the print orders.

All mailings will be sorted by zip-code sequence and delivered to the U.S. Postal Service where receipts will be obtained and copies forwarded to the Government with required "quarterly reports".

Shipments to Indianapolis, IN are to be sent by reimbursable parcel post or reimbursable prepaid commercial bill(s) of lading.

**NOTE:** The contractor shall be responsible for replacing and delivering, at no cost to the government, any copies of the biannual edition of the customs regulations or any supplemental revised updates of the customs regulations that are shipped in insufficient quantities, lost, or damaged in shipment. Replacements must be shipped within 3 workdays of notification by the government of deficiencies.

Orders which result in mailings of less than 200 pieces or less than 22.7 kg (50 lbs) will require the contractor to apply the appropriate postage to each mailing. Contractor will be reimbursed for postage by submitting a properly completed Postal Service form (or equivalent) with the voucher for billing.

All copies mailed must conform to the appropriate regulations in the U.S. Postal Service manuals for "Domestic Mail" or "International Mail" as applicable.

***Certificate of Conformance*** – When using Permit Imprint Mail the contractor must complete GPO Form 712 – Certificate of Conformance (Rev. 10-15), and the appropriate mailing statement or statements supplied by USPS. A fillable GPO Form 712 Certificate of Conformance can be found at <https://www.gpo.gov/how-to-work-with-us/vendors/forms-and-standards>.

In the upper right corner of GPO Form 712, contractor must include a unique GPO identification number beginning with the jacket number followed by a sequential number for each form used for mailings performed for the term of the contract (e.g., XXX-XXX-1, XXX-XXX-2, XXX-XXX-3).

The contractor is cautioned that "Postage and Fees Paid" indicia may be used only for the purpose of mailing material produced under this contract.

**GPO Copies** (When required)

212 copies to be delivered to: U.S. Government Publishing Office, Federal Depository Library Program (FDLP), 8660 Cherry Lane, Suite 32, Laurel, MD 20707-4986. Item No, 0520-B-09

10 copies to be delivered to: U.S. Serials and Government Documents Section, U.S./Anglo Division, 101 Independence Ave., SE, Stop 4276, Washington, DC 20540-4276. Marked: Depository File Copies

150 copies to be delivered to: U.S. Government Publishing Office, Public Documents Warehouse, 8660 Cherry Lane, Suite 32, Laurel, MD 20707. Attn: Subscription Stock Req. 338, Sub. CRUS.

***Subscription Copies Distribution:*** When “Subscription” copies are ordered, the contractor will be required to mail approximately 150 copies for Information Dissemination to the Superintendent of Documents.

The contractor must apply the appropriate postage to these “Subscription” copies which may require mailing of single and multiple copies to both domestic and foreign destinations. The contractor will be reimbursed for the postage to mail these “Subscription” copies by submitting a properly completed Postal Service certificate of mailing with their invoice.

The postage for these “Subscription” copies must be separated from other mailings; the postage must be separately accounted for, have a separate postal receipt, and be listed as a separate item on the invoice for reimbursement. Failure to distribute “Subscription” copies according to these instructions and furnish proper proof thereof may result in non-reimbursement of the postage expense.

The total number of “Subscription” copies ordered may exceed the number of copies requiring mail distribution. Any “Residential Subscription” copies (“Subscription” quantity remaining after mail fulfillment) shall be shipped f.o.b. contractor’s city by suitable means to a single address in the Washington, DC area. Contractors outside the Washington, D.C., commercial zone may be reimbursed for any shipping costs incurred by submitting a properly completed commercial shipping (including mailing) receipt with their invoice.

The postage class and other mail requirements for “Subscription” copies will be furnished. The contractor shall call the Superintendent of Documents (number to be provided) for the “Subscription” distribution addresses/labels, and the postage class and other mail requirements, prior to the scheduled due date if this information is not otherwise furnished.

All other operations fall under the current contract pricing and will remain in effect throughout the term of the contract.

Upon receipt of the print order the contractor must notify the Superintendent of Documents Section to request that the labels for mailing be sent to them in a timely manner. Contract person is Berine Morrison, phone: (202) 512-2010 ext. 30901, email: [Bmorrison@gpo.gov](mailto:Bmorrison@gpo.gov).

**NOTE:** Contractor is reminded that they are responsible for producing all orders within the contract schedule. For no reason should the mailing of agency copies be delayed while waiting to receive labels for Subscription copies.

Upon completion of each order, contractor must notify the ordering agency (on the same day the order delivers/ mails) via email to the address indicated on the print order. The subject line of the email shall be “Distribution Notice for Program 710-S, Print Order XXXXX, Jacket Number XXX-XXX.” The notice must provide all applicable tracking numbers, delivery/ mailing methods, and title of product. Contractor must be able to provide copies of all delivery/ mailing receipts upon agency request.

***Contract Completion and Transition Services*** - Upon termination of the contract, the contractor shall provide the Government with all property and services to which it is entitled under the contract. The contractor will prepare and deliver to the Government, not later than 30 days PRIOR to contract termination, database electronic media in final updated form in Word format, or as otherwise required by the government, which includes all text, graphics, footnotes, and tables, along with full documentation that will support the portability of the database, at a location to be designated by the Government.

All electronic media MUST be appropriately labeled as to contents, file structure, Program number, jacket number and print order numbers. A master log will be prepared identifying each form of electronic media as to its contents. Content labels for text files shall indicate publication pages.

All other deliverables, including graphic materials or other material under this contract to which the Government takes possession, shall be packaged in suitable containers so as to prevent damage. This shall be accomplished at the contractor's expense. The material will be delivered to a location to be designated by the Government.



**SCHEDULE:** Adherence to this schedule must be maintained. Contractor must not start production of any job prior to receipt of the individual print order (GPO Form 2511).

Print order and furnished material will be provided via email or contractor-hosted FTP server.

Searchable PDF proofs must be sent via email or FTP.

**NOTE:** PDF must be marked with the Program and Print Order number along with a return name and email address.

The following schedule begins the workday after notification of the availability of print order and furnished material; the workday after notification will be the first workday of the schedule.

Submit searchable PDF proof within 30 workdays after notification of availability of furnished material and print order.

Searchable PDF proof will be withheld five (5) workdays from receipt by the Government until proofs are provided to the contractor by email or FTP identified as “O.K. to print”, or noting corrections / changes are required, as applicable.

If required, submit a revised searchable PDF proof within three (3) workdays after notification of availability of edited original searchable PDF proof.

Revised searchable PDF proof will be withheld five (5) workdays from receipt by the Government until proofs are provided to the contractor by email or FTP identified as “O.K. to print”, or noting corrections / changes are required, as applicable.

Within one (1) workday after contractor has received an “OK to Print” for each completed order, the contractor must provide a print ready, searchable, 508 compliant PDF ready for posting on the web. PDF must be provided electronically, by e-mail or FTP to Trish Mancuso and others as required on the Print Order.

*Transmittal and Filing Instruction pages:* The sequential page numbers of new and revised pages are not known until the manuscript has been composed into page format. The contractor will prepare the page removal and insertion instructions for inclusion in the Transmittal and Filing Instruction pages as a normal part of the electronic composition function.

**NOTE:** Transmittal Filing Instruction pages are not to be included in the database.

Payment for composition of Transmittal and Filing Instruction pages will be based on a per page basis.

Contractor must complete production and distribution within 10 workdays after receipt of an “OK to print”.

**Within 10 workdays of distribution of bi-annual edition or quarterly supplemental updates of the Customs Regulations, contractor shall prepare and deliver the following:**

One (1) PDF copy of the completed publication, which must be an exact representation of the final product as printed. The Government reserves the right to consider other media formats as needed. PDF must be provided electronically, by e-mail or FTP to Trish Mancuso and others as required on the Print Order.

- (1) **NOTE:** If the data files deviate in any significant way, the contractor will be required to make all necessary changes, at no cost to the government, to achieve conformity with the specifications, and redeliver to the government within 5 workdays of notification, by the government, of deficiencies. The contracting officer will be the sole judge as to what constitutes a significant deviation.
- (2) A copy of the most recently printed supplemental update. This copy is to be produced from the database on the data medium. The verification process is designed to compare the database to the most recently printed copy.
- (3) The contractor will maintain a record of items shipped using Postage and Fees Paid indicia, and provide this record to the Government quarterly.

In addition, each mailing of Customs Regulations, or supplemental updates will require that the contractor obtain an executed Postal Service Form 3602 showing the number of pieces mailed, weight of each piece, weight of the total mailing, postal facility used, and cost to the Government for the mailing.

The contractor must comply with all Postal Service rules and regulations in the preparation of mailings under this contract.

- (4) Supplemental Update Production Report consisting of: number of pages in each supplement produced during the quarter, and the total number of pages printed.
- (5) A separate copy of all changes made to the biannual database, a breakdown of all pages reviewed and changed, and the total number of changes for each supplement. This should be delivered to Trish Mancuso by either email or through FTP site.

The ship/deliver date indicated on the print order is the date all product ordered for delivery f.o.b. destination must be delivered to the destination(s) specified and all product f.o.b. contractor's city must be delivered to the USPS or picked up by the carrier.

Unscheduled material such as shipping documents, receipts or instructions, delivery lists, labels, etc., will be furnished with each order or shortly thereafter. In the event such information is not received in due time, the contractor will not be relieved of any responsibility in meeting the shipping schedule because of failure to request such information.

For compliance reporting purposes, contractors are to report information regarding each order with date of shipment or delivery, as applicable, in accordance with the contract requirements by contacting the Shared Support Services Compliance Section via email at [compliance@gpo.gov](mailto:compliance@gpo.gov) or via telephone at (202) 512-0520. Personnel receiving the email or call will be unable to respond to questions of a technical nature or to transfer any inquiries.

### SECTION 3 - DETERMINATION OF AWARD

The Government will determine the lowest bid by applying the prices offered in the "Schedule of Prices" to the following units of production which are the estimated requirements to produce one year's production under this contract. These units do not constitute, nor are they to be construed as, a guarantee of the volume of work which may be ordered for a like period of time.

The following item designations correspond to those listed in the "Schedule of Prices".

- I. (a) 1,518
- (b) 1,518
- II. (1) (2)
- (a) 1,518 41,374
- (b) 1 27
- (c) 62 1,666
- III. (a) (1) 310
- (b) (1) 1,249
- (2) 804
- (3) 150

**SECTION 4 - SCHEDULE OF PRICES**

Bids offered are f.o.b. destination within the commercial zone of Washington, DC, and f.o.b. contractor's city for all mailing.

Prices must include the cost of all required materials and operations for each item listed in accordance with these specifications.

Bidder must make an entry in each of the spaces provided. Bids submitted with any obliteration, revision, or alteration of the order and manner of submitting bids, may be declared non-responsive.

An entry of NC (No Charge) shall be entered if bidder intends to furnish individual items at no charge to the Government.

Bids submitted with NB (No Bid), NA (Not Applicable), or blank spaces for an item may be declared non-responsive.

The Contracting Officer reserves the right to reject any offer that contains prices for individual items of production (whether or not such items are included in the Determination of Award) that are inconsistent or unrealistic in regard to other prices in the same offer or to GPO prices for the same operation if such action would be in the best interest of the Government.

All vouchers submitted to the GPO shall be based on the most economical method of production.

Fractional parts of 100 will be prorated at the per 100 rate.

Cost of all required paper for text and cover must be included in the prices offered for "Printing and Binding".

**I. FILE CREATION:** Price offered for item (a) below shall include the cost of all required materials and operations necessary for retrieving required data from website and the creation of a master database file containing all text pages and all tabular pages and page formatting, including 100% accurate proofreading. Item I. (a) will only be billed on the first print order placed under this contract and the contractor must provide with their voucher a copy of each page created.

(a) Creating Full Text Database ..... per page (one-time charge).....\$ \_\_\_\_\_

(b) Update/Maintenance of System Data Files: This charge will include: Global searches; all internet searches; all alterations to the master system database, including correcting, updating, replacing, altering and moving text. This will apply to each page issued in the supplements containing modifications, addition or deletions. In addition, this charge will include 2 sets of laser proofs, CD ROM(s) (and other electronic media), and all required verification of changes for billing purposes. The contractor will be paid for all system work in a quantity equal to the number of pages contained in the final form of the supplement.

The contractor will not be paid any updating/maintenance charges when producing the biannual publication, unless indicated on print order attachments. These charges will have already been billed and paid for during the initial output of the supplement.

Update/Maintenance of  
System Data File ..... per page (Text or Tabular) .....\$ \_\_\_\_\_

\_\_\_\_\_  
(Initials)

**PRINTING AND BINDING:** The prices offered must be all-inclusive for printing in black ink, inserting Transmittal and Instruction Pages, drilling and shrink-film wrap in accordance with these specifications and, shall include the cost of all required materials, including films, paper (including spoilage), and other operations and materials as applicable.

	<u>Makeready and/or Setup</u> (1)	<u>Running Per 100 Copies</u> (2)
(a) Text..... per page .....	\$ _____	\$ _____
(b) Cover pages ..... per complete cover .....	\$ _____	\$ _____
(c) <i>Tab Dividers:</i> Printing both sides in black <u>or</u> PMS ..... per divider .....	\$ _____	\$ _____

**II. PACKING AND DISTRIBUTION (including pallets):**

(a) **Bulk shipments (other than by mail):**

(1) Packing and sealing shipping containers.....each container .....\$ \_\_\_\_\_

(b) **Mailing:** (including affixing labels and delivery to Post Office). The price must be all-inclusive as applicable in accordance with these specifications.

(1) Single copy in kraft envelope  
(up to 200 leaves)..... per envelope .....\$ \_\_\_\_\_

(2) Single or multiple copies over 200 leaves,  
up to 16.3 kg (36 lbs.) in cushioned shipping  
bags, wrapped in shipping bundles or packed  
in shipping containers (at contractor's option)  
(maximum gross weight 18.1 kg (40 lbs.) ..... per bag or bundle.....\$ \_\_\_\_\_

(3) Individual mailing containers printed  
on spine (includes packing and sealing) ..... per container.....\$ \_\_\_\_\_

\_\_\_\_\_  
(Initials)

**LOCATION OF POST OFFICE:** All mailing will be made from the \_\_\_\_\_

Post Office located at Street Address \_\_\_\_\_,

City \_\_\_\_\_, State \_\_\_\_\_, Zip Code \_\_\_\_\_

My production facilities are located within the assumed area of production ..... yes \_\_\_\_\_ no.

**NOTICE:** Bidders OUTSIDE the assumed production area specified on page one of these specifications should complete the following information.

1. Proposed carrier(s) for pickup of Government Furnished Material \_\_\_\_\_

a. Number of hours from acceptance of print order to pickup of Government  
Furnished Material ..... \_\_\_\_\_

b. Number of hours from pickup of Government Furnished Material  
to delivery at contractor's plant..... \_\_\_\_\_

2. Proposed carrier(s) for delivery of completed product \_\_\_\_\_

a. Number of hours from notification to carrier to pickup of completed product ..... \_\_\_\_\_

b. Number of hours from pickup of completed product to delivery at destination ..... \_\_\_\_\_

\_\_\_\_\_  
(Initials)

**SHIPMENTS:** Shipments will be made from: City \_\_\_\_\_ State \_\_\_\_\_.

The city(ies) indicated above will be used for evaluation of transportation charges when shipment f.o.b. contractor's city is specified. If no shipping point is indicated above, it will be deemed that the bidder has selected the city and state shown below in the address block, and the bid will be evaluated and the contract awarded on that basis. If shipment is not made from evaluation point, the contractor will be responsible for any additional shipping costs incurred.

**DISCOUNTS:** Discounts are offered for payment as follows: \_\_\_\_\_ Percent \_\_\_\_\_ Calendar Days. See Article 12 "Discounts" of Solicitations Provisions in GPO Contract Terms (Publication 310.2).

**AMENDMENT(S):** Bidder hereby acknowledges amendment(s) number(ed) \_\_\_\_\_.

**BID ACCEPTANCE PERIOD:** In compliance with the above, the undersigned agree, if this bid is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the bidder) from the date for receipt of bids, to furnish the specified items at the price set opposite each item, delivered at the designated point(s), in exact accordance with specifications. *NOTE: Failure to provide a 60-day bid acceptance period may result in expiration of the bid prior to award.*

**BIDDER'S NAME AND SIGNATURE:** Unless specific written exception is taken, the bidder, by signing and submitting a bid, agrees with and accepts responsibility for all certifications and representations as required by the solicitation and GPO Contract Terms – Publication 310.2. When responding by email, fill out and return one copy of all pages in "SECTION 4. – SCHEDULE OF PRICES," including initialing/signing where indicated. Valid electronic signatures will be accepted in accordance with the Uniform Electronic Transactions Act, §2. Electronic signatures must be verifiable of the person authorized by the company to sign bids.

*Failure to sign the signature block below may result in the bid being declared non-responsive.*

Bidder \_\_\_\_\_  
(Contractor's Name) (GPO Contractor's Code)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City – State – Zip Code)

By \_\_\_\_\_  
(Printed Name, Signature, and Title of Person Authorized to Sign this Bid) (Date)

\_\_\_\_\_  
(Person to be Contacted) (Telephone Number)

\_\_\_\_\_  
(Email) (Fax Number)

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**THIS SECTION FOR GPO USE ONLY**

Certified by: \_\_\_\_\_ Date: \_\_\_\_\_ Contracting Officer: \_\_\_\_\_ Date: \_\_\_\_\_  
(Initials) (Initials)

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# REGULATIONS of



# U.S. Customs and Border Protection

2021 EDITION  
Revised September 30, 2021

**DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND  
BORDER PROTECTION  
OFFICE OF TRADE**



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2021 EDITION  
Revised September 30, 2021



**U.S. Customs and  
Border Protection**

**CUSTOMS REGULATIONS  
OF THE  
UNITED STATES**

**2021 EDITION**

**(REVISED AS OF SEPTEMBER 30, 2021)**

**DEPARTMENT OF HOMELAND SECURITY  
U.S. CUSTOMS AND  
BORDER PROTECTION  
OFFICE OF TRADE**

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**PART 0—TRANSFERRED OR DELEGATED  
AUTHORITY**

Sec.

- 0.1 Customs revenue function regulations issued under the authority of the Departments of the Treasury and Homeland Security.
- 0.2 All other Customs Regulations issued under the authority of the Department of Homeland Security.

**Appendix to 19 CFR Part—Treasury Department Order  
No. 100–16**

**Authority:** 5 U.S.C. 301, 6 U.S.C. 101 *et seq.*, 19 U.S.C. 66, 19 U.S.C. 1624, 31 U.S.C. 321.

**Source:** CBP Dec. 03–24, 68 FR 51869, Aug. 28, 2003, unless otherwise noted.

**§ 0.1 Customs revenue function regulations issued  
under the authority of the Departments of the  
Treasury and Homeland Security.**

(a) *Regulations requiring signatures of Treasury and Homeland Security.* (1) By Treasury Department Order No. 100–16, set forth in the appendix to this part, the Secretary of the Treasury has delegated to the Secretary of Homeland Security the authority to prescribe all CBP regulations relating to customs revenue functions, except that the Secretary of the Treasury retains the sole authority to approve such CBP regulations concerning subject matters listed in paragraph 1(a)(i) of the order. Regulations for which the Secretary of the Treasury retains the sole authority to approve will be signed by the Secretary of Homeland Security (or his or her DHS delegate), and by the Secretary of the Treasury (or his or her Treasury delegate) to indicate approval.

(2) When a regulation described in paragraph (a)(1) of this section is published in the Federal Register, the preamble of the document accompanying the regulation will clearly indicate that it is being issued in accordance with paragraph (a)(1) of this section.

(b) *Regulations with respect to which the Department of Homeland Security is authorized to sign for the Department of the Treasury.* (1) By Treasury Department Order No. 100–16, set forth in the appendix to this part, the Secretary of the Treasury delegated to the Secretary of Homeland Security the authority to prescribe and approve regulations relating to customs revenue functions on behalf of the Secretary

of the Treasury when the subject matter of the regulations is not listed in paragraph 1(a)(i) of the order. Such regulations are the official regulations of both Departments notwithstanding that they are not signed by an official of the Department of the Treasury. These regulations will be signed by the Secretary of Homeland Security (or his or her DHS delegate).

(2) When a regulation described in paragraph (b)(1) of this section is published in the Federal Register, the preamble of the document accompanying the regulation will clearly indicate that it is being issued in accordance with paragraph (b)(1) of this section.

(c) *Sole signature by Secretary of the Treasury.* (1) Pursuant to Treasury Department Order No. 100–16, set forth in the appendix to this part, the Secretary of the Treasury reserves the right to promulgate regulations related to the customs revenue functions. Such regulations are signed by the Secretary of the Treasury (or his or her delegate) after consultation with the Secretary of Homeland Security (or his or her delegate), and are the official regulations of both Departments.

(2) When a regulation described in paragraph (c)(1) of this section is published in the Federal Register, the preamble of the document accompanying the regulation will clearly indicate that the regulation is being issued in accordance with paragraph (c)(1) of this section.

[CBP Dec. 08–25, 73 FR 40725, July 16, 2008]

**§ 0.2 All other CBP regulations issued under the  
authority of the Department of Homeland Security.**

(a) The authority of the Secretary of the Treasury with respect to CBP regulations that are not related to customs revenue functions was transferred to the Secretary of Homeland Security pursuant to section 403(1) of the Homeland Security Act of 2002. Such regulations are signed by the Secretary of Homeland Security (or his or her delegate) and are the official regulations of the Department of Homeland Security.

(b) When a regulation described in paragraph (a) of this section is published in the Federal Register, the preamble accompanying the regulation shall clearly indicate that it is being issued in accordance with paragraph (a) of this section.

[CBP Dec. 08–25, 73 FR 40725, July 16, 2008]

## Appendix to 19 CFR Part 0—Treasury Department Order No. 100–16

Delegation from the Secretary of the Treasury to the Secretary of Homeland Security of general authority over Customs revenue functions vested in the Secretary of the Treasury as set forth in the Homeland Security Act of 2002.

Treasury Department, Washington, DC, May 15, 2003.

By virtue of the authority vested in me as the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b) and section 412 of the Homeland Security Act of 2002 (Pub. L. 107–296) (Act), it is hereby ordered:

1. Consistent with the transfer of the functions, personnel, assets, and liabilities of the United States Customs Service to the Department of Homeland Security as set forth in section 403(1) of the Act, there is hereby delegated to the Secretary of Homeland Security the authority related to the Customs revenue functions vested in the Secretary of the Treasury as set forth in sections 412 and 415 of the Act, subject to the following exceptions and to paragraph 6 of this Delegation of Authority:

(a)(i) The Secretary of the Treasury retains the sole authority to approve any regulations concerning import quotas or trade bans, user fees, marking, labeling, copyright and trademark enforcement, and the completion of entry or substance of entry summary including duty assessment and collection, classification, valuation, application of the U.S. Harmonized Tariff Schedules, eligibility or requirements for preferential trade programs, and the establishment of recordkeeping requirements relating thereto. The Secretary of Homeland Security shall provide a copy of all regulations so approved to the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance every six months.

(ii) The Secretary of the Treasury shall retain the authority to review, modify, or revoke any determination or ruling that falls within the criteria set forth in paragraph 1(a)(i), and that is under consideration pursuant to the procedures set forth in sections 516 and 625(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1516 and 1625(c)). The Secretary of Homeland Security periodically shall identify and describe for the Secretary of the Treasury such determinations and rulings that are under consideration under sections 516 and 625(c) of the Tariff Act of 1930, as amended, in an appropriate and timely manner, with consultation as necessary, prior to the Secretary of Homeland Security's exercise of such authority. The Secretary of Homeland Security shall provide a copy of these identifications and descriptions so made to the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance every six months. The Secretary of the Treasury shall list any case where Treasury modified or revoked such a determination or ruling.

(b) Paragraph 1(a) notwithstanding, if the Secretary of Homeland Security finds an overriding, immediate, and extraordinary security threat to public health and safety, the Secretary of Homeland Security may take action described in paragraph 1(a) without the prior approval of the Secretary of the Treasury. However, immediately after taking any such action, the Secretary of Homeland Security shall certify in writing to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance the specific reasons therefor. The action shall terminate within 14 days or as long as the overriding, immediate, and extraordinary security threat exists, whichever is shorter, unless the Secretary of the Treasury approves the continued action and provides notice of such approval to the Secretary of Homeland Security.

(c) The Advisory Committee on Commercial Operations of the Customs Service (COAC) shall be jointly appointed by the Secretary of the Treasury and the Secretary of Homeland Security. Meetings of COAC shall be presided over jointly by the Secretary of the Treasury and the Secretary of Homeland Security. The COAC shall advise the Secretary of the Treasury and the Secretary of Homeland Security jointly.

2. Any references in this Delegation of Authority to the Secretary of the Treasury or the Secretary of Homeland Security are deemed to include their respective delegates, if any.

3. This Delegation of Authority is not intended to create or confer any right, privilege, or benefit on any private person, including any person in litigation with the United States.

4. Treasury Order No. 165–09, "Maintenance of delegation in respect to general authority over Customs Revenue functions vested in the Secretary of the Treasury, as set forth and defined in the Homeland Security Act of 2002," dated February 28, 2003, is rescinded. To the extent this Delegation of Authority requires any revocation of any other prior Order or Directive of the Secretary of the Treasury, such prior Order or Directive is hereby revoked.

5. This Delegation of Authority is effective May 15, 2003. This Delegation is subject to review on May 14, 2004. By March 15, 2004, the Secretary of the Treasury and the Secretary of Homeland Security shall consult with the Chairman and Ranking Member of the Committee on Ways and Means and the Chairman and Ranking Member of the Committee on Finance to discuss the upcoming review of this Delegation.

6. The Secretary of the Treasury reserves the right to rescind or modify this Delegation of Authority, promulgate regulations, or exercise authority at any time based upon the statutory authority reserved to the Secretary by the Act.

John W. Snow, *Secretary of the Treasury.*

**PART 4—VESSELS IN FOREIGN AND  
DOMESTIC TRADES**

Sec.

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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624, 2071 note; 46 U.S.C. 501, 60105.

Section 4.1 also issued under 19 U.S.C. 1581(a), 46 U.S.C. 60101; 46 U.S.C. 70105.

Section 4.2 also issued under 19 U.S.C. 1441, 1486;

Section 4.3 also issued under 19 U.S.C. 288, 1441;

Section 4.3a also issued under 19 U.S.C. 1433, 1436;

Section 4.5 also issued under 19 U.S.C. 1441;

Section 4.7 also issued under 19 U.S.C. 1581(a);

Section 4.7a also issued under 19 U.S.C. 1498, 1584;

Section 4.7b also issued under 8 U.S.C. 1101, 1221;

Section 4.7c and 4.7d also issued under 6 U.S.C. 943;

Section 4.8 also issued under 19 U.S.C. 1448, 1486;

Section 4.9 also issued under 42 U.S.C. 269;

Section 4.10 also issued under 19 U.S.C. 1448, 1451;

Section 4.12 also issued under 19 U.S.C. 1584;

Section 4.14 also issued under 19 U.S.C. 1466, 1498; 31 U.S.C. 9701.

Section 4.20 also issued under 46 U.S.C. 2107(b), 8103, 14306, 14502, 14511–14513, 14701, 14702, 60301–60306, 60312;

Section 4.21 also issued under 19 U.S.C. 1441, 46 U.S.C. 60301–60310, 60312;

Section 4.22 also issued under 46 U.S.C. 60301, 60302, 60303, 60304, 60305, 60306, 60312, 60503;

Section 4.24 also issued under 46 U.S.C. 2108;

Section 4.30 also issued under 19 U.S.C. 288, 1446, 1448, 1450–1454, 1490;

Section 4.31 also issued under 19 U.S.C. 1453, 1586;

Section 4.32 also issued under 19 U.S.C. 1449;

Section 4.35 also issued under 19 U.S.C. 1447;

Section 4.36 also issued under 19 U.S.C. 1431, 1457, 1458, 46 U.S.C. 60107;

Section 4.37 also issued under 19 U.S.C. 1448, 1457, 1490;

Section 4.38 also issued under 19 U.S.C. 1448, 1505;

Section 4.39 also issued under 19 U.S.C. 1446;

Section 4.40 also issued under 19 U.S.C. 1446;

Section 4.50 also issued under 19 U.S.C. 1431; 46 U.S.C. 3502;

Section 4.51 also issued under 19 U.S.C. 1433;

Section 4.52 also issued under 19 U.S.C. 1433;

Section 4.61 also issued under 46 U.S.C. 12101, 12120, 12132, 55102, 55105–55108, 55110, 55115–55117, 55119;

Section 4.64 also issued under 8 U.S.C. 1221;

Section 4.65a also issued under 46 U.S.C. 5101–5102, 5106–5109, 5112–5114, 5116;

Section 4.66 also issued under 46 U.S.C. 60105;

Section 4.66a also issued under 33 U.S.C. 1321, 46 U.S.C. 60105;

Section 4.66b also issued under 33 U.S.C. 407, 1321;

Section 4.68 also issued under 46 U.S.C. 44101–44106;

Section 4.69 also issued under 46 U.S.C. 10301, 10302, 10314, and 10315.

Section 4.74 also issued under 46 U.S.C. 60105;

Section 4.75 also issued under 46 U.S.C. 60105;

Sections 4.80, 4.80a, and 4.80b also issued under 19 U.S.C. 1706a; 28 U.S.C. 2461 note; 46 U.S.C. 12112, 12117, 12118, 50501–55106, 55107, 55108, 55110, 55114, 55115, 55116, 55117, 55119, 56101, 55121, 56101, 57109; Pub. L. 108–7, Division B, Title II, § 211;

Section 4.81 also issued under 19 U.S.C. 1442, 1486; 46 U.S.C. 12101, 12120, 12132, 55102, 55105–55108, 55110, 55114–55117, 55119;

Section 4.81a also issued under 46 U.S.C. 12101, 12120, 12132, 55102, 55105–55108, 55110, 55114–55117, 55119;

Section 4.82 also issued under 19 U.S.C. 293, 294; 46 U.S.C. 60308;

Section 4.83 also issued under 46 U.S.C. 60105, 60308;

Section 4.84 also issued under 46 U.S.C. 12118;

Section 4.85 also issued under 19 U.S.C. 1442, 1623;

Section 4.86 also issued under 19 U.S.C. 1442;

Section 4.88 also issued under 19 U.S.C. 1442, 1622, 1623;

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 55111;

Section 4.93 also issued under 19 U.S.C. 1322(a); 46 U.S.C. 12101, 12120, 12132, 55102, 55105–55108, 55110, 55114–55117, 55119;

Section 4.94 also issued under 19 U.S.C. 1441; 46 U.S.C. 60504;

Section 4.94a also issued under 19 U.S.C. 1484b;

Section 4.96 also issued under 46 U.S.C. 12101(a)(1), 12108, 55114;

Section 4.98 also issued under 31 U.S.C. 9701;

Section 4.100 also issued under 19 U.S.C. 1706.

**Source:** 28 FR 14596, Dec. 31, 1963, unless otherwise noted.

## Arrival and Entry of Vessels

### § 4.0 General definitions.

For the purposes of this part:

(a) *Vessel*. The word *vessel* includes every description of water craft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. (19 U.S.C. 1401.)

(b) *Vessel of the United States*. The term *vessel of the United States* means any vessel documented under the laws of the United States.

(c) *Documented*. The term *documented vessel* means a vessel for which a valid Certificate of Documentation, form CG 1270, issued by the U.S. Coast Guard is outstanding. Upon qualification and proper application to the appropriate Coast Guard office, the Certificate of Documentation may be endorsed with a: (1) Registry endorsement (generally, available to a vessel to be employed in foreign trade, trade with Guam, American Samoa, Wake, Midway, or Kingman Reef, and other employments for which another endorsement is not required), (2) coastwise endorsement (generally, entitles a vessel to employment in the coastwise trade, and other employments for which another endorsement is not required), (3) fishery endorsement (generally, subject to federal and state laws regulating the fisheries, entitles a vessel to fish within the Exclusive Economic Zone (16 U.S.C. 1811) and landward of that zone and to land its catch) or (4) recreational endorsement (entitles a vessel to recreational use only). Any other terminology used elsewhere in this part to describe the particular documentation of a vessel shall be read as synonymous with the applicable terminology contained in this paragraph. Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation except that for a coastwise, or fisheries endorsement a vessel must also be built in the United States. Detailed Coast Guard regulations on documentation are set forth in Title 46, Code of Federal Regulations, §67.01–67.45.

(d) *Noncontiguous territory of the United States*. The term *noncontiguous territory of the United States* includes all the island territories and possessions of the United States, but does not include the Canal Zone.

(e) *Citizen*. The word *citizen* is as defined by the U.S. Coast Guard for purposes of vessel documentation (see subpart 67.03 of title 46, Code of Federal Regulations.)

**PART 7—CUSTOMS RELATIONS WITH  
INSULAR POSSESSIONS AND  
GUANTANAMO BAY NAVAL STATION**

Sec.

- 7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.
- 7.2 Insular possessions of the United States other than Puerto Rico.
- 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.
- 7.4 Watches and watch movements from U.S. insular possessions.
- 7.11 Guantanamo Bay Naval Station.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624; 48 U.S.C. 1406i.

**§ 7.1 Puerto Rico; spirits and wines withdrawn from warehouse for shipment to; duty on foreign-grown coffee.**

(a) When spirits and wines are withdrawn from a bonded manufacturing warehouse for shipment in bond to Puerto Rico pursuant to section 311, Tariff Act of 1930, as amended,<sup>2</sup> the warehouse withdrawal shall contain on the face thereof a statement of the kind and quantity of all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines. The duty assessed on the imported merchandise and containers so used, and their classification and value, shall be shown on the withdrawal in accordance with §144.41 of this chapter. If no imported merchandise or containers have been used, the warehouse withdrawal shall bear an endorsement to that effect. (See §§191.105 and 191.106 of this chapter.)

(b) The spirits and wines shall be forwarded in accordance with the general provisions of the regulations governing the transportation of merchandise in bond, part 18 of this chapter.

(c) A regular entry shall be made for all foreign-grown coffee shipped to Puerto Rico from the United States, but special Customs invoices shall not be required for such shipments.<sup>3</sup>

**(Secs. 311, 319, 484(a), 46 Stat. 691, as amended, 696, 722, as amended; 19 U.S.C. 1311, 1319, 1484(a); R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))**  
**[28 FR 14636, Dec. 31, 1963, as amended by T.D. 73–175, 38 FR 17445, July 2, 1973; T.D. 83–212, 48 FR 46770, Oct. 14, 1983; T.D. 98–16, 63 FR 11004, Mar. 5, 1998]**

<sup>1</sup> [Reserved]

<sup>2</sup> . . . . Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this section and may be withdrawn as hereinbefore provided, and likewise for shipment in bond to Puerto Rico, subject to the provisions of this section, and under such regulations as the Secretary of the Treasury may prescribe, there to be withdrawn for consumption or be rewarehoused and subsequently withdrawn for consumption: *Provided*, That upon withdrawal in Puerto Rico for consumption, the duties imposed by the customs laws of the United States shall be collected on all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines in such warehouses: *Provided further*, That no internal-revenue tax shall be imposed on distilled spirits and wines rectified in class six warehouses if such distilled spirits and wines are exported or shipped in accordance with the provisions of this section, . . . . (Tariff Act of 1930, sec. 311, as amended; 19 U.S.C. 1311)

<sup>3</sup> Section 319, Tariff Act of 1930, authorizes the Legislature of Puerto Rico to impose a duty on coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United States, and the Legislature of Puerto Rico has imposed such a duty

**§ 7.2 Insular possessions of the United States other than Puerto Rico.**

(a) Insular possessions of the United States other than Puerto Rico are also American territory but, because those insular possessions are outside the customs territory of the United States, goods imported therefrom are subject to the rates of duty set forth in column 1 of the Harmonized Tariff Schedule of the United States (HTSUS) except as otherwise provided in §7.3 or in part 148 of this chapter. The principal such insular possessions are the U.S. Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll. Pursuant to section 603(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, Public Law 94–241, 90 Stat. 263, 270, goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment as imports from Guam and thus are also subject to the provisions of §7.3 and of part 148 of this chapter.

(b) Importations into Guam, American Samoa, Wake Island, Midway Islands, Johnston Atoll, and the Commonwealth of the Northern Mariana Islands are not governed by the Tariff Act of 1930, as amended, or the regulations contained in this chapter. The customs administration of Guam is under the Government of Guam. The customs administration of American Samoa is under the Government of American Samoa. The customs administration of Wake Island is under the jurisdiction of the Department of the Air Force (General Counsel). The customs administration of Midway Islands is under the jurisdiction of the Department of the Navy. There is no customs authority on Johnston Atoll, which is under the operational control of the Defense Nuclear Agency. The customs administration of the Commonwealth of the Northern Mariana Islands is under the Government of the Commonwealth.

(c) The Secretary of the Treasury administers the customs laws of the U.S. Virgin Islands through the U.S. Customs and Border Protection. The importation of goods into the U.S. Virgin Islands is governed by Virgin Islands law; however, in situations where there is no applicable Virgin Islands law or no U.S. law specifically made applicable to the Virgin Islands, U.S. laws and regulations shall be used as a guide and be complied with as nearly as possible. Tariff classification of, and rates of duty applicable to, goods imported into the U.S. Virgin Islands are established by the Virgin Islands legislature.

**[T.D. 97–75, 62 FR 46439, Sept. 3, 1997, as amended by CBP Dec. 08–25, 73 FR 40725, July 16, 2008]**

**§ 7.3 Duty-free treatment of goods imported from insular possessions of the United States other than Puerto Rico.**

(a) *General.* Under the provisions of General Note 3(a)(iv), Harmonized Tariff Schedule of the United States (HTSUS), the following goods may be eligible for duty-free treatment when imported into the customs territory of the United States from an insular possession of the United States:

(1) Except as provided in Additional U.S. Note 5 to Chapter 91, HTSUS, and except as provided in Additional U.S. Note 2 to Chapter 96, HTSUS, and except as provided in section 423 of the Tax Reform Act of 1986, as amended (19 U.S.C. 2703 note), goods which are the growth or product of any such insular possession, and goods which were manufactured or produced in any such insular possession from materials that were the growth, product or manufacture of any

such insular possession or of the customs territory of the United States, or of both, provided that such goods:

(i) Do not contain foreign materials valued at either more than 70 percent of the total value of the goods or, in the case of goods described in section 213(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)), more than 50 percent of the total value of the goods; and

(ii) Come to the customs territory of the United States directly from any such insular possession; and

(2) Goods previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation, provided that:

(i) The goods were shipped from the United States directly to the insular possession and are returned from the insular possession to the United States by direct shipment; and

(ii) There was no remission, refund or drawback of such duties or taxes in connection with the shipment of the goods from the United States to the insular possession.

(b) *Origin of goods.* For purposes of this section, goods will be considered to be the growth or product of, or manufactured or produced in, an insular possession if:

(1) The goods are wholly the growth or product of the insular possession; or

(2) The goods became a new and different article of commerce as a result of production or manufacture performed in the insular possession.

(c) *Foreign materials.* For purposes of this section, the term "foreign materials" covers any material incorporated in goods described in paragraph (b)(2) of this section other than:

(1) A material which was wholly the growth or product of an insular possession or of the customs territory of the United States;

(2) A material which was substantially transformed in an insular possession or in the customs territory of the United States into a new and different article of commerce which was then used in an insular possession in the production or manufacture of a new and different article which is shipped directly to the United States; or

(3) A material which may be imported into the customs territory of the United States from a foreign country and entered free of duty either:

(i) At the time the goods which incorporate the material are entered; or

(ii) At the time the material is imported into the insular possession, provided that the material was incorporated into the goods during the 18-month period after the date on which the material was imported into the insular possession.

(d) *Foreign materials value limitation.* For purposes of this section, the determination of whether goods contain foreign materials valued at more than 70 or 50 percent of the total value of the goods will be made based on a comparison between:

(1) The landed cost of the foreign materials, consisting of:

(i) The manufacturer's actual cost for the materials or, where a material is provided to the manufacturer without charge or at less than fair market value, the sum of all expenses incurred in the growth, production, or manufacture of the material, including general expenses, plus an amount for profit; and

(ii) The cost of transporting those materials to the insular possession, but excluding any duties or taxes assessed on the materials by the insular possession and any charges which may accrue after landing; and

(2) The final appraised value of the goods imported into the customs territory of the United States, as determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a).

(e) *Direct shipment*—(1) *General.* For purposes of this section, goods will be considered to come to the United States directly from an insular possession, or to be shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment, only if:

(i) The goods proceed directly to or from the insular possession without passing through any foreign territory or country;

(ii) The goods proceed to or from the insular possession through a foreign territory or country, the goods do not enter into the commerce of the foreign territory or country while en route to the insular possession or the United States, and the invoices, bills of lading, and other shipping documents show the insular possession or the United States as the final destination; or

(iii) The goods proceed to or from the insular possession through a foreign territory or country, the invoices and other shipping documents do not show the insular possession or the United States as the final destination, and the goods:

(A) Remained under the control of the customs authority of the foreign territory or country;

(B) Did not enter into the commerce of the foreign territory or country except for the purpose of sale other than at retail, and the Center director is satisfied that the importation into the insular possession or the United States results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

(C) Were not subjected to operations in the foreign territory or country other than loading and unloading and other activities necessary to preserve the goods in good condition.

(2) *Evidence of direct shipment.* The Center director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the goods were shipped to the United States directly from an insular possession or shipped from the United States directly to an insular possession and returned from the insular possession to the United States by direct shipment within the meaning of paragraph (e)(1) of this section, and such evidence of direct shipment will be subject to such verification as deemed necessary by the Center director. Evidence of direct shipment shall not be required when the Center director is otherwise satisfied, taking into consideration the kind and value of the merchandise, that the goods qualify for duty-free treatment under General Note 3(a)(iv), HTSUS, and paragraph (a) of this section.

(f) *Documentation.* (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, an importer must have in his possession at the time of entry or entry summary a completed certificate of origin on CBP Form 3229, or its electronic equivalent, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. The importer must provide CBP Form 3229, or its electronic equivalent, upon request by the Center director or his delegate. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin will not be required for any shipment eligible for informal entry under §143.21 of this chapter or in any case where the Center director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

(2) When goods in a shipment not eligible for informal entry under §143.21 of this chapter are sought to be admitted free

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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States), 1624.

**Packing and Stamping**

**§ 11.1 Cigars, cigarettes, medicinal preparations, and perfumery.**

(a) All cigars and cigarettes imported into the United States, except importations by mail and in baggage, shall be placed in the public stores or in a designated bonded warehouse to remain until inspected, weighed, and repacked, if necessary, under the Customs and internal-revenue laws. However, if the invoice and entry presented specify all of the information necessary for prompt determination of the estimate duty and tax on the packages of cigars and cigarettes covered thereby, the port director may permit designation of less than the entire importation for examination.

(b) After the cigars and cigarettes have been examined, weighed, and appraised, before release the inspecting officer shall verify that they are in properly constructed packages, conforming to the requirements of the regulations of the Bureau of Alcohol, Tobacco and Firearms, bearing a legible imprint or a securely affixed label stating the quantity, kind, and classification for tax purposes as required by such regulations. Cigars or cigarettes must be in compliance with such requirements before being released for consumption unless specifically exempted therefrom as indicated in §11.3.

(c) The immediate containers of all domestic cigars, cigarettes, medicinal preparations, and perfumery, which are returned to the United States and are subject to a duty equal to an internal-revenue tax, shall be stamped by Customs. The packaging requirements set forth in paragraph (b) of this section apply to returned cigars and cigarettes of domestic origin.

**[28 FR 14701, Dec. 31, 1963, as amended by T.D. 78-329, 43 FR 43454, Sept. 26, 1978]**

**§ 11.2 Manufactured tobacco.**

(a) If the invoice and entry presented for manufactured tobacco specify all the information necessary for prompt determination of the estimated duty on the manufactured tobacco covered thereby, the port director may permit designation of less than the entire importation for examination.

(b) In the case of returned American manufactured tobacco, the packages shall be marked or stamped by Customs with the inscription "American goods returned."

**[28 FR 14701, Dec. 31, 1963, as amended by T.D. 67-193, 32 FR 11764, Aug. 16, 1967]**

**§ 11.2a Release from Customs custody without payment of tax on cigars, cigarettes and cigarette papers and tubes.**

Cigars, cigarettes, and cigarette papers and tubes may be released from Customs custody without payment of any applicable internal revenue tax upon presentation of the Customs entry or withdrawal form and three copies of Alcohol, Tobacco and Firearms Form 2145 (5200.11) or 3072 (5210.14), certified by the appropriate regional regulatory administrator, Bureau of Alcohol, and Tobacco and Firearms. The Customs officer shall complete the notice of release, retain one copy, send one copy to the regional regulatory administrator, and return one copy to the manufacturer. The release may not be made under a mail entry. See §145.13(b) of this chapter.

**[T.D. 78-329, 43 FR 43454, Sept. 26, 1978]**

**§ 11.3 Package and notice requirements for cigars and cigarettes; package requirements for cigarette papers and tubes.**

Exemptions from tax on cigars, cigarettes, and cigarette papers and tubes apply in accordance with the regulations of the Bureau of Alcohol, Tobacco, and Firearms (27 CFR part 275) upon release from Customs custody of such articles imported by consular officers and employees of foreign states. Cigars, cigarettes, cigarette papers, and tubes may also be released without payment of tax as provided in §11.2a and for exhibition in accordance with part 147 of this chapter. Additionally, cigars, cigarettes, or cigarette papers and tubes may be admitted free of duty and tax under the provisions of Subchapter IV, Chapter 98, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), or section 321, Tariff Act of 1930, as amended (19 U.S.C. 1321), §§148.63, 148.74, and subpart I of part 148 of this chapter. Except in the foregoing instances and in any instance in which such articles are imported in passengers' baggage or are to be released under a mail entry for the personal consumption of the importer or for disposition as his bona fide gift, the provisions in Part 275 of the regulations of the Bureau of Alcohol, Tobacco, and Firearms (27 CFR part 275) as to packages and notices thereon apply.

**[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 73-227, 38 FR 22548, Aug. 22, 1973; T.D. 78-329, 43 FR 43454, Sept. 26, 1978; T.D. 89-1, 53 FR 51253, Dec. 21, 1988]**

**§ 11.5 [Reserved]**

**§ 11.6 Distilled spirits, wines, and malt liquors in bulk.**

(a) The port director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or con-

veying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.

(b) Marks, brands, stamps, labels, or similar devices required by Federal, State, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unloading or other suitable place, unless the port director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other conditions. The port director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container.

[T.D. 79-221, 44 FR 46813, Aug. 9, 1979; T.D. 80-26, 45 FR 3901, Jan. 21, 1980; T.D. 89-1, 53 FR 51253, Dec. 21, 1988]

### § 11.7 Distilled spirits and other alcoholic beverages imported in bottles and similar containers; regulations of the Bureau of Alcohol, Tobacco, and Firearms.

The importation of distilled spirits and other alcoholic beverages in bottles and similar containers is subject to regulations of the Bureau of Alcohol, Tobacco and Firearms relating to strip stamps and other matters. (27 CFR parts 5, 201, and 251). Customs officers and employees shall perform such functions as are necessary or proper on their part to carry out such regulations.

[28 FR 14701, Dec. 31, 1963, as amended by T.D. 78-329, 43 FR 43454, Sept. 26, 1978]

### Marking

#### § 11.9 Special marking on certain articles.

(a) No movement, case, or dial provided for in Chapter 91, Harmonized Tariff Schedule of the United States (HTSUS), shall be released for consumption until marked in exact compliance with the requirements of additional U.S. Note 4, Chapter 91. If any article so required to be marked is found not to be marked to indicate the country of origin, the 10 percent marking duty shall be assessed, unless such marking is accomplished or the merchandise is exported or destroyed under Customs supervision prior to the liquidation of the entry, in accordance with the provisions of 19 U.S.C. 1304(f).

(b) The name of the manufacturer or purchaser which must appear on articles provided for Chapter 91, Harmonized Tariff Schedule of the United States (HTSUS), and specified in Additional U.S. Note 4, Chapter 91, may be either the actual name of the manufacturer or purchaser or a duly registered trade name under which such manufacturer or purchaser carries on his business. A trade-mark shall not be accepted as meeting any such special marking requirement unless it includes the full name of the manufacturer or purchaser. The term "Purchaser" as used in this paragraph means the purchaser in the United States by whom or for whose account the articles are imported.

[28 FR 14701, Dec. 31, 1963, as amended by T.D. 89-1, 53 FR 51253, Dec. 21, 1988; T.D. 90-51, 55 FR 28190, July 10, 1990; T.D. 97-82, 62 FR 51770, Oct. 3, 1997; 62 FR 55512, Oct. 27, 1997]

#### § 11.12 Labeling of wool products to indicate fiber content.

(a) Wool products imported into the United States, except those made more than 20 years prior to importation, and except carpets, rugs, mats, and upholsteries, shall have affixed thereto a stamp, tag, label, or other means of identification, as required by the Wool Products Labeling Act of 1939 (54 Stat. 1129; 15 U.S.C. 68 *et seq.*) and the rules and regulations promulgated thereunder by the Federal Trade Commission (16 CFR part 300). The term "wool product" means any product, or any portion of a product, which contains, purports to contain, or in any way is represented as containing wool, reprocessed wool, or reused wool.

(b) If imported wool products are not correctly labeled and the Center director is satisfied that the error or omission involved no fraud or willful neglect, the importer shall be afforded a reasonable opportunity to label the merchandise under Customs supervision to conform with the requirements of such act and the rules and regulations of the Federal Trade Commission. The compensation and expenses of Customs officers and employees assigned to supervise the labeling shall be reimbursed to the Government and shall be assessed in the same manner as in the case of marking of country of origin, §134.55 of this chapter.

(c) Packages of wool products subject to the provisions of this section which are not designated for examination may be released pending examination of the designated packages, but only if there shall have been filed in connection with the entry bonds on Customs Form 301, containing the bond conditions set forth in §113.62 and/or §113.68 of this chapter, as appropriate, in such amount as the Center director may require.

(d) The Center director shall give written notice to the importer of any lack of compliance with the Wool Products Labeling Act of 1939 in respect of an importation of wool products, and pursuant to §141.113 of this chapter shall demand the immediate return of the involved products to Customs custody, unless the lack of compliance is forthwith corrected.

(e) If the products covered by a notice and demand given pursuant to paragraph (d) of this section are not promptly returned to Customs custody and the Center director is not fully satisfied that they have been brought into compliance with the Wool Products Labeling Act of 1939, appropriate action shall be taken to effect the collection of liquidated damages in an amount equal to the entered value of the merchandise not redelivered, plus the estimated duty thereon as determined at the time of entry, unless the owner or consignee shall file with the appropriate Customs officer an application for cancellation of the liability incurred under the bond upon the payment as liquidated damages of a lesser amount than the full amount of the liquidated damages incurred, or upon the basis of such other terms and conditions as the Secretary of the Treasury may deem sufficient. The application shall contain a full statement of the reasons for the requested cancellation and shall be in duplicate.

(f) If any fraudulent violation of the act with respect to imported articles comes to the attention of the Center director, the involved merchandise shall be placed under seizure, or a demand shall be made for the redelivery of the merchandise if it has been released from Customs custody, and the case shall be reported to the Federal Trade Commission, Washington, D.C.

(Sec. 8, 54 Stat. 1132; 15 U.S.C. 68f; R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[28 FR 14701, Dec. 31, 1963, as amended by T.D. 72-262, 37 FR 20318, Sept. 29, 1972; T.D. 73-175, 38 FR 17446,

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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624; Section 12.1 also issued under 21 U.S.C. 371(b); Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381; Section 12.4 also issued under 21 U.S.C. 381(b); Section 12.6 also issued under 7 U.S.C. 1854; Section 12.10 also issued under 7 U.S.C. 151–162; Section 12.15 also issued under 19 U.S.C. 1558; Section 12.16 also issued under 7 U.S.C. 1592(b); Sections 12.21 through 12.23 also issued under 42 U.S.C. 262; Section 12.26 also issued under 18 U.S.C. 42; Section 12.28 also issued under 18 U.S.C. 42, 19 U.S.C. 1527; Section 12.34 also issued under 19 U.S.C. 1202 (additional U.S. Note to Chapter 36, HTSUS); Section 12.37 also issued under 27 U.S.C. 203; Section 12.39 also issued under 19 U.S.C. 1337, 1623; Sections 12.40 and 12.41 also issued under 19 U.S.C. 1305; Sections 12.42 through 12.44 also issued under 19 U.S.C. 1307 and Pub. L. 105–61 (111 Stat. 1272), and Public L. 114–125 (103 Stat. 122); Section 12.50 also issued under 42 U.S.C. 6301; Sections 12.73 and 12.74 also issued under 19 U.S.C. 1484, 42 U.S.C. 7522, 7601; Section 12.85 also issued under 19 U.S.C. 1623, 46 U.S.C. 4302, 4306, 4310; Sections 12.95 through 12.103 also issued under 15 U.S.C. 1241–1245; Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612; Sections 12.104j also issued under Pub. L. 108–429, 118 Stat. 2600; 19 U.S.C. 2612; Section 12.104k also issued under Pub. L. 114–151, 130 Stat. 369; 19 U.S.C. 2612; Sections 12.105 through 12.109 also issued under 19 U.S.C. 2094; Sections 12.110 through 12.117 also issued under 19 U.S.C. 1484 and 7 U.S.C. 136 *et seq.*; Sections 12.118 through 12.127 also issued under 15 U.S.C. 2601 *et seq.*; Section 12.140 also issued under 19 U.S.C. 1484, 2416(a), 2171; Section 12.142 also issued under 19 U.S.C. 1484; section 3301 of Pub. L. 110–246. Section 12.150 also issued under 19 U.S.C. 1595a and 1618; 22 U.S.C. 401. Section 12.152 also issued under 19 U.S.C. 1484, 1498; the Clean Diamond Trade Act (Pub. L. 108–19, 117 Stat. 631 (19 U.S.C. 3901 *et seq.*)); Executive Order 13312 dated July 29, 2003.

**Source:** 28 FR 14710, Dec. 31, 1963, unless otherwise noted.

#### Food, Drugs, and Cosmetics, Economic Poisons, Hazardous Substances, and Dangerous Caustic or Corrosive Substances

#### § 12.1 Cooperation with certain agencies; joint regulations.

(a) *Federal Food, Drug, and Cosmetic Act.* The importation into the United States of food, drugs, devices, cosmetics, and tobacco products as defined in section 201 (f), (g), (h), and (i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 (f), (g), (h), (i)) is governed by section 801 of the Act, as

**PART 18—TRANSPORTATION IN BOND AND  
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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1623, 1624; Section 18.1 also issued under 19 U.S.C. 1484, 1557, 1490; Section 18.2 also issued under 19 U.S.C. 1551a; Section 18.3 also issued under 19 U.S.C. 1565; Section 18.4 also issued under 19 U.S.C. 1322, 1323; Section 18.7 also issued under 19 U.S.C. 1490, 1557; 1646a; Section 18.11 also issued under 19 U.S.C. 1484; Section 18.12 also issued under 19 U.S.C. 1448, 1484, 1490;

Section 18.13 also issued under 19 U.S.C. 1498(a); Section 18.14 also issued under 19 U.S.C. 1498. Section 18.25 also issued under 19 U.S.C. 1490. Section 18.26 also issued under 19 U.S.C. 1490. Section 18.31 also issued under 19 U.S.C. 1553a.

**Subpart A—General Provisions**

**§ 18.0 Scope; definitions.**

(a) *Scope.* Except as provided in parts 122 (Air commerce) and 123 (CBP relations with Canada and Mexico) of this chapter, this part sets forth the requirements and procedures pertaining to the transportation of merchandise in-bond, as authorized by §§551, 552, and 553 of the Tariff Act of 1930, as amended (19 U.S.C. 1551, 1552, and 1553).

(b) *Definitions.* As used in this part, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

*Bonded carrier.* "Bonded carrier" means a carrier of merchandise whose bond under §113.63 of this chapter is obligated for the transportation and delivery of merchandise.

*Common carrier.* "Common carrier" means a common carrier of merchandise owning or operating a railroad, steamship, pipeline, truck line, or other transportation line or route.

*Origination port.* "Origination port" is the U.S. port at which the transportation of merchandise in-bond commences.

*Port of destination.* "Port of destination" is the U.S. port at which merchandise is delivered after being shipped in-bond from the origination port where it was entered as an immediate transportation entry.

*Port of diversion.* "Port of diversion" is the U.S. port to which merchandise is diverted while in transit from the origination port to the port of destination or the port of exportation.

*Port of exportation.* "Port of exportation" is the U.S. port at which in-bond merchandise entered for transportation and exportation or for immediate exportation is delivered for exportation from the United States.

**§ 18.1 In-bond application and entry; general rules.**

(a) *General requirement.* In order to transport merchandise in-bond (transport imported merchandise, secured by a bond, from one port to another prior to the appraisalment of the merchandise and without the payment of duties), an in-bond application as described in paragraph (d) of this section is required. An in-bond application consists of a transportation entry and a manifest. A transportation entry as described in paragraph (b) of this section may be made for any imported merchandise upon its arrival at a port of entry, subject to the prohibitions and restrictions provided in this part.

(b) *Types of transportation entries and withdrawals.* The following types of transportation entries and withdrawals may be made for merchandise to be transported in-bond:

- (1) Entry for immediate transportation (IT).
- (2) Warehouse withdrawal for immediate transportation.
- (3) Warehouse withdrawal for immediate exportation or for transportation and exportation.
- (4) Entry for transportation and exportation (T&E).
- (5) Entry for immediate exportation (IE).
- (6) Entry of vessel and aircraft supplies for immediate exportation (IE).
- (7) Entry of vessel and aircraft supplies for transportation and exportation (T&E).

(c) *Who may file.* A transportation entry may be filed by:

- (1) The carrier, or authorized agent of the carrier, that brings the merchandise to the origination port;

(2) The carrier, or authorized agent of the carrier, that is to accept the merchandise under its bond or a carnet for transportation to the port of destination or the port of exportation; or

(3) Any person or the authorized agent of any person, who has a sufficient interest in the merchandise as shown by the bill of lading or manifest, a certificate of the importing carrier (such as a power of attorney or letter of authorization), or by any other document. CBP may request evidence to demonstrate sufficient interest.

(d) *In-bond application.* An in-bond application consisting of a transportation entry and manifest must be transmitted to CBP via a CBP-approved EDI system as specified in paragraph (d)(2) of this section in order to transport merchandise in-bond.

(1) *Contents.* Except for the other identifying information described in paragraph (d)(1)(iii) of this section which is optional, the in-bond application must contain the following information:

(i) *Commodity HTSUS number.* The six-digit Harmonized Tariff Schedule of the United States (HTSUS) number of the merchandise must be provided.

(ii) *Description of merchandise subject to regulation by another government agency.* Merchandise subject to regulation by a U.S. government agency other than CBP must contain a sufficient description of the merchandise to enable the agency concerned to determine the contents of the shipment.

(iii) *Other identifying information.* If a visa, permit, license, entry number, or other similar number or identifying information has been issued by the U.S. Government, foreign government or other issuing authority, relating to the merchandise, the visa, permit, license, entry number, or other similar number or identifying information may be provided.

(iv) *Quantity.* The quantity of the cargo laden aboard the conveyance must be provided. This means the quantity of the smallest external packing unit. Containers and pallets do not constitute acceptable information. For example, a container holding 10 pallets with 200 cartons should be described as 200 cartons. If the reported quantity is not correct or if it changes, the in-bond record must be updated or amended in accordance with paragraph (h) of this section. The updating of the quantity of the merchandise does not relieve the carrier whose bond is obligated from liquidated damages for any shortage.

(v) *Container number and seals.* The container number of the container in which the merchandise is being transported and the seal number of the seal that seals the container (see §18.4) must be provided. If the seal number is not known when the in-bond application is filed, the in-bond application must be updated with the seal number within two business days from the date the initial carrier takes possession of the sealed merchandise.

(vi) *Destination.* For IT shipments, the port of destination in the United States must be provided. For T&E and IE shipments, the port of exportation and the first foreign port must be provided. If any of this information changes, the in-bond record must be updated or amended in accordance with paragraph (h) of this section.

(2) *Method of submission.* The in-bond application must be electronically transmitted to CBP via a CBP-approved EDI system, except as described in §18.31 relating to the in-bond transportation of merchandise by pipeline, or air (see 19 CFR part 122) or under a TIR carnet (see 19 CFR part 115). In the event that EDI functionality is unavailable for filing an in-bond

application, or any related in-bond filing, the Commissioner or his designee may authorize an alternative method.

(3) *Timing.* The in-bond application may be submitted at any time prior to the merchandise departing the origination port.

(e) *Bond required.* A custodial bond on CBP Form 301, containing the bond conditions set forth in §113.63 of this chapter, is required in order to transport merchandise in-bond under the provisions of this part.

(f) *Movement authorization required.* Authorization from CBP is required before merchandise can be transported in-bond. Authorization for the movement of merchandise will be transmitted by CBP via a CBP-approved EDI system.

(g) *Supervision—(1) Generally.* When merchandise is delivered to a bonded carrier for transportation in-bond, CBP may, in its discretion, require that the merchandise be laden on the conveyance only under CBP supervision.

(2) *Merchandise delivered from warehouse.* When merchandise is delivered from a warehouse to a bonded carrier for transportation in-bond, supervision of lading will be accomplished in accordance with the procedure set forth in §19.6(b) of this chapter.

(3) *Merchandise delivered from foreign trade zone.* When merchandise is delivered from a foreign trade zone to a bonded carrier for transportation in-bond, supervision of lading will be accomplished in accordance with the procedure set forth in §146.71(a) of this chapter.

(h) *Updating and amending the in-bond record.* The filer of the in-bond application or any other party named in paragraph (c) of this section, with authorization of the party whose bond is obligated, must update and/or amend the in-bond record as required under the provisions of this part via a CBP-approved EDI system. The in-bond record must be updated or amended within two business days of the event that requires updating and/or amending of the in-bond record.

(i) *In-transit time—(1) Maximum in-transit time.* Except for merchandise to be transported via barge, merchandise to be transported in-bond must be delivered to CBP at the port of destination or port of exportation within 30 days from the date of conveyance arrival at the origination port (if the in-bond application has been received and approved prior to conveyance arrival), or the date CBP provides movement authorization to the in-bond applicant, whichever is later. Merchandise to be transported via barge for all or part of the in-bond movement, must be delivered to CBP at the port of destination or port of exportation within 60 days from the date of conveyance arrival at the origination port (if the in-bond application has been received and approved prior to conveyance arrival), or the date CBP provides movement authorization to the in-bond applicant, whichever is later. If the merchandise is subject to examination or inspection by CBP or another government agency, the time that the merchandise is held due to the examination or inspection will not be considered part of the 30-day or 60-day in-transit time. Neither the diversion to another port nor the filing of a new in-bond application extends the maximum in-transit time. Failure to deliver the merchandise within the prescribed period constitutes an irregular delivery. In-bond merchandise transported by pipeline is not subject to the time limits in this section.

(2) *Extension of in-transit time.* The in-transit requirement may be extended by CBP upon a written request to the port director of the port of destination or port of exportation. The decision to extend the in-transit time period is within the discretion of CBP. Factors that may be considered, among any others deemed applicable by CBP, include extraordinary

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CONTAINER STATIONS AND CONTROL OF  
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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624;

Section 19.1 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1560, 1561, 1562;

Section 19.6 also issued under 19 U.S.C. 1555, 1557;

Section 19.7 also issued under 19 U.S.C. 1555, 1556;

Section 19.11 also issued under 19 U.S.C. 1556, 1562;

Section 19.15 also issued under 19 U.S.C. 1311;

Sections 19.17–19.25 also issued under 19 U.S.C. 1312;

Sections 19.35–19.39 also issued under 19 U.S.C. 1555;

Section 19.40(a) also issued under 19 U.S.C. 1450, 1499, 1623;

Sections 19.41–19.43 also issued under 19 U.S.C. 1499;

Section 19.44 also issued under 19 U.S.C. 1448;

Section 19.45 also issued under 19 U.S.C. 1551, 1565;

Section 19.48 also issued under 19 U.S.C. 1499, 1623;

Section 19.49 also issued under 19 U.S.C. 1484.

**Source:** 28 FR 14763, Dec. 31, 1963, unless otherwise noted.

**§ 19.1 Classes of customs warehouses.**

(a) *Classifications.* Customs warehouses shall be designated according to the following classifications:

(1) *Class 1.* Premises that may be owned or leased by the Government, when the exigencies of the service as determined by the port director so require, and used for the storage of merchandise undergoing examination by Customs, under seizure, or pending final release from Customs custody. Merchandise will be stored in such premises only at Customs direction and will be held under "general order."

(2) *Class 2.* Importers' private bonded warehouses used exclusively for the storage of merchandise belonging or consigned to the proprietor thereof. A warehouse of class 4 or 5 may be bonded exclusively for the storage of goods imported by the proprietor thereof, in which case it shall be known as a private bonded warehouse.

(3) *Class 3.* Public bonded warehouses used exclusively for the storage of imported merchandise.

(4) *Class 4.* Bonded yards or sheds for the storage of heavy and bulky imported merchandise; stables, feeding pens, corrals, or other similar buildings or limited enclosures for the storage of imported animals; and tanks for the storage of imported liquid merchandise in bulk. If the port director

deems it necessary, the yards shall be enclosed by substantial fences with entrances and exit gates capable of being secured by the proprietor's locks. The inlets and outlets to tanks shall be secured by means of seals or the proprietor's locks.

(5) *Class 5.* Bonded bins or parts of buildings or of elevators to be used for the storage of grain. The bonded portions shall be effectively separated from the rest of the building.

(6) *Class 6.* Warehouses for the manufacture in bond, solely for exportation, of articles made in whole or in part of imported materials or of materials subject to internal-revenue tax; and for the manufacture for home consumption or exportation of cigars in whole of tobacco imported from one country.

(7) *Class 7.* Warehouses bonded for smelting and refining imported metal-bearing materials for exportation or domestic consumption.

(8) *Class 8.* Bonded warehouses established for the purpose of cleaning, sorting, repacking, or otherwise changing in condition, but not manufacturing, imported merchandise, under Customs supervision and at the expense of the proprietor.

(9) *Class 9.* Bonded warehouse, known as "duty-free stores", used for selling, for use outside the Customs territory, conditionally duty-free merchandise owned or sold by the proprietor and delivered from the Class 9 warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the Customs territory for destinations other than foreign trade zones. Pursuant to 19 U.S.C. 1555(b)(8)(C), "Customs territory", for purposes of duty-free stores, means the Customs territory of the U.S. as defined in §101.1(e) of this chapter, and foreign trade zones (see part 146 of this chapter). All distribution warehouses used exclusively to provide individual duty-free sales locations and storage cribs with conditionally duty-free merchandise are also Class 9 warehouses.

(10) [Reserved]

(11) *Class 11.* Bonded warehouses, known as "general order warehouses," established for the storage and disposition exclusively of general order merchandise as described in §127.1 of this chapter.

(b) *Manipulation.* The whole or a part of any warehouse of class 1, 2, 3, 4, 5, 6, 7, or 11 may be designated a constructive manipulation (class 8) warehouse when the exigencies of the service so require.

(c) *General order.* General order merchandise as described in §127.1 of this chapter may be stored and disposed of in a class 11 warehouse or a warehouse of class 3, 4, or 5, provided the class 3, 4, or 5 warehouse has also been certified by the port director as meeting the criteria for a class 11 warehouse, following an application under §19.2. So far as such warehouses are used for the purpose of handling general order goods, they will also be considered general order (class 11) warehouses. If there is no space at a warehouse of any of these classes available, the proprietor of such a warehouse, with the approval of the port director of the port nearest to where the warehouse is located, may rent or lease additional suitable premises for the storage of general order merchandise.

[T.D. 76-277, 41 FR 42649, Sept. 28, 1976, as amended by T.D. 82-204, 47 FR 49368, Nov. 1, 1982; T.D. 89-1, 53 FR 51254, Dec. 21, 1988; T.D. 92-81, 57 FR 37696, Aug. 20, 1992; T.D. 97-19, 62 FR 15834, Apr. 3, 1997; T.D. 02-65, 67 FR 68032, Nov. 8, 2002]

## General Provisions

### § 19.2 Applications to bond.

(a) *Application.* An owner or lessee desiring to establish a bonded warehouse facility shall make written application to the director of the port nearest to where the warehouse is located, describing the premises, giving its location, and stating the class of warehouse desired. If required by the port director, the applicant shall provide a list of names and addresses of all officers and managing officials of the warehouse and all persons who have a direct or indirect financial interest in the operation of the warehouse facility. Except in the case of a class 2 or class 7 warehouse, the application shall state whether the warehouse facility is to be operated only for the storage or treatment of merchandise belonging to the applicant or whether it is to be operated as a public bonded warehouse. If the warehouse facility is to be operated as a private bonded warehouse, the application also shall state the general character of the merchandise to be stored therein, and provide an estimate of the maximum duties and taxes which will be due on all merchandise in the bonded warehouse at any one time. A warehouse facility will be determined by street address, location, or both. For example, if a proprietor has two warehouses located at one street address and three warehouses located at three different street addresses the two located at one address would be considered as one warehouse facility and the three located at three different addresses would each be considered as separate warehouse facilities. The applicant must prepare and have available at the warehouse a procedures manual describing the inventory control and recordkeeping system that will be used in the warehouse. A certification by the proprietor that the inventory control and recordkeeping system meets the requirements of §19.12 will be submitted with the application. The physical security of the facility must meet the approval of the port director.

(b) The applicant shall submit evidence of fire insurance coverage on the proposed warehouse. If the applicant does not have fire insurance for the proposed warehouse, he shall submit a certificate signed by an officer or agent of each of two insurance companies stating that the building is acceptable for fire-insurance purposes. The application shall also be accompanied by a blueprint showing measurements, openings, etc., of the building or space to be bonded. If the warehouse to be bonded is a tank, the blueprint shall show all outlets, inlets, and pipe liles and shall be certified as correct by the proprietor of the tank. A gauge table showing the capacity of the tank in United States gallons per inch or fraction of an inch of height, certified by the proprietor to be correct, shall accompany the application. When a part or parts of a building are to be used as the warehouse, there shall be given a detailed description of the materials and construction of all partitions. When the proprietor is the lessee of the premises covered by the application and bond, he shall furnish a stipulation concurred in by the sureties, agreeing that, prior to the expiration of the lease covering the premises without renewal thereof, he will transfer any merchandise remaining in the bonded warehouse to an approved bonded warehouse, pay all duties, charges, or exactions due on such merchandise, or otherwise dispose of such merchandise in accordance with the Customs laws and regulations. If the application is for a Class 9 warehouse (duty-free store), the applicant shall furnish the following documents:

(1) A map showing the location of the facilities to be bonded in respect to the port of entry and distances to all exit points of purchasers of conditionally duty-free merchandise;

**PART 24—CUSTOMS FINANCIAL AND  
ACCOUNTING PROCEDURE**

- Sec.
- 24.1 Collection of Customs duties, taxes, fees, interest, and other charges.
  - 24.1a Temporary Postponement of Deadline to Deposit Certain Estimated Duties, Taxes, and Fees Because of the COVID-19 National Emergency
  - 24.2 Persons authorized to receive Customs collections.
  - 24.3 Bills and accounts; receipts.
  - 24.3a CBP bills; interest assessment on bills; delinquency; notice to principal and surety.
  - 24.4 Optional method for payment of estimated import taxes on alcoholic beverages upon entry, or withdrawal from warehouse, for consumption.
  - 24.5 Filing identification number.
  - 24.11 Notice to importer or owner of increased or additional duties, taxes, fees and interest.
  - 24.12 Customs fees; charges for storage.
  - 24.13 Car, compartment, and package seals; kind, procurement.
  - 24.13a Car, compartment, and package seals; and fastenings; standards; acceptance by Customs.
  - 24.14 Salable Customs forms.
  - 24.16 Overtime services; overtime compensation and premium pay for Customs Officers; rate of compensation.
  - 24.17 Reimbursable services of CBP employees.
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  - 24.21 Administrative overhead charges.
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  - 24.25 Statement processing and Automated Clearinghouse.
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  - 24.32 Claims; unpaid compensation of deceased employees and death benefits.
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  - 24.71 Claims for personal injury or damages to or loss of privately owned property.
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  - 24.73 Miscellaneous claims.

**Appendix A to Part 24—Customs COBRA User Fees and Limitations in 19 CFR 24.22**

**Appendix B to Part 24—Customs COBRA User Fees and Limitations in 19 CFR 24.23**

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58a-58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 3717, 9701; Pub. L. 107-296, 116 Stat. 2135 (6 U.S.C. 1 *et. seq.*).

Section 24.1 also issued under 19 U.S.C. 197, 198, 1648;

Section 24.1a also issued under 19 U.S.C. 1318;

Section 24.4 also issued under 19 U.S.C. 1623, 26 U.S.C. 5007,

5054, 5061, 7805;

Section 24.11 also issued under 19 U.S.C. 1485(d);

Section 24.12 also issued under 19 U.S.C. 1524, 46 U.S.C. 31302;

Section 24.14 also issued under 19 U.S.C. 1;

Section 24.16 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1623; 46 U.S.C. 2111, 2112;

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112;

Section 24.22 also issued under Sec. 892, Pub. L. 108-357, 118 Stat. 1418 (19 U.S.C. 58c); Sec. 32201, Pub. L. 114-94, 129 Stat. 1312 (19 U.S.C. 58c).

Section 24.23 also issued under 19 U.S.C. 3332; Sec. 892, Pub. L. 108-357, 118 Stat. 1418 (19 U.S.C. 58c); Sec. 32201, Pub. L. 114-94, 129 Stat. 1312 (19 U.S.C. 58c).

Section 24.32 also issued under 5 U.S.C. 5582, 5583;

Section 24.36 also issued under 26 U.S.C. 6423. Pub. L. 115-97.

**Source:** 28 FR 14808, Dec. 31, 1963, unless otherwise noted.

**§ 24.1 Collection of Customs duties, taxes, fees, interest, and other charges.**

(a) Except as provided in paragraph (b) of this section, the following procedure shall be observed in the collection of Customs duties, taxes, fees, interest, and other charges (see §111.29(b) and 141.1(b) of this chapter):

(1) Any form of United States currency or coin legally current at time of acceptance shall be accepted.

(2) Any bank draft, cashier's check, or certified check drawn on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such draft or checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository shall be accepted.

(3)(i) An uncertified check drawn by an interested party on a national or state bank or trust company of the United States or a bank in Puerto Rico or any possession of the United States if such checks are acceptable for deposit by a Federal Reserve bank, branch Federal Reserve bank, or other designated depository shall be accepted if there is on file with CBP a bond to secure the payment of the duties, taxes, fees, interest, or other charges, or if a bond has not been filed, the organization or individual drawing and tendering the uncertified check has been approved by an authorized CBP official to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, an authorized CBP official shall use available credit data obtainable without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges, sufficient to satisfy him of the credit standing or reliability of the drawer of the check. For purposes of this paragraph, a customs broker who does not have a permit for the district (see the definition of "district" at §111.1 of this chapter) where the entry is filed, is an interested party for the purpose of CBP's acceptance of such broker's own check, provided the broker has on file the necessary power of attorney which is unconditioned geographically for the performance of ministerial acts. CBP may look to the principal (importer) or to the surety should the check be dishonored.

(ii) If, during the preceding 12-month period, an importer or interested party has paid duties or any other obligation by check and more than one check is returned dishonored by the debtor's financial institution, an authorized CBP official shall require a certified check, money order or cash from the importer or interested party for each subsequent payment until such time that the port director is satisfied that the debtor has the ability to consistently present uncertified checks that will be honored by the debtor's financial institution.

(4) A U.S. Government check endorsed by the payee to the U.S. Customs Service, a domestic traveler's check, or a U.S. postal, bank, express, or telegraph money order shall be accepted. Before accepting this form of payment the Cus-

toms cashier or other employee authorized to receive Customs collections shall require such identification in the way of a current driver's license issued by a state of the United States, or a current passport properly authenticated by the Department of State, or a current credit card issued by one of the numerous travel agencies or clubs, or other credit data, etc., from which he can verify the identity and signature of the person tendering such check or money order.

(5) The face amount of a bank draft, cashier's check, certified check, or uncertified check tendered in accordance with this paragraph shall not exceed the amount due by more than \$1 and any required change is authorized to be made out of any available cash funds on hand.

(6) The face amount of a U.S. Government check, traveler's check, or money order tendered in accordance with this paragraph shall not exceed the amount due by more than \$50 and any required change is authorized to be made out of any available cash funds on hand.

(7) Credit or charge cards, which have been authorized by the Commissioner of Customs, may be used for the payment of duties, taxes, fees, and/or other charges at designated Customs-serviced locations. Payment by this manner is limited to non-commercial entries and is subject to ultimate collection from the credit card company. Persons paying by charge or credit card will remain liable for all such charges until paid. Information as to those credit card companies authorized by Customs may be obtained from Customs officers.

(8) Participants in the Automated Broker Interface may use statement processing as described in §24.25 of this part. Statement processing allows entry/entry summaries and entry summaries to be grouped by either importer or by filer, and allows payment of related duties, taxes and fees by a single payment, rather than by individual checks for each entry. The preferred method of payment for users of statement processing is by Automated Clearinghouse.

(b) At piers, terminals, bridges, airports and other similar places, in addition to the methods of payment prescribed in paragraph (a) of this section, a personal check drawn on a national or state bank or trust company of the United States shall be accepted by Customs inspectors and other Customs employees authorized to receive Customs collections in payment of duties, taxes, fees, interest, and other charges on noncommercial importations, subject to the identification requirements of paragraph (a)(4) of this section and this paragraph. Where the amount of the check is over \$25, the Customs cashier or other employee authorized to receive Customs collections will ensure that the payor's name, home and business telephone number (including area code), and date of birth are recorded on the face (front) side of the monetary instrument. In addition, one of the following will be recorded on the face side of the instrument: preferably, the payor's social security number or, alternatively, a current passport number or current driver's license number (including issuing state). A personal check received under this paragraph and a United States Government check, traveler's check, or money order received under paragraph (a) of this section by such Customs inspectors and other Customs employees shall also be subject to the following conditions:

(1) Where the amount is less than \$100 and the identification requirements of paragraph (a)(4) of this section have been met, the Customs employee accepting the check or money order will place his name and badge number on the collection voucher and place the serial number or other form of voucher identification on the face side of the check or money order so that the check or money order can be easily associated with the voucher.

(2) Where the amount is \$100 or more, in addition to the requirements of paragraph (b)(1) of this section the Customs employee accepting the check or money order shall obtain the approval of the Customs officer in charge who also shall personally verify the identification data and indicate his approval by initialing the collection voucher below the signature of the Customs employee who approved the receipt of the check or money order.

(3) A personal check tendered in accordance with this paragraph shall be accepted only when drawn for the amount of the duties, taxes, fees, and other charges to be paid by such check.

(c) Checks on foreign banks, foreign travelers' checks, and commercial drafts or bills of exchange subject to acceptance by the drawees shall not be accepted.

(d) Checks and other negotiable papers covering duties, taxes, fees, interest, and other Customs charges shall be made payable to the United States Customs Service.

(e) Any person who pays by check any duties, taxes, fees, interest, or other charges or obligations due the Customs Service which are not guaranteed by a Customs bond shall be assessed a charge of \$30.00 for each check which is returned unpaid by a financial institution for any reason, except the charge will not be assessed if it is shown that the maker of the check was not at fault in connection with the return of the check. This charge shall be in addition to any unpaid duties, taxes, fees, interest, and other charges.

[28 FR 14808, Dec. 31, 1963; CBP Dec. 16-26, 81 FR 92978, Dec. 20, 2016]

#### **§ 24.1a Temporary Postponement of Deadline to Deposit Certain Estimated Duties, Taxes, and Fees Because of the COVID-19 National Emergency**

(a) *General.* Pursuant to the authority of 19 U.S.C. 1318(a), subject to the conditions in paragraphs (a)(1) through (4) of this section, the deadline for the deposit of estimated duties, taxes, and fees that an importer of record would ordinarily be obligated to pay as of the date of entry, or withdrawal from warehouse, for consumption, of imported merchandise into the United States is postponed for a period of 90 days from the date that the deposit would otherwise have been due. No interest will accrue for the delayed deposit of such estimated duties, taxes, and fees during this 90-day temporary postponement.

(1) This temporary postponement applies only to entries, or withdrawals from warehouse, for consumption, made on or after March 1, 2020, and no later than April 30, 2020, by importers of record with a significant financial hardship. This temporary postponement does not permit return of any deposits of estimated duties, taxes, and/or fees that have been paid.

(2) An importer will be considered to have a significant financial hardship if the operation of such importer is fully or partially suspended during March or April 2020 due to orders from a competent governmental authority limiting commerce, travel, or group meetings because of COVID-19, and as a result of such suspension, the gross receipts of such importer for March 13-31, 2020, or April 2020 are less than 60 percent of the gross receipts for the comparable period in 2019. An eligible importer need not file additional documentation with CBP to be eligible for this relief but must maintain documentation as part of its books and records establishing that it meets the requirements for relief.

**PART 54—CERTAIN IMPORTATIONS  
TEMPORARILY FREE OF DUTY**

Sec.

**Metal Articles Imported to be Used in Remanufacture  
by Melting, or to be Processed by Shredding,  
Shearing, Compacting, or Similar Processing Which  
Renders Them Fit Only for the Recovery of the Metal  
Content**

- 54.5 Scope of exemptions; nondeposit of estimated  
duty.
- 54.6 Proof of intent; bond; proof of use; liquidation.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i); Section XV,  
Note 5, Harmonized Tariff Schedule of the United States), 1623,  
1624.

**Metal Articles Imported to be Used in  
Remanufacture by Melting, or to be Processed by  
Shredding, Shearing, Compacting, or Similar  
Processing Which Renders Them Fit Only for the  
Recovery of the Metal Content**

**§ 54.5 Scope of exemptions; nondeposit of esti-  
mated duty.**

(a) Except as otherwise provided in this section, articles predominating by weight of metal to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders them fit only for the recovery of the metal content, and actually so used, shall be entitled to free entry upon compliance with §54.6, if entered, or withdrawn from warehouse for consumption, during the effective period of subheadings 9817.00.80 and 9817.00.90, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202). This provision does not apply to:

- (1) Articles of lead, zinc, or tungsten;
- (2) Metal-bearing materials provided for in section VI, Chapter 26 or subheading 8548.10, HTSUS; or
- (3) Unwrought metal provided for in Section XV, HTSUS."

(b) No deposit of estimated duty shall be required upon the entry, or withdrawal from warehouse for consumption, of the articles described in paragraph (a) of this section if the Center director is satisfied at the time of entry, or withdrawal, by written declaration of the importer, or its electronic equivalent, that the merchandise is being imported to be used in remanufacture by melting, or to be processed by shredding, shearing, compacting, or similar processing which renders it fit only for the recovery of the metal content.

[T.D. 80–151, 45 FR 38041, June 6, 1980, as amended by T.D. 87–75, 52 FR 20067, May 29, 1987; T.D. 89–1, 53 FR 51254, Dec. 21, 1988; T.D. 98–4, 62 FR 68165, Dec. 31, 1997; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 54.6 Proof of intent; bond; proof of use; liquida-  
tion.**

Articles predominating by weight of metal, described in §54.5(a) shall be admitted free of duty upon compliance with the following conditions:

(a) There shall be filed in connection with the entry a statement of the importer, or its electronic equivalent, consistent with the requirements of §10.134 of this chapter.

(b) If the articles are entered for consumption or warehouse, a bond shall be filed on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter.

Withdrawals from warehouse shall be made on Customs Form 7501, or its electronic equivalent. The liquidation of the consumption or warehouse entry shall be suspended pending proof of use or other disposition of the articles within the time prescribed in paragraph (c) of this section.

(c) Within 3 years from the date of entry, or withdrawal from warehouse for consumption, the importer shall submit to CBP, either at the port of entry or electronically, a statement from the superintendent or manager of the plant at which the articles were used in remanufacture by melting, or were processed by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, showing:

- (1) The name and location of the plant;
- (2) The entry number, date, and port of entry (if the person making the statement is not in possession of this information, a reference to invoices, purchase orders, or other documents which will identify the shipment with the entry may be substituted);
- (3) The date or inclusive dates of the remanufacture or processing of the articles; and

(4) A description of the remanufacture or processing in sufficient detail to enable the Center director to determine whether it constituted a use in remanufacture by melting, or processing by shredding, shearing, compacting, or similar processing which rendered the articles fit only for the recovery of the metal content. In appropriate cases, the remanufacture or processing of the articles covered by more than one entry may be included in one statement. The statement shall be based on adequate and carefully kept plant and import records which shall be available during normal business hours to any Customs officer. The importer and plant manager shall maintain the import and plant records for 5 years from the date of the related entry of the merchandise. The burden shall be on the importer or plant manager to keep these records so that the claim of actual use can be established readily.

(d) If satisfactory proof of use of the articles in remanufacture by melting, or in processing by shredding, shearing, compacting, or similar processing which rendered them fit only for the recovery of the metal content, is furnished within the prescribed time, the entry shall be liquidated without the assessment of duty on the covered articles. If proof is not filed within 3 years from the date of entry, or withdrawal from warehouse for consumption, or the use does not warrant the classification claimed, the entry shall be liquidated without any exemption from duty under subheading 9817.00.80 or 9817.00.90, HTSUS.

As used in this section, the phrase "in connection with the entry" means any time before liquidation of the entry or within the period during which a reliquidation may be completed (§113.43(c)). Therefore, a claim for free entry under subheading 9817.00.80 or 9817.00.90, HTSUS, supported by a statement of intent may be filed at any time before liquidation of the entry or within the period during which a valid reliquidation may be completed.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 80–151, 45 FR 38041, June 6, 1980, as amended by T.D. 84–213, 49 FR 41170, Oct. 19, 1984; T.D. 87–75, 52 FR 20067, May 29, 1987; T.D. 89–1, 53 FR 51255, Dec. 21, 1988; T.D. 95–81, 60 FR 52295, Oct. 6, 1995; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]



## PART 101—GENERAL PROVISIONS

Sec.

- 101.0 Scope.
- 101.1 Definitions.
- 101.2 Authority of Customs officers.
- 101.3 Customs service ports and ports of entry.
- 101.4 Entry and clearance of vessels at Customs stations.
- 101.5 CBP preclearance offices in foreign countries.
- 101.6 Hours of business.
- 101.7 Customs seal.
- 101.8 Identification cards.
- 101.9 Test programs or procedures; alternate requirements.
- 101.10 Centers of Excellence and Expertise.

**Authority:** 5 U.S.C. 301; 6 U.S.C. 101 *et. seq.*; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1629, 1646a.

Section 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;  
Section 101.5 also issued under 19 U.S.C. 1629;  
Section 101.9 also issued under 19 U.S.C. 1411–1414.

**Source:** T.D. 77–241, 42 FR 54937, Oct. 12, 1977, unless otherwise noted.

### § 101.0 Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs ports of entry, service ports and Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees.

[T.D. 77–241, 42 FR 54937, Oct. 12, 1977, as amended by T.D. 99–27, 64 FR 13675, Mar. 22, 1999]

### § 101.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

**Business day.** A “business day” means a weekday (Monday through Friday), excluding national holidays as specified in §101.6(a).

**CBP.** The term “CBP” means U.S. Customs and Border Protection.

**Center director.** The term “Center director” means the person who manages their designated Center and is responsible for certain trade decisions and functions concerning that Center and the importers that are processed by that Center.

**Centers of Excellence and Expertise or Centers.** The terms “Centers of Excellence and Expertise” or “Centers” refer to national CBP offices that are responsible for performing certain trade functions and making certain determinations as set forth in particular regulatory provisions regarding importations by importers that are considered by CBP to be in the industry sector, regardless of the ports of entry at which the importations occur. Industry sectors are categorized by the Harmonized Tariff Schedule of the United States (HTSUS) numbers representing an industry sector. The list of HTSUS numbers will be published in a **Federal Register**

document and any change made to that list will be announced in a subsequent **Federal Register** document.

**Commissioner or Commissioner of Customs.** The terms “Commissioner” or “Commissioner of Customs” mean Commissioner of U.S. Customs and Border Protection.

**Customs or U.S. Customs Service.** The terms “Customs” or “U.S. Customs Service” mean U.S. Customs and Border Protection.

**Customs regulations or CBP regulations.** The terms “Customs regulations” or “CBP regulations” mean chapter 1 of title 19 of the Code of Federal Regulations (19 CFR chapter 1).

**Customs station.** A “Customs station” is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President’s Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

**Customs territory of the United States.** “Customs territory of the United States” includes only the States, the District of Columbia, and Puerto Rico.

**Date of entry.** The “date of entry” or “time of entry” of imported merchandise shall be the effective time of entry of such merchandise, as defined in §141.68 of this chapter.

**Date of exportation.** “Date of exportation” or “time of exportation” shall be as defined in §152.1(c) of this chapter.

**Date of importation.** “Date of importation” means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, “date of importation” means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade such merchandise.

**Duties.** “Duties” means Customs duties and any internal revenue taxes which attach upon importation.

**Entry or withdrawal for consumption.** “Entry or withdrawal for consumption” means entry for consumption or withdrawal from warehouse for consumption.

**Exportation.** “Exportation” means a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

**Importer.** “Importer” means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:

- (1) The consignee, or
- (2) The importer of record, or
- (3) The actual owner of the merchandise, if an actual owner’s declaration and superseding bond has been filed in accordance with §141.20 of this chapter, or
- (4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of part 144 of this chapter.

**Port and port of entry.** The terms “port” and “port of entry” refer to any place designated by Executive Order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a U.S. Customs and Border Protection (“CBP”) officer is authorized to accept entries of merchandise

to collect duties, and to enforce the various provisions of the customs and navigation laws. The terms "port" and "port of entry" incorporate the geographical area under the jurisdiction of a port director. (The customs ports in the Virgin Islands, although under the jurisdiction of the Secretary of the Treasury, have their own customs laws (48 U.S.C. 1406(i)). These ports, therefore, are outside the customs territory of the United States and the ports thereof are not "ports of entry" within the meaning of these regulations).

*Port director.* The term "port director" means the person who has jurisdiction within the geographical boundaries of their port of entry unless the regulations provide that particular trade functions or determinations are exclusively within the purview of a Center Director or other CBP personnel.

*Principal field officer.* A "principal field officer" is an officer in the field service whose immediate supervisor is located at Customs Service Headquarters.

*Service port.* The term "service port" refers to a Customs location having a full range of cargo processing functions, including inspections, entry, collections, and verification.

*Shipment.* "Shipment" means the merchandise described on the bill of lading or other document used to file or support entry, or in the oral declaration when applicable.

[T.D. 77-241, 42 FR 54937, Oct. 12, 1977, as amended by T.D. 84-213, 49 FR 41170, Oct. 19, 1984; 49 FR 44867, Nov. 9, 1984; T.D. 94-51, 59 FR 30294, June 13, 1994; T.D. 95-77, 60 FR 50011, Sept. 27, 1995; T.D. 99-57, 64 FR 40987, July 28, 1999; CBP Dec. 15-15, 80 FR 70154, Nov. 13, 2015; CBP Dec. 16-26, 81 FR 92978, Dec. 20, 2016]

**§ 101.2 Authority of Customs officers.**

(a) *Supremacy of delegated authority.* Action taken by any person pursuant to authority delegated to him by the Secretary of the Treasury, whether directly or by subdelegation, shall be valid despite the existence of any statute or regulation, including any provision of this chapter, which provides that such action shall be taken by some other person. Any person acting under such delegated authority shall be deemed to have complied with any statute or regulation which provides or indicates that it shall be the duty of some other person to perform such action.

(b) *Consolidation of functions.* Any reorganization of the Customs Service or consolidation of the functions of two or more persons into one office which results in the failure of a designated Customs officer to perform an action required by statute or regulation, shall not invalidate the performance of that action by any other Customs officer.

(c) *Customs supervision.* Whenever anything is required by the regulations in this chapter or by any provision of the customs or navigation laws to be done or maintained under the supervision of Customs officers, such supervision shall be carried out as prescribed in the regulations of this chapter or by instructions from the Secretary of the Treasury or the Commissioner of Customs in particular cases. In the absence of a governing regulation or instruction, supervision shall be direct and continuous or by such occasional verification as the principal Customs field officer shall direct if such officer shall determine that less intensive supervision will ensure proper enforcement of the law and protection of the revenue. Nothing in this section shall be deemed to warrant any failure to direct and furnish required supervision or to excuse any failure of a party in interest to comply with prescribed procedures for obtaining any required supervision.

[T.D. 77-241, 42 FR 54937, Oct. 12, 1977, as amended by T.D. 98-22, 63 FR 11825, Mar. 11, 1998]

**§ 101.3 Customs service ports and ports of entry.**

(a) *Designation of Customs field organization.* The Deputy Assistant Secretary (Regulatory, Tariff, and Trade Enforcement), pursuant to authority delegated by the Secretary of the Treasury, is authorized to establish, rearrange or consolidate, and to discontinue Customs ports of entry as the needs of the Customs Service may require.

(b) *List of Ports of Entry and Service Ports.* The following is a list of Customs Ports of Entry and Service Ports. Many of the ports listed were created by the President's message of March 3, 1913, concerning a reorganization of the Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Subsequent orders of the President or of the Secretary of the Treasury which affected these ports, or which created (or subsequently affected) additional ports, are cited following the name of the ports.

(1) *Customs ports of entry.* A list of Customs ports of entry by State and the limits of each port are set forth below:

Ports of entry	Limits of port
<b>Alabama:</b>	
Birmingham	
Huntsville .....	T.D. 83-196.
Mobile .....	Including territory described in T.D. 76-259.
<b>Alaska:</b>	
Alcan .....	T.D. 71-210.
Anchorage .....	T.D.s 55295 and 68-50.
Dallton Cache .....	T.D. 79-74.
Fairbanks .....	E.O. 8064, Mar. 9, 1939 (4 FR 1191).
Juneau	
Ketchikan .....	Including territory described in T.D. 74-100.
Kodiak .....	T.D. 98-65.
Sitka .....	Including territory described in T.D. 55609.
Skagway	
Valdez .....	Including territory described in T.D. 79-201.
Wrangell .....	Including territory described in T.D. 56420.
<b>Arizona:</b>	
Douglas .....	Including territory described in E.O. 9382, Sept. 25, 1943 (8 FR 13083).
Lukeville .....	E.O. 10088, Dec. 3, 1949 (14 FR 7287).
Naco	
Nogales .....	Including territory described in T.D. 77-285.
Phoenix .....	T.D. 71-103.
San Luis .....	E.O. 5322, Apr. 9, 1930.
Sasabe .....	E.O. 5608, Apr. 22, 1931.
Tucson .....	Including territory described in T.D. 89-102.
<b>Arkansas:</b>	
Little Rock-North Little Rock .....	T.D. 70-146. (Restated in T.D. 84-126).
<b>California:</b>	
Andrade .....	E.O. 4780, Dec. 13, 1927.
Calexico	
Eureka	

PART 102—RULES OF ORIGIN

Subpart A—General

Sec.

- 102.0 Scope.
- Subpart A—General**
- 102.1 Definitions.
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- 102.11 General rules.
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- 102.18 Rules of interpretation.
- 102.19 NAFTA preference override.
- 102.20 Specific rules by tariff classification.
- 102.21 Textile and apparel products.
- 102.22 Rules of origin for textile and apparel products of  
Israel.
- 102.23 Origin and Manufacturer Identification.
- 102.24 Entry of textile or apparel products.
- 102.25 Textile or apparel products under the North  
American Free Trade Agreement.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized  
Tariff Schedule of the United States), 1624, 3592, 4513.

**Source:** T.D. 94–4, 59 FR 113, Jan. 3, 1994, unless otherwise  
noted.

**§ 102.0 Scope.**

With the exception of §§102.21 through 102.25, this part sets forth rules for determining the country of origin of imported goods for the purposes specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (“NAFTA”). Under NAFTA, these specific purposes are: country of origin marking; determining the rate of duty and staging category applicable to originating textile and apparel products as set out in Section 2 (Tariff Elimination) of Annex 300–B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). The rules set forth in §§ 102.1 through 102.18 and 102.20 also determine the country of origin for marking purposes of imported goods under the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA). The rules set forth in §§102.1 through 102.21 of this part will also apply for purposes of determining whether an imported good is a new or different article of commerce under §10.769 of the United States-Morocco Free Trade Agreement regulations and §10.809 of the United States-Bahrain Free Trade Agreement regulations. The rules for determining the country of origin of textile and apparel products set forth in §102.21 apply for the foregoing purposes and for the other purposes stated in that section. Section 102.22 sets forth rules for determining whether textile and apparel products are considered products of Israel for purposes of the customs laws and the administration of quantitative limitations. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of textile and apparel products.

**[CBP Dec. 05–32, 70 FR 58013, Oct. 5, 2005, as amended by CBP Dec. 07–81; 72 FR 58522, Oct. 16, 2007; CBP Dec. 08–29, 73 FR 45354, Aug. 5, 2008; CBP Dec. 21–10, 86 FR 35566, July 6, 2021]**

**§ 102.1 Definitions.**

(a) *Advanced in value.* “Advanced in value” means an increase in the value of a good as a result of production with respect to that good, other than by means of those “minor processing” operations described in paragraphs (n)(5), (n)(6), and (n)(7) of this section.

(b) *Commingled.* “Commingled” means physically combined or mixed.

(c) *Direct physical identification.* “Direct physical identification” means identification by visual or other organoleptic examination.

(d) *Domestic material.* “Domestic material” means a material whose country of origin as determined under these rules is the same country as the country in which the good is produced.

(e) *Foreign material.* “Foreign material” means a material whose country of origin as determined under these rules is not the same country as the country in which the good is produced.

(f) *Fungible goods or fungible materials.* “Fungible goods or fungible materials” means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical.

(g) *A good wholly obtained or produced.* A good “wholly obtained or produced” in a country means:

(1) A mineral good extracted in that country;

(2) A vegetable or plant good harvested in that country;

(3) A live animal born and raised in that country;

(4) A good obtained from hunting, trapping or fishing in that country;

(5) A good (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with that country and flying its flag;

(6) A good produced on board factory ships from the goods referred to in paragraph (g)(5) of this section, provided such factory ships are registered or recorded with that country and fly its flag;

(7) A good taken by that country or a person of that country from the seabed or beneath the seabed outside territorial waters, provided that country has rights to exploit such seabed;

(8) A good taken from outer space, provided they are obtained by that country or a person of that country;

(9) Waste and scrap derived from:

(i) Production in a country, or

(ii) Used goods collected in that country provided such goods are fit only for the recovery of raw materials; and

(10) A good produced in that country exclusively from goods referred to in paragraphs (g)(1) through (10) of this section or from their derivatives, at any stage of production.

(h) *Harmonized System.* “Harmonized System” means the Harmonized Commodity Description and Coding System, including its general rules of Interpretation, Section Notes and Chapter Notes, as adopted and implemented by the United States.

(i) *Improved in condition.* “Improved in condition” means the enhancement of the physical condition of a good as a result of production with respect to that good, other than by means of those “minor processing” operations described in paragraphs (n)(5), (n)(6), and (n)(7) of this section.

(j) *Incorporated.* “Incorporated” means physically incorporated into a good as a result of production with respect to that good.

(k) *Indirect materials.* “Indirect materials” means a good used in the production, testing or inspection of another good but not physically incorporated into that other good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of that other good, including:

- (1) Fuel and energy;
- (2) Tools, dies and molds;
- (3) Spare parts and materials used in the maintenance of equipment and buildings;
- (4) Lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (5) Gloves, glasses, footwear, clothing, safety equipment and supplies;
- (6) Equipment, devices, and supplies used for testing or inspecting the goods;
- (7) Catalysts and solvents; and
- (8) Any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production.

(l) *Inventory management method.* “Inventory management method” means:

- (1) Averaging; (2) “Last-in, first-out;”
- (3) “First-in, first-out;” or
- (4) Any other method that is recognized in the Generally Accepted Accounting Principles (GAAP) of the country in which the production is performed or is otherwise accepted by that country.

(m) *Material.* “Material” means a good that is incorporated into another good as a result of production with respect to that other good, and includes parts, ingredients, subassemblies, and components.

(n) *Minor processing.* “Minor processing” means the following:

- (1) Mere dilution with water or another substance that does not materially alter the characteristics of the good;
- (2) Cleaning, including removal of rust, grease, paint, or other coatings;
- (3) Application of preservative or decorative coatings, including lubricants, protective encapsulation, preservative or decorative paint, or metallic coatings;
- (4) Trimming, filing or cutting off small amounts of excess materials;
- (5) Unloading, reloading or any other operation necessary to maintain the good in good condition;
- (6) Putting up in measured doses, packing, repacking, packaging, repackaging;
- (7) Testing, marking, sorting, or grading;
- (8) Ornamental or finishing operations incidental to textile good production designed to enhance the marketing appeal or the ease of care of the product, such as dyeing and printing, embroidery and appliques, pleating, hemstitching, stone or acid washing, permanent pressing, or the attachment of accessories notions, findings and trimmings; or
- (9) Repairs and alterations, washing, laundering, or sterilizing.

(o) *Production.* “Production” means growing, mining, harvesting, fishing, trapping, hunting, manufacturing, processing or assembling a good.

(p) *Simple assembly.* “Simple assembly” means the fitting together of five or fewer parts all of which are foreign (excluding fasteners such as screws, bolts, etc.) by bolting, gluing, soldering, sewing or by other means without more than minor processing.

(q) *Value.* “Value” means, with respect to §102.13:

(1) In the case of a good under NAFTA, its customs value or transaction value within the meaning of the appendix to part 181 of this chapter; or

(2) In the case of a material under NAFTA, its customs value or value within the meaning of the appendix to part 181 of this chapter.

(3) In the case of a good or material under the USMCA, its customs value or transaction value within the meaning of Appendix A to part 182 of this chapter.

[T.D. 96–48, 61 FR 28955, June 6, 1996; CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

## Subpart B—Rules of Origin

### § 102.11 General rules.

The following rules shall apply for purposes of determining the country of origin of imported goods other than textile and apparel products covered by §102.21.

(a) The country of origin of a good is the country in which:

- (1) The good is wholly obtained or produced;
- (2) The good is produced exclusively from domestic materials; or

(3) Each foreign material incorporated in that good undergoes an applicable change in tariff classification set out in §102.20 and satisfies any other applicable requirements of that section, and all other applicable requirements of these rules are satisfied.

(b) Except for a good that is specifically described in the Harmonized System as a set, or is classified as a set pursuant to General Rule of Interpretation 3, where the country of origin cannot be determined under paragraph (a) of this section:

(1) The country of origin of the good is the country or countries of origin of the single material that imparts the essential character to the good, or

(2) If the material that imparts the essential character to the good is fungible, has been commingled, and direct physical identification of the origin of the commingled material is not practical, the country or countries of origin may be determined on the basis of an inventory management method.

(c) Where the country of origin cannot be determined under paragraph (a) or (b) of this section and the good is specifically described in the Harmonized System as a set or mixture, or classified as a set, mixture or composite good pursuant to General Rule of Interpretation 3, the country of origin of the good is the country or countries of origin of all materials that merit equal consideration for determining the essential character of the good.

(d) Where the country of origin of a good cannot be determined under paragraph (a), (b) or (c) of this section, the country of origin of the good shall be determined as follows:

(1) If the good was produced only as a result of minor processing, the country of origin of the good is the country or countries of origin of each material that merits equal consideration for determining the essential character of the good;

(2) If the good was produced by simple assembly and the assembled parts that merit equal consideration for determining the essential character of the good are from the same country, the country of origin of the good is the country of origin of those parts; or

(3) If the country of origin of the good cannot be determined under paragraph (d)(1) or (d)(2) of this section, the country of origin of the good is the last country in which the good underwent production.

[T.D. 96–48, 61 FR 28956, June 6, 1996; CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

## PART 103—AVAILABILITY OF INFORMATION

Sec.

103.0 Scope.

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- 103.1 Public reading rooms.
- 103.2 Information available to the public.
- 103.3 Publication of information in the Federal Register.
- 103.4–103.13 [Reserved]

### Subpart B—Production or Disclosure in Federal, State, Local, and Foreign Proceedings

- 103.21 Purpose and definitions.
- 103.22 Procedure in the event of a demand for Customs information in any federal, state, or local civil proceeding or administrative action.
- 103.23 Factors in determining whether to disclose information pursuant to a demand.
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- 103.31 Information on vessel manifests and summary statistical reports.
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- 103.32 Information concerning fines, penalties, and forfeitures cases.
- 103.33 Release of information to foreign agencies.
- 103.34 Sanctions for improper actions by CBP officers or employees.
- 103.35 Confidential commercial information; exempt.

**Authority:** 5 U.S.C. 301, 552, 552a; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Section 103.31 also issued under 19 U.S.C. 1431;

Section 103.31a also issued under 19 U.S.C. 2071 note and 6 U.S.C. 943;

Section 103.33 also issued under 19 U.S.C. 1628;

Section 103.34 also issued under 18 U.S.C. 1905.

Section 103.35 also issued under E.O. 12600 of June 23, 1987.

**Source:** T.D. 81–168, 46 FR 32565, June 24, 1981, unless otherwise noted.

#### § 103.0 Scope.

This part governs the production/disclosure of agency-maintained documents/information requested pursuant to the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), the Privacy Act of 1974, as amended (5 U.S.C. 552a), and/or under other statutory or regulatory provisions and/or as requested through administrative and/or legal processes. In this respect, this part contains regulations on production or disclosure in federal, state, local, and foreign proceedings and includes specific information pertaining to the procedures to be followed when producing or disclosing documents or information under various circumstances. In

addition, this part contains regulations on other information subject to restricted access. As information obtained by CBP is derived from myriad sources, persons seeking information should consult with the appropriate field officer before invoking the formal procedures set forth in this part. The regulations in this part supplement the regulations of the Department of Homeland Security regarding public access to records found at 6 CFR part 5. For purposes of this part, the CBP Office of the Chief Counsel is considered to be a part of CBP.

[CBP Dec. 15–16, 80 FR 71692, Nov. 17, 2015; CBP Dec. 20–09, 85 FR 31054, May 22, 2020]

### Subpart A—Production of Documents/Disclosure of Information Under the FOIA

#### § 103.1 Public reading room.

CBP maintains a virtual public reading room at <http://foiarr.cbp.gov/> where the material required to be made available under 5 U.S.C. 552(a) and this part may be inspected and copied.

[CBP Dec. 15–16, 80 FR 71692, Nov. 17, 2015]

#### § 103.2 Department of Homeland Security Freedom of Information Act procedures.

In order to process requests for documents/information and appeals under the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552), CBP applies the Department of Homeland Security FOIA regulations in 6 CFR part 5, subpart A.

[CBP Dec. 15–16, 80 FR 71692, Nov. 17, 2015; CBP Dec. 20–09, 85 FR 31054, May 22, 2020]

#### § 103.3 Department of Homeland Security Privacy Act Procedures.

*Department of Homeland Security Privacy Act Regulations.* In order to process access requests for documents/information and appeals under the Privacy Act of 1974, as amended (5 U.S.C. 552a), CBP applies the Department of Homeland Security Privacy Act regulations in 6 CFR part 5, subpart B.

[CBP Dec. 15–16, 80 FR 71692, Nov. 17, 2015]

#### §§ 103.4–103.13 [Reserved]

### Subpart B—Production or Disclosure in Federal, State, Local, and Foreign Proceedings

**Source:** T.D. 96–36, 61 FR 19838, May 3, 1996, unless otherwise noted.

#### § 103.21 Purpose and definitions.

(a) *Purpose.* (1) This subpart sets forth procedures to be followed with respect to the production or disclosure of any documents contained in CBP files, any information relating to material contained in CBP files, any testimony by a CBP employee, or any information acquired by any person as part of that person's performance of official duties as a CBP employee or because of that person's official status, hereinafter collectively referred to as "information", in all federal, state, local, and foreign proceedings when a subpoena, notice of deposition (either upon oral examination or written interrogatory), order, or demand, hereinafter collectively re-

ferred to as a “demand”, of a court, administrative agency, or other authority is issued for such information.

(2) This subpart does not cover those situations where the United States is a party to the action. In situations where the United States is a party to the action, CBP employees are instructed to follow internal CBP policies and procedures.

(b) *CBP employee.* For purposes of this subpart, the term “CBP employee” includes all present and former officers and employees of the U.S. Customs and Border Protection.

(c) *CBP documents.* For purposes of this subpart, the term “CBP documents” includes any document (including copies thereof), no matter what media, produced by, obtained by, furnished to, or coming to the knowledge of, any CBP employee while acting in his/her official capacity, or because of his/her official status, with respect to the administration or enforcement of laws administered or enforced by CBP.

(d) *Originating component.* For purposes of this subpart, the term “originating component” references the CBP official, or the official’s designee, in charge of the office responsible for the collection, assembly, or other preparation of the information demanded or that, at the time the person whose testimony is demanded acquired the information in question, employs or employed the person whose testimony is demanded.

(e) *Disclosure to government law enforcement or regulatory agencies.* Nothing in this subpart is intended to impede the appropriate disclosure of information by CBP to federal, state, local, and foreign law enforcement or regulatory agencies, in accordance with the confidentiality requirements of the Privacy Act (5 U.S.C. 552a), the Trade Secrets Act (18 U.S.C. 1905), and other applicable statutes.

(f) *Disclosure to federal attorneys and the Court of International Trade.* Nothing in this subpart is intended to restrict the disclosure of CBP information requested by the Court of International Trade, U.S. Attorneys, or attorneys of the Department of Justice, for use in cases which arise under the laws administered or enforced by, or concerning, CBP and which are referred by the Department of Homeland Security to the Department of Justice for prosecution or defense.

(g) *Disclosure of non-CBP information.* Nothing in the subpart is intended to impede the appropriate disclosure of non-CBP information by CBP employees in any proceeding in which they are a party or witness solely in their personal capacities.

(h) *Failure of CBP employee to follow procedures.* The failure of any CBP employee to follow the procedures specified in this subpart neither creates nor confers any rights, privileges, or benefits on any person or party.

(i) *In camera inspection of records.* Nothing in this subpart authorizes CBP personnel to withhold records from a federal court, whether civil or criminal, pursuant to its order for such records appropriately made, for purposes of *in camera* inspection of the records to determine the propriety of claimed exemption(s) from disclosure.

[61 FR 19838, May 3, 1996, as amended at 78 FR 70855, Nov. 27, 2013]

### § 103.22 Procedure in the event of a demand for CBP information in any federal, state, or local civil proceeding or administrative action.

(a) *General prohibition against disclosure.* In any federal, state, or local civil proceeding or administrative action in which CBP is not a party, no CBP employee shall, in response to a demand for CBP information, furnish CBP documents or testimony as to any material contained in CBP files, any information relating to or based upon material contained

in CBP files, or any information or material acquired as part of the performance of that person’s official duties (or because of that person’s official status) without the prior written approval of the Chief Counsel, as described in paragraph (b) of this section.

(b) *Employee notification to Counsel.* Whenever a demand for information is made upon a CBP employee, that employee shall immediately prepare a report that specifically describes the testimony or documents sought and notify the Assistant Chief Counsel or Associate Chief Counsel for the area where the employee is located. If the employee is located at Headquarters or outside of the United States, the employee shall immediately notify the Chief Counsel. The CBP employee shall then await instructions from the Chief Counsel concerning the response to the demand.

(c) *Requesting party’s initial burden.* A party seeking CBP information shall serve on the appropriate CBP employee the demand, a copy of the Summons and Complaint, and provide an affidavit, or, if that is not feasible, a statement that sets forth a summary of the documents or testimony sought and its relevance to the proceeding. Any disclosure authorization for documents or testimony by a CBP employee shall be limited to the scope of the demand as summarized in such affidavit or statement. The Chief Counsel may, upon request and for good cause shown, waive the requirements of this paragraph.

(d) *Requesting party’s notification requirement.* The demand for CBP information, pursuant to the provisions of paragraph (c) of this section, shall be served at least ten (10) working days prior to the scheduled date of the production of the documents or the taking of testimony.

(e) *Counsel notification to originating component.* Upon receipt of a proper demand for CBP information, one which complies with the provisions of paragraph (c) of this section, if the Chief Counsel believes that it will comply with any part of the demand, it will immediately advise the originating component.

(f) *Conditions for authorization of disclosure.* The Chief Counsel, subject to the provisions of paragraph (h) of this section, may authorize the production of CBP documents or the appearance and testimony of a CBP employee if:

(1) Production of the demanded documents or testimony, in the judgment of the Chief Counsel, are appropriate under the factors specified in §103.23(a) of this subpart; and

(2) None of the factors specified in §103.23(b) of this subpart exist with respect to the demanded documents or testimony.

(g) *Limitations on the scope of authorized disclosure.* (1) The Chief Counsel shall authorize the disclosure of CBP information by a CBP employee without further authorization from CBP officials whenever possible, *provided* that:

(i) If necessary, Counsel has consulted with the originating component regarding disclosure of the information demanded;

(ii) There is no objection from the originating component to the disclosure of the information demanded; and

(iii) Counsel has sought to limit the demand for information to that which would be consistent with the factors specified in §103.23 of this part.

(2) In the case of an objection by the originating component, the Chief Counsel shall make the disclosure determination.

(h) *Disclosure of commercial information.* In the case of a demand for commercial information or commercial documents concerning importations or exportations, the Chief Counsel shall obtain the authorization of the Assistant Com-

**PART 111—CUSTOMS BROKERS**

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- 111.29 Diligence in correspondence and paying monies.
- 111.30 Notification of change of business address, organization, name, or location of business records; status report; termination of brokerage business.
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- 111.50 General.
- 111.51 Cancellation of license or permit.
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- 111.54 [Reserved]
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**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

Section 111.3 also issued under 19 U.S.C. 1484, 1498;  
Section 111.96 also issued under 19 U.S.C. 58c, 31 U.S.C. 9701.

**Source:** T.D 00–17, 65 FR 13891, Mar. 15, 2000, unless otherwise noted.

**§ 111.0 Scope.**

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, including the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalties, and the revocation or suspension of licenses and permits.

**Subpart A—General Provisions**

**§ 111.1 Definitions.**

When used in this part, the following terms have the meanings indicated:

*Assistant Commissioner.* "Assistant Commissioner" means the Assistant Commissioner, Office of International Trade, U.S. Customs and Border Protection, Washington, DC.

*Broker.* "Broker" means a customs broker.

*Corporate compliance activity.* "Corporate compliance activity" means activity performed by a business entity to ensure that documents for a related business entity or entities are prepared and filed with CBP using "reasonable care", but such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a "business entity" is an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes, and the term "related business entity or entities" encompasses a business entity that has more than a 50 percent ownership interest in another business entity, a business entity in which another business entity has more than a 50 percent ownership interest, and two or more business entities in which the same business entity has more than a 50 percent ownership interest.

*Customs broker.* "Customs broker" means a person who is licensed under this part to transact customs business on behalf of others.

*Customs business.* "Customs business" means those activities involving transactions with CBP concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by CBP on merchandise by reason of its importation, and the refund, rebate, or drawback of those duties, taxes, or other charges. "Customs business" also includes the preparation, and activities relating to the preparation, of documents in any format and the electronic transmission of documents and parts of documents intended to be filed with CBP in furtherance of any other customs business activity, whether or not signed or filed by the preparer. However, "customs business" does not include the mere electronic transmission of data received for transmission to CBP and does not include a corporate compliance activity.

*District.* "District" means the geographic area covered by a customs broker permit other than a national permit. A listing of each district, and the ports thereunder, will be published periodically.

*Employee.* "Employee" means a person who meets the common law definition of employee and is in the service of a customs broker.

*Freight forwarder.* "Freight forwarder" means a person engaged in the business of dispatching shipments in foreign commerce between the United States, its territories or possessions, and foreign countries, and handling the formalities incident to such shipments, on behalf of other persons.

*Officer.* "Officer", when used in the context of an association or corporation, means a person who has been elected, appointed, or designated as an officer of an association or corporation in accordance with statute and the articles of incorporation, articles of agreement, charter, or bylaws of the association or corporation.

*Permit.* "Permit" means any permit issued to a broker under §111.19.

*Person.* "Person" includes individuals, partnerships, associations, and corporations.

*Records.* "Records" means documents, data and information referred to in, and required to be made or maintained under, this part and any other records, as defined in §163.1(a) of this chapter, that are required to be maintained by a broker under part 163 of this chapter.

*Region.* "Region" means the geographic area covered by a waiver issued pursuant to §111.19(d).

*Responsible supervision and control.* "Responsible supervision and control" means that degree of supervision and control necessary to ensure the proper transaction of the customs business of a broker, including actions necessary to ensure that an employee of a broker provides substantially the same quality of service in handling customs transactions that the broker is required to provide. While the determination of what is necessary to perform and maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which CBP will consider include, but are not limited to: The training required of employees of the broker; the issuance of written instructions and guidelines to employees of the broker; the volume and type of business of the broker; the reject rate for the various customs transactions; the maintenance of current editions of the CBP Regulations, the Harmonized Tariff Schedule of the United States, and CBP issuances; the availability of an individually licensed broker for necessary consultation with employees of the broker; the frequency of supervisory visits of an individually licensed broker to another office of the broker that does not have a resident individually licensed broker; the frequency of audits and reviews by an individually licensed broker of the customs transactions handled by employees of the broker; the extent to which the individually licensed broker who qualifies the district permit is involved in the operation of the brokerage; and any circumstance which indicates that an individually licensed broker has a real interest in the operations of a broker.

*Treasury Department or any representative of the Treasury Department.* "Department of Homeland Security or any representative of the Department of Homeland Security" means any office, officer, or employee of the U.S. Department of Homeland Security, wherever located.

[T.D. 00-17, 65 FR 13891, Mar. 15, 2000, as amended by CBP Dec. 03-15, 68 FR 47460, Aug. 11, 2003; CBP Dec. 07-82, 72 FR 59169, Oct. 19, 2007]

### § 111.2 License and district permit required.

(a) *License* —(1) *General.* Except as otherwise provided in paragraph (a)(2) of this section, a person must obtain the license provided for in this part in order to transact customs business as a broker.

(2) *Transactions for which license is not required* —(i) *For one's own account.* An importer or exporter transacting customs business solely on his own account and in no sense on behalf of another is not required to be licensed, nor are his authorized regular employees or officers who act only for him in the transaction of such business.

(ii) *As employee of broker* —(A) *General.* An employee of a broker, acting solely for his employer, is not required to be licensed where:

(1) *Authorized to sign documents.* The broker has authorized the employee to sign documents pertaining to customs business on his behalf, and has executed a power of attorney for that purpose. The broker is not required to file the power of attorney with the port director, but must provide proof of its existence to Customs upon request; or

(2) *Authorized to transact other business.* The broker has filed with the port director a statement identifying the employee as authorized to transact customs business on his behalf. However, no statement will be necessary when the broker is transacting customs business under an exception to the district permit rule.



## PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

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112.0 Scope.

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112.2 Bond or license required.

### Subpart B—Authorization of Carriers To Carry Bonded Merchandise

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112.12 Application for authorization.

112.13 Approval of applications.

112.14 Discontinuance of carrier bonds.

### Subpart C—Licensing of Cartmen and Lightermen

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112.42 Application for identification card.

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112.49 Temporary identification cards.

**Authority:** 19 U.S.C. 66, 1551, 1565, 1623, 1624.

**Source:** T.D. 73–140, 38 FR 13551, May 23, 1973, unless otherwise noted.

### § 112.0 Scope.

This part sets forth regulations providing for the bonding of carriers which will receive merchandise for transportation in bond, the licensing of cartmen and lightermen, and the procedures for applying for such bonds and licenses. This part also sets forth the regulations concerning the obtaining of identification cards by cartmen and lightermen, and their employees and the procedures for revoking or suspending licenses and identification cards. Provisions setting forth the duties and responsibilities of cartmen and lightermen are set forth in part 125 of this chapter.

[T.D. 73–140, 38 FR 13551, May 23, 1973, as amended by T.D. 94–81, 59 FR 51494, Oct. 12, 1994]

### Subpart A—General Provisions

#### § 112.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

**Carrier.** A “carrier” is one who undertakes to transport goods, merchandise or people.

**Cartman.** A “cartman” is one who undertakes to transport goods or merchandise within the limits of the port.

**Common carrier.** A “common carrier” is a carrier owning or operating a railroad, steamship, or other transportation line or route which undertakes to transport goods or merchandise for all of the general public who choose to employ him.

**Contract carrier.** A “contract carrier” is a carrier which undertakes to transport specific goods or merchandise for a specific person or group of persons, and is authorized to operate as such by any agency of the United States.

**District.** “District” means the geographic area in which the parties excepted by the last sentence of §112.2(b)(2) may operate under their bonds without obtaining a cartage or lighterage license issued under this part. A listing of each district, and the ports thereunder, will be published on or before October 1, 1995, and whenever updated.

**Freight forwarder.** A “freight forwarder” is one who engages in the business of dispatching shipments on behalf of other persons, for a consideration, in foreign or domestic commerce between the United States, its territories or possessions, and foreign countries, and of handling the formalities incident to such shipments, and is authorized to operate as such by any agency of the United States.

**Lighterman.** A “lighterman” is one who transports goods or merchandise on a barge, scow, or other small vessel to or from a vessel within the port, or from place to place within a port.

**Private carrier.** A “private carrier” is a carrier of his own goods or merchandise.

[T.D. 73–140, 38 FR 13551, May 23, 1973, as amended by T.D. 95–77, 60 FR 50019, Sept. 27, 1995]

#### § 112.2 Bond or license required.

(a) **Carriers.** A bond provided for in this part is required to transact business as a carrier receiving merchandise for transportation in bond.

(b) **Cartmen and lightermen—(1) Necessity for bond.** A bond, as provided for in this part, is required to transact business as a cartman or lighterman. The cartage or lighterage of merchandise designated for examination, entered for warehouse, taken to container stations or centralized examination stations, taken into custody as unclaimed or destined for admission to a foreign trade zone may be done under the bond of a cartman or lighterman who is licensed pursuant to the provisions of this part or that of a bonded carrier, as provided for in paragraph (a) of this section. Foreign trade zone operators, bonded warehouse proprietors, container station operators and centralized examination station operators may engage in limited cartage or lighterage under their respective bonds. A foreign trade zone operator may engage in cartage or lighterage under his bond only for merchandise destined for his foreign trade zone and may also transport merchandise to his zone from anywhere within the district boundaries (see definition of “district” at §112.1) where the foreign trade zone is located. A bonded warehouse proprietor may engage in cartage or lighterage under his bond only for merchandise destined for his bonded warehouse and may also transport merchandise to his warehouse from anywhere within the district boundaries (see definition of “district” at §112.1) where the bonded warehouse is located. A container station operator may engage in cartage or lighterage under his bond only for merchandise destined for his container station and may also transport merchandise to his container station from anywhere within the district boundaries (see definition of “district” at §112.1) where the container station is located. A centralized examination station operator may engage in cartage or lighterage under his bond only for merchandise destined for his centralized examination station

and may also transport merchandise to his centralized examination station from anywhere within the district boundaries (see definition of "district" at §112.1) where the centralized examination station is located.

(2) *Necessity for license.* A license, as provided for in this part, is required to transact business as a cartman or lighterman for the cartage or lighterage of merchandise. Bonded carriers may engage in cartage and lighterage under their bonds without obtaining a license. Foreign trade zone operators, bonded warehouse proprietors, container station operators and centralized examination station operators may engage, under their bonds, in the limited cartage and lighterage and other transportation described in this paragraph without obtaining a license.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 94-81, 59 FR 51494, Oct. 12, 1994; T.D. 95-77, 60 FR 50020, Sept. 27, 1995]

## Subpart B—Authorization of Carriers To Carry Bonded Merchandise

### § 112.11 Carriers which may be authorized.

(a) *From port to port in the United States.* The port director may authorize the following types of carriers to receive merchandise for transportation in bond from one port to another in the United States upon compliance with the provisions of this subpart:

- (1) Common carriers.
- (2) Contract carriers.
- (3) Freight forwarders.
- (4) Private carriers, if:

(i) The merchandise (including containerized merchandise) to be transported is the property of the private carrier; and

(ii) The private carrier files a bond on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter.

(b) *Between ports in Canada or Mexico through the United States.* Canadian and Mexican motor vehicle common carriers may be authorized to transport merchandise under bond between ports in Canada or Mexico through the United States (see part 123 of this chapter), upon compliance with the provisions of this subpart.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 81-243, 46 FR 45602, Sept. 14, 1981; T.D. 84-213, 49 FR 41171, Oct. 19, 1984]

### § 112.12 Application for authorization.

(a) *General requirements.* All carriers and freight forwarders desiring to be authorized to receive merchandise for transportation in bond shall file with the port director concerned a bond on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter, in a sum specified by the port director accompanied by a fee of \$50. A check or money order shall be made payable to the United States Customs Service.

(b) *Special requirements.* In addition to the requirements in paragraph (a) of this section, the specified carriers shall also file with the port director the following documents:

(1) *Common carriers other than railroad, steamship, or airline companies.* Common carriers other than railroad, steamship, or airline companies generally known to be engaged in common carriage, shall file a certified extract of its articles of incorporation or charter showing that it is autho-

alized to engage in common carriage, and a statement that it is operating or intends to operate as a common carrier.

(2) *Contract carriers and freight forwarders.* Contract carriers and freight forwarders shall file a certificate from the appropriate agency of the United States showing that the applicant is authorized to operate as a contract carrier or freight forwarder by that agency and a statement showing that the applicant is operating or intends to operate as such.

(3) *Private carriers.* The private carrier shall file the bond with the director of the port where the private carrier intends to operate. If the private carrier intends to operate in two or more Customs ports, he shall file the bond with the director of one of the ports, send a copy of the bond to the director for each additional port, and include with the bond and copies of the bond a list of all Customs districts in which he intends to operate. If the private carrier is the proprietor of one or more Customs bonded warehouses or bonded container stations, or the operator of a foreign trade zone, to which imported merchandise will be transported, he shall accompany the bond and copies of the bond by a statement showing the location of each warehouse, container station, or zone.

(4) *Motor carriers.* All motor carriers shall file:

(i) A detailed description of the terminal facilities employed by the principal at the points of origin and destination on the routes covered; and

(ii) A statement showing that facilities are available for the segregation and safeguarding of the packages designated by the port director for examination from a particular shipment.

[T.D. 73-140, 38 FR 13551, May 23, 1973, as amended by T.D. 81-243, 46 FR 45602, Sept. 14, 1981; T.D. 84-213, 49 FR 41171, Oct. 19, 1984; T.D. 86-16, 51 FR 5063, Feb. 11, 1986]

### § 112.13 Approval of applications.

The port director shall approve an application for authorization as carriers of bonded merchandise and the bond filed, authorizing the applicant to act as a carrier of bonded merchandise provided he is satisfied that:

- (a) The amount of the bond is sufficient.
- (b) All documents required by this subpart have been furnished and are in proper form; and
- (c) The fee prescribed has been paid.

### § 112.14 Discontinuance of carrier bonds.

Carrier bonds may be discontinued at any time by the Commissioner of Customs or by the director of the port where the bond is filed. Authorized carriers desiring to terminate such bonds shall make application therefor to such port director.

## Subpart C—Licensing of Cartmen and Lightermen

### § 112.21 License required.

A customhouse cartage or lighterage license issued by the port director in accordance with this part or specific authorization of the Commissioner of Customs shall be required to perform Customs cartage or lighterage, except as provided in §§18.3 and 125.12 of this chapter or, as provided in §112.2(b), when such merchandise is to be transported under the bond of the foreign trade zone operator, bonded warehouse proprietor, centralized examination station operator, container station operator, or a bonded carrier.

[T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

**PART 113—CBP BONDS**

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  - 113.2 Powers of Commissioner of CBP relating to bonds.
  - 113.3 Liability of surety on a terminated bond.
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  - 113.11 Bond application.
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- 113.72 Bond condition to pay court costs (condemned goods).
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- 113.74 Bond conditions to indemnify a complainant under section 337 of Tariff Act of 1930, as amended.
- 113.75 Bond conditions for deferral of duty on large yachts imported for sale at United States boat shows.

**Appendix A to Part 113—  
Airport Customs Security Area Bond**

**Appendix B to Part 113—Bond to Indemnify  
Complainant Under Section 337, Tariff Act of 1930,  
as Amended**

**Appendix C to Part 113—Bond for Deferral of Duty  
on Large Yachts Imported for Sale at United States  
Boat Shows**

**Appendix D to Part 113—Importer Security filing Bond**

**Authority:** 19 U.S.C. 66, 1623, 1624.

Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

Section 113.74 also issued under 19 U.S.C. 1337.

Section 113.75 and Appendix C also issued under 19 U.S.C. 1484b.

**Source:** T.D. 84–213, 49 FR 41171, Oct. 19, 1984, unless otherwise noted.

**§ 113.0 Scope.**

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of CBP in requiring bonds, bond approval and execution, bond conditions, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, the authority and manner of assessing liquidated damages and requirements for cancelling the bond or charges against a bond.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

**Subpart A—General Provisions**

**§ 113.1 Authority to require security or execution  
of bond.**

Where a bond or other security is not specifically required by law or regulation, the Commissioner of CBP may by specific instruction require, or authorize the Director, Revenue Division or the port director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

### § 113.2 Powers of Commissioner of CBP relating to bonds.

Whenever a bond is required or authorized by law, regulation, or instruction, the Commissioner of CBP may:

(a) Prescribe the conditions and form of the bond and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, except as otherwise specifically provided by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond, the conditions of which will extend to and cover similar cases of importations over a period of time, not to exceed one year or such longer period as he may fix, when in his opinion special circumstances warrant a longer period.

(d) Authorize the taking of a consolidated bond (single transaction or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulation, or instruction. Such a consolidated bond will have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of CBP may fix the penalty for violation of a consolidated bond without regard to any other provision of law, regulation, or instruction.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

### § 113.3 Liability of surety on a terminated bond.

The surety, as well as the principal, remains liable on a terminated bond for obligations incurred prior to termination.

### § 113.4 Bonds and carnets.

(a) *Bonds.* All bonds required to be given under the customs laws or CBP regulations will be known as CBP bonds.

(b) *Carnets.* A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in part 114 of this chapter, are ordinarily acceptable without posting further security under the customs laws or CBP regulations requiring bonds.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

## Subpart B—Bond Application and Approval of Bond

### § 113.11 Bond application.

(a) *Single transaction bond application.* In order to insure that the revenue is adequately protected, the port director may require a person who will be engaged in a single customs transaction relating to the importation or entry of merchandise to file a bond application. The single transaction bond application may be in the form of a letter filed with the Director, Revenue Division or the port director, or the application may be scanned and submitted to CBP as an email attachment or by fax. The application must identify the value and nature of the merchandise involved in the transaction to be secured. When the proper bond in a sufficient amount is filed with the entry summary or with the entry, or when the entry summary is filed at the time of entry, an application will not be required.

(b) *Continuous bond application.* To secure multiple transactions relating to the importation or entry of merchandise or the operation of a bonded smelting or refining warehouse, a continuous bond application must be submitted to the Director, Revenue Division. The continuous bond application may be in the form of a letter or it may be scanned and submitted to CBP as an email attachment or by facsimile (fax).

(1) *Information required.* The application must contain the following information:

(i) The general character of the merchandise to be entered; and

(ii) The total amount of ordinary customs duties (including any taxes required by law to be treated as duties), plus the estimated amount of any other tax or taxes on the merchandise to be collected by CBP, accruing on all merchandise imported by the principal during the calendar year preceding the date of the application. The total amount of duties and taxes will be that which would have been required to be deposited had the merchandise been entered for consumption even though some or all of the merchandise may have been entered under bond. If the value or nature of the merchandise to be imported will change in any material respect during the next year the change must be identified. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted.

(2) *Application updates.* If the Director, Revenue Division approves a bond based upon the application, whenever there is a significant change in the information provided under this paragraph, the principal on the bond must submit a new application containing an update of the information required by paragraph (b)(1) of this section. The new application must be filed no later than 30 days after the new facts become known to the principal.

(c) *Certification.* Any application submitted under this section must be signed by the applicant and contain the following certification:

I certify that the factual information contained in this application is true and accurate and any information provided which is based upon estimates is based upon the best information available on the date of this application.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

### § 113.12 Bond approval.

(a) *Single transaction bonds.* Single transaction bonds will be approved by the Revenue Division or the director of the port where filed.

(b) *Continuous bonds.* Continuous bonds must be approved by the Revenue Division. Only one continuous bond for a particular activity will be authorized for each principal.

[CBP Dec. 15–15, 80 FR 70154, Nov. 13, 2015]

### § 113.13 Amount of bond.

(a) *Minimum amount of bond.* The amount of any CBP bond must not be less than \$100, except when the law or regulation expressly provides that a lesser amount may be taken. Fractional parts of a dollar will be disregarded in computing the amount of a bond. The bond always will be stated as the next highest dollar.

(b) *Guidelines for determining amount of bond.* In determining whether the amount of a bond is sufficient, CBP will:

(1) The prior record of the principal in timely payment of duties, taxes, and charges with respect to the transaction(s) involving such payments;

(2) The prior record of the principal in complying with CBP demands for redelivery, the obligation to hold unexamined merchandise intact, and other requirements relating to enforcement and administration of customs and other laws and CBP regulations;

(3) The value and nature of the merchandise involved in the transaction(s) to be secured;

## PART 114—CARNETS

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114.0 Scope.

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114.31 Restrictions.

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114.34 Cancellation of erroneous charges.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

**Source:** T.D. 70–134, 35 FR 9261, June 13, 1970, unless otherwise noted.

### § 114.0 Scope.

This part is concerned with the use of international Customs documents known as carnets. It also contains provisions concerning the approval of associations to issue carnets in the United States covering merchandise to be exported and to guarantee carnets issued abroad covering merchandise to be imported. The carnet serves simultaneously as a Customs entry document and as a Customs bond.

## Subpart A—General Provisions

### § 114.1 Definitions.

The following are general definitions for the purpose of part 114:

(a) *Commissioner*. “Commissioner” means the Commissioner of Customs.

(b) *Issuing association*. “Issuing association” means an association approved by the Commissioner for the issue of carnets in the Customs territory of the United States under a Customs Convention or bilateral Agreement to which the United States has acceded.

(c) *Guaranteeing association*. “Guaranteeing association” means an association approved by the Commissioner to guarantee the payment of obligations under carnets covering merchandise entering the Customs territory of the United States under a Customs Convention or bilateral Agreement to which the United States has acceded.

(d) *A.T.A. carnet*. “A.T.A. carnet” (Admission Temporaire—Temporary Admission) means the document reproduced as the Annex to the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (TIAS 6631).

(e) [Reserved]

(f) *TIR carnet*. “TIR carnet” (Transport International Routier) means the document reproduced as Annex 1 to the Customs Convention on the International Transport of Goods under Cover of TIR Carnets.

(g) *TECRO/AIT Carnet*. “TECRO/AIT carnet” means the document issued pursuant to the Bilateral Agreement between the Taipei Economic and Cultural Representative Office (TECRO) and the American Institute in Taiwan (AIT) to cover the temporary admission of goods.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 71–70, 36 FR 4490, Mar. 6, 1971; T.D. 82–116, 47 FR 27262, June 24, 1982; T.D. 85–180, 50 FR 42517, Oct. 21, 1985; T.D. 98–10, 63 FR 4168, Jan. 28, 1998]

### § 114.2 Customs Conventions and Agreements.

The regulations in this part relate to carnets provided for in the following Customs Conventions and Agreements:

(a) Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods (hereinafter referred to as A.T.A. Convention).

(b) [Reserved]

(c) Customs Convention on the International Transport of Goods Under Cover of TIR Carnets, done at Geneva on November 14, 1975, as well as the 1959 TIR Convention, TIAS 6633.

(d) Agreement Between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan on TECRO/AIT Carnet for the Temporary Admission of Goods (hereinafter referred to as the Agreement).

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 82–116, 47 FR 27262, June 24, 1982; T.D. 85–180, 50 FR 42517, Oct. 21, 1985; T.D. 98–10, 63 FR 4168, Jan. 28, 1998]

### § 114.3 Carnets.

(a) *Use*. A carnet issued in conformity with the provisions of a Convention or Agreement identified in §114.2 and with the regulations in this part shall serve as an entry document within the scope contemplated by the applicable Convention or Agreement and as a bond for the performance of acts in compliance with the provisions of such Convention or Agreement and the Customs statutes and regulations which are involved. Such carnet shall:

(1) Show the period for which it is valid,

(2) Be fully completed in accordance with the provisions of the Convention or Agreement which provides for its issuance, and

(3) Include an English translation whenever the goods covered by a carnet are described in another language.

(b) *Area of validity*. Carnets are valid in the customs territory of the United States which includes only the States, the District of Columbia, and Puerto Rico.

[T.D. 71–70, 36 FR 4490, Mar. 6, 1971, as amended by T.D. 98–10, 63 FR 4168, Jan. 28, 1998]

## Subpart B—Issuing and Guaranteeing Associations

### § 114.11 Approval.

(a) *Documents to be furnished*. Before an association may be approved to serve as issuing association or guaranteeing association in the United States with respect to carnets authorized under a Customs Convention or Agreement to which the United States has acceded, such association shall

furnish the Commissioner a written undertaking, in a form satisfactory to the Commissioner, to perform the functions and fulfill the obligations specified in the Convention or Agreement under which carnets are to be issued or guaranteed. Evidence of affiliation with an appropriate international organization shall also be required if affiliation with such an organization is required by the Convention or Agreement under which carnets are to be issued or guaranteed.

(b) *Publication of notice of approval.* Notice of the approval of an issuing association or a guaranteeing association with respect to a Customs Convention or Agreement to which the United States has acceded will be published in the Federal Register by the Commissioner.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 71–70, 36 FR 4490, Mar. 6, 1971; T.D. 98–10, 63 FR 4168, Jan. 28, 1998]

### § 114.12 Termination of approval.

(a) *For cause.* The Commissioner may suspend or revoke the approval previously given to any issuing association or guaranteeing association for failure or refusal to comply with the duties, obligations, or requirements set forth in its written undertaking on which the approval was based; in the applicable Customs Convention; or in the customs regulations; or upon termination of the affiliation with an appropriate international organization required by §114.11(a). Before such suspension or revocation, the Commissioner shall give the association a reasonable opportunity to refute the alleged failure of compliance.

(b) *Withdrawal.* To be relieved of future obligations, an approved guaranteeing association must notify the Commissioner, in writing, not less than 6 months in advance of a specified termination date that it will not guarantee the payment of obligations under carnets accepted by district directors of Customs after the specified date. The receipt of such notice by the Commissioner will in no way affect the responsibility of the guaranteeing association for payment of claims on carnets accepted by district directors before the designated termination date.

(c) *Notice.* Notice of the suspension or revocation of the approval of an issuing association or a guaranteeing association, or of the withdrawal of an approved guaranteeing association, with respect to a Customs Convention to which the United States has acceded will be published in the Federal Register by the Commissioner.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 71–70, 36 FR 4490, Mar. 6, 1971]

## Subpart C—Processing of Carnets

### § 114.21 Acceptance.

A carnet executed in accordance with §114.3 shall be accepted provided that when the carnet is presented an association for the guaranteeing of such carnets has been approved in accordance with §114.11 and such approval has not been terminated as provided for in §114.12.

### § 114.22 Coverage of carnets.

(a) *A.T.A. carnet.* The A.T.A. carnet is acceptable for goods to be temporarily entered, or temporarily entered and transported, under:

(1) The Customs Convention on the Temporary Importation of Professional Equipment, or

(2) The International Convention to Facilitate the Importation of Commercial Samples and Advertising Material, which includes:

(i) Commercial samples, or

(ii) Motion picture advertising films not exceeding 16 mm., consisting essentially of photographs (with or without sound track) showing the nature or operation of products or equipment whose qualities cannot be adequately demonstrated by samples or catalogs. There shall be presented with each carnet covering motion picture advertising films a statement showing how each of the following requirements is met. The films must:

(A) Relate to products or equipment offered for sale or for hire by a person established in the territory of another contracting party;

(B) Be of a kind suitable for exhibition to the public; and

(C) Be imported in a packet which contains not more than one copy of each film and which does not form part of a larger consignment of films.

(b) [Reserved]

(c) *TIR carnet—(1) Use.* The TIR carnet may be accepted at any port of entry for the transport of merchandise in road vehicles or in containers, even if the containers, without being loaded on road vehicles, are carried by other means of transport for part of the journey between the customs offices of departure and destination. The TIR carnet may also be accepted for the transport of “heavy or bulky goods” as defined in Article 1 of the TIR Convention. The TIR carnet covers the transportation of merchandise for customs purposes only. Road vehicles transporting merchandise under cover of a TIR carnet must also comply with all other applicable requirements of Federal and State agencies concerned with the regulations of such vehicles and their personnel.

(2) *Taken on charge.* A TIR carnet is “taken on charge” by Customs when it is accepted as a transportation entry and when the shipment covered thereby is receipted for by the bonded carrier (see §§18.1, 18.2, and 18.10(a) of this chapter). Until the carnet is “taken on charge,” the guaranteeing association shall have no liability to the United States under the carnet.

(d) *TECRO/AIT carnet—(1) Use.* The TECRO/AIT carnet is acceptable for the following two categories of goods to be temporarily imported, unless importation is prohibited under the laws and regulations of the United States:

(i) Professional equipment; and

(ii) Commercial samples and advertising material imported for the purpose of being shown or demonstrated with a view to soliciting orders.

(2) *Issue and use.* (i) Issuing associations shall indicate on the cover of the TECRO/AIT carnet the customs territory in which it is valid and the name and address of the guaranteeing association.

(ii) The period fixed for re-exportation of goods imported under cover of a TECRO/AIT carnet shall not in any case exceed the period of validity of that carnet.

(e) *Excess liability.* When the total of duties and taxes on any shipment covered by a carnet exceeds the amount for which the guaranteeing association is liable, the excess constitutes a charge against the carrier's bond.

[T.D. 70–134, 35 FR 9261, June 13, 1970, as amended by T.D. 71–70, 36 FR 4490, Mar. 6, 1971; T.D. 82–116, 47 FR 27262, June 24, 1982; T.D. 98–10, 63 FR 4168, Jan. 28, 1998]

### § 114.23 Maximum period.

(a) *A.T.A. carnet.* No A.T.A. carnet with a period of validity exceeding 1 year from date of issue shall be accepted. This period of validity cannot be extended.

**PART 115—CARGO CONTAINER AND ROAD  
VEHICLE CERTIFICATION PURSUANT TO  
INTERNATIONAL CUSTOMS CONVENTIONS**

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**Authority:** 5 U.S.C. 301, 19 U.S.C. 66, 1624; E.O. 12445 of October 17, 1983.

**Source:** T.D. 86-92, 51 FR 16161, May 1, 1986, unless otherwise noted.

**Subpart A—General**

**§ 115.1 Purpose.**

This chapter establishes procedures for certifying containers and road vehicles in conformance with the Customs Convention on Containers (1956) (TIAS 6634), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1959) (TIAS 6633), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets, November 14, 1975 (TIAS), and the Customs Convention on Containers, 1972 (TIAS), by applying the procedures and technical conditions set forth in the annexes to these conventions.

**§ 115.2 Application.**

(a) Certification of containers and road vehicles for international transport under Customs seal is voluntary. This chapter does not require certification of containers and road vehicles.

(b) The Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633), requires that the approval of road vehicles be made by competent authorities of the country in which the owner or carrier is a resident or is established, and that containers should be either similarly approved, or approved by the competent authority of the country where it is first used for transport under Customs seal. The Customs Convention on Containers, May 18, 1956 (20 UST 301, TIAS 6634), requires that the approval of containers be made by competent authorities of the country in which the owner is a resident or is established or by those of the country where the container is used for the first time for transport under Customs seal. The TIR Convention, 1975, generally provides that a road vehicle, for which approval at a stage after manufacture is desired, shall be approved by the competent authority where the vehicle owner or operator is established or located, or where the vehicle is registered. Such approval under the TIR Convention, 1975, or, for containers, the Customs Convention on Containers, 1972, may be accomplished by the competent authority of the country in which the owner or operator is able to produce the conveyance. The 1975 TIR Convention and the Customs Convention on Containers, 1972, also provide that the Certifying Authority of the country of manufacture, if that country is a contracting party to the Convention, may approve a series of road vehicles or containers presented for design type

approval. The procedures for applying for certification are contained in §§115.28, 115.38, 115.49, and 115.63 of this part.

### § 115.3 Definitions.

For the purpose of this part:

(a) *Certifying Authority*. "Certifying Authority" means a non-profit firm or association, incorporated or established in the U.S., which the Commissioner finds competent to carry out the functions of this part and which he designates to certify containers and road vehicles for international transport under Customs seal.

(b) *Commissioner*. "Commissioner" means the Commissioner of Customs.

(c) *Container*. "Container" means an article of transport equipment (lift van, portable tank, or other similar structure).

(1) Fully or partially enclosed to constitute a compartment intended for containing goods;

(2) Of a permanent character and strong enough to be suitable for repeated use;

(3) Specifically designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;

(4) Designed for ready handling, particularly its transfer from one mode of transport to another;

(5) Designed to be easily filled and emptied; and

(6) Having an internal volume of 1 cubic meter (35.3 cubic feet) or more.

(d) *Manufacturer*. "Manufacturer" means an organization or person constructing containers or road vehicles for certification in accordance with this chapter.

(e) *Prototype*. "Prototype" means a sample unit of a series of identical containers or road vehicles all built, so far as practical, under the same conditions.

(f) *Road vehicle*. "Road Vehicle", as defined in Chapter 1, Article 1 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975 (TIAS), means not only any power-driven road vehicle but also any trailer or semi-trailer designed to be coupled to it.

(g) *Customs and TIR/Container Plan*. "Customs and TIR/Container Plan" means the designer's drawing of a vehicle (for TIR purposes) or container (for TIR and Container Convention purposes) that illustrates each requirement in §§115.30, 115.40, 115.51, or 15.65, as appropriate to this part.

(h) The definitions in the subject Conventions shall be considered applicable to terms not specifically defined above.

### § 115.4 Conflicting provisions.

The provisions of the most recent TIR/Container Convention shall apply in the event of conflict between it and an earlier TIR/Container Convention covered by these regulations.

## Subpart B—Administration

### § 115.6 Designated Certifying Authorities.

(a) *Certifying Authorities for containers and road vehicles*. The Commissioner has designated the following Certifying Authorities for containers and road vehicles as defined in this part:

(1) The American Bureau of Shipping, ABS Plaza, 16855 Northchase Drive, Houston, Texas 77060-6008;

(2) International Cargo Gear Bureau, Inc., 321 West 44th Street, New York, New York 10036;

(3) The National Cargo Bureau, Inc., 17 Battery Place, Suite 1232, New York, New York 10004-1110.

(b) *Certifying Authority for containers*. The Commissioner has designated Lloyd's Register North America, Inc., 1401 Enclave Parkway, Suite 200, Houston, Texas 77077, as a Certifying Authority only for containers as defined in this part.

[CBP Dec. 09-27, 74 FR 36926, July 27, 2009]

### § 115.8 Certifying Authorities responsibilities—road vehicles.

(a) *General*. Road vehicles may be approved individually or by design type.

(b) *Individual approval*. The Certifying Authority to whom a road vehicle is submitted for approval shall inspect such road vehicle produced in accordance with the general rules contained in Annex 3 of the TIR Convention, 1975.

(c) *Design type approval*. The Certifying Authority to whom a road vehicle is submitted for design type approval shall examine the drawings and detailed design specifications submitted with the application for approval. The Certifying Authority shall advise the applicant of any changes that must be made to the proposed design type in order that approval may be granted. The Certifying Authority shall examine one or more vehicles to confirm that such vehicles comply with the technical conditions contained in Annex 2 of the TIR Convention, 1975. The Certifying Authority shall notify the applicant of its decision to grant design type approval, and it shall issue an approval certificate complying with Annexes 3 and 4 of the TIR Convention, 1975.

(d) *Supplementary examinations*. If a road vehicle approved by design type is the subject of an extended production run under one certificate of approval, the Certifying Authority shall confirm by examination of one or more road vehicles during the manufacturing process, or by other means, that such vehicles continue to meet the approved drawings and detailed design specifications and the technical requirements of Annex 2 of the TIR Convention, 1975.

For the purposes of this section, an extended production run shall be considered a continuous run of many units over long periods of time, as well as a new run following the completion of a previous run.

### § 115.9 Certifying Authorities responsibilities—containers.

(a) *General*. Containers may be approved for transport under seal by design type at the manufacturing stage or, otherwise, at a stage subsequent to manufacture.

(b) *Design type approval*. The Certifying Authority to whom a container is submitted for design type approval shall examine the drawings and detailed design specifications submitted with the application for approval. The Certifying Authority shall advise the applicant of any changes that must be made to the proposed design type so that approval may be granted. The Certifying Authority shall examine one or more containers to confirm that such containers comply with the technical requirements of Part 1, Annex 7, TIR Convention, 1975, and Annex 4 of the Customs Convention on Containers, 1972. The Certifying Authority shall issue a certificate authorizing the applicant to affix an approval plate, as described in Appendix 1 to Part II, Annex 7 of the TIR Convention, 1975, and Annex 5 of the Customs Convention on Containers, 1972, for all containers manufactured in conformity with the specifications of the type of container approved. This certificate shall comply with the model certificate in Appendix 2,



## PART 118—CENTRALIZED EXAMINATION STATIONS

Sec.

118.0 Scope.

### 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 customs house 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 agreement with CBP before commencing operations. Failure to execute a written agreement with CBP 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 five 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.

[T.D. 93–6, 58 FR 5604, Jan. 22, 1993, as amended at CBP Dec. 10–29, 75 FR 52452, Aug. 26, 2010]

#### § 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 the notice a justification for any increased or additional fee. Following receipt of this written notice, the port director will advise the public of the proposed fee schedule change and invite comments thereon under the public notice and comment procedures set forth in §118.2 of this part. After a review of the proposed fee schedule change and any public comments thereon, and based on the principle of comparability set forth in §118.11(c) of this part, the port director will decide whether to approve the change, will notify the CES operator in writing of his decision, and will notify the public of any approved fee schedule change by the same methods that were used to provide the public with notice of the proposed change. A CES operator shall remain bound by the existing fee schedule and shall not implement any fee schedule change prior to receipt of written approval of the change from the port director.

## Subpart B—Application To Establish a CES

### § 118.11 Contents of application.

Each application to operate a CES shall consist of the following information, any application not providing all of the specified information will not be considered, and the responses to paragraphs (b), (c), (d), (g) and (h) of this section shall constitute the criteria used to judge the application:

(a) The name and address of the facility to be operated as the CES, the names of all principals or corporate officers, and the name and telephone number of an individual to be contacted for further information;

(b) A description of the CES’s accessibility within the port or other location, and a floor plan of the facility actually dedicated to the CES operation showing bay doors, office space, exterior features, security features, and staging and work space. Where a significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, the applicant may request in the application time to conform the facility to such requirements. The agreement referred to in §118.3 of this part shall not be executed, in any event, until the facility is conformed to meet the requirements;

(c) A schedule of fees clearly showing what the applicant will charge for each type of service. Subject to any special costs incurred by the applicant such as facility modifications to meet specific cargo handling or storage requirements or to meet Customs security standards, the fees set forth in the schedule shall be comparable to fees charged for similar services in the area to be served by the CES;

(d) A detailed list of equipment showing that the applicant can make a diverse variety of cargo available for examination in an efficient and timely manner;

(e) A copy of an approved custodial bond on Customs Form 301. If the applicant does not possess such a bond, a completed Customs Form 301 must be included with the application for approval as a prerequisite to selection;

(f) A list of all employees involved in the CES operation setting forth their names, dates of birth, and social security numbers. (Providing social security numbers is voluntary; however, failure to provide the number may hinder the investigation process.);

(g) Any information showing the applicant’s experience in international cargo operations and knowledge of Customs procedures and regulations; and

(h) Any other information to address any local criteria that the port director considers essential to the selection process based on port conditions.

[T.D. 93–6, 58 FR 5604, Jan. 22, 1993; 58 FR 6574, Jan. 29, 1993, as amended by T.D. 98–29, 63 FR 16684, Apr. 6, 1998]

### § 118.12 Action on application.

Following submission of all applications in accordance with §§118.2 and 118.11 of this part, the port director will advise the public of the applications received and invite comments thereon under the public notice and comment procedures set forth in §118.2; with regard to each application, the notice will set forth the name of the applicant, the address of the facility proposed to be operated as the CES, the proposed fee schedule, the list of equipment at the facility, and the number of employees to be involved in the CES operation. The port director, based on a review of all applications under the criteria set forth in §118.11 and any public comments submitted under §118.2 or this section, shall determine whether a CES operator should be selected and, if a CES operator is to be selected, shall select the applicant that will best meet the examination needs of Customs and facilitate the movement of merchandise.

[T.D. 93–6, 58 FR 5604, Jan. 22, 1993, as amended by T.D. 99–64, 64 FR 43266, Aug. 10, 1999]

**PART 122—AIR COMMERCE REGULATIONS**

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**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1415, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a, 2071 note.

Section 122.22 also issued under 46 U.S.C. 60105.

Section 122.49a also issued under 8 U.S.C. 1101, 1221, 19 U.S.C. 1431, 49 U.S.C. 44909.

Section 122.49b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49c also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114, 44909.

Section 122.49d also issued under 49 U.S.C. 44909(c)(3).

Section 122.75a also issued under 8 U.S.C. 1221, 19 U.S.C. 1431.

Section 122.75b also issued under 8 U.S.C. 1221, 19 U.S.C. 1431, 49 U.S.C. 114.

**Source:** T.D. 88–12, 53 FR 9292, Mar. 22, 1988, unless otherwise noted.

**§ 122.0 Scope.**

(a) *Applicability.* (1) The regulations in this part relate to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft, and are applicable to all air commerce.

(2) The regulations in this part do not apply to the United States Postal Service's transmission of advance electronic information for inbound international mail shipments by air, see § 145.74 of this chapter.

(b) *Authority of Other Agencies.* Nothing in this part is intended to divest or diminish authority and operational control that are vested in the FAA or any other agency, particularly with respect to airspace and aircraft safety.

[CBP Dec. 08–43, 73 FR 68309, Nov. 18, 2008; CBP Dec. 21–04, 86 FR 14245, March 15, 2021]

**Subpart A—General Definitions and Provisions**

**§ 122.1 General definitions.**

The following definitions apply in this part, unless otherwise stated:

(a) *Aircraft.* An "aircraft" is any device now known, or hereafter invented, used or designed for navigation or flight in the air. It does not include hovercraft.

**PART 123—CUSTOMS RELATIONS WITH  
CANADA AND MEXICO**

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**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1415, 1431, 1433, 1436, 1448, 1624, 2071 note.

Section 123.1 also issued under 19 U.S.C. 1459;  
Section 123.2 also issued under 19 U.S.C. 1459;  
Section 123.3 also issued under 19 U.S.C. 1459;  
Section 123.4 also issued under 19 U.S.C. 1484, 1498;  
Section 123.7 also issued under 19 U.S.C. 1498;  
Section 123.8 also issued under 19 U.S.C. 1450–1454, 1459;  
Section 123.9 also issued under 19 U.S.C. 1460, 1584, 1618;  
Section 123.12 also issued under 19 U.S.C. 1202 (Chapter 86, Additional U.S. Note 1, HTSUS), 1322;  
Sections 123.13–123.18 also issued under 19 U.S.C. 1322;  
Sections 123.21–123.23, 123.25–123.29, 123.41, 123.51 also issued under 19 U.S.C. 1554;  
Section 123.24 also issued under 19 U.S.C. 1551;  
Sections 123.31–123.34, 123.42, 123.52, 123.64 also issued under 19 U.S.C. 1553;  
Section 123.63 also issued under 19 U.S.C. 1461, 1462;  
Section 123.81 also issued under 19 U.S.C. 1595.

**Source:** T.D. 70–121, 35 FR 8215, May 26, 1970, unless otherwise noted.

**§ 123.0 Scope.**

This part contains special regulations pertaining to Customs procedures at the Canadian and Mexican borders. Included are provisions governing report of arrival, manifesting, unloading and lading, instruments of international traffic, shipments in transit through Canada or Mexico or through the United States, commercial traveler's samples transiting the United States or Canada, baggage arriving from Canada or Mexico including baggage transiting the United States or Canada or Mexico, and electronic information for rail and truck cargo in advance of arrival. Aircraft arriving from or departing for Canada or Mexico are governed by the provisions of part 122 of this chapter. The arrival of all vessels from, and clearance of all vessels departing for, Canada or

Mexico are governed by the provisions of part 4 of this chapter. Fees for services provided in connection with the arrival of aircraft, vessels, vehicles and other conveyances from Canada or Mexico are set forth in § 24.22 of this chapter. Regulations pertaining to the treatment of goods from Canada or Mexico under the North American Free Trade Agreement are contained in part 181 of this chapter. The requirements for the United States Postal Service to transmit advance electronic information for inbound international mail shipments are set forth in § 145.74 of this chapter.

[T.D. 70–121, 35 FR 8215, May 26, 1970, as amended by T.D. 88–12, 53 FR 9315, Mar. 22, 1988; T.D. 93–85, 58 FR 54286, Oct. 21, 1993; T.D. 93–96, 58 FR 67317, Dec. 21, 1993; T.D. 94–1, 58 FR 69471, Dec. 30, 1993; 59 FR 10283, Mar. 4, 1994; CBP Dec. 21–04, 86 FR 14245, March 15, 2021]

## Subpart A—General Provisions

### § 123.1 Report of arrival from Canada or Mexico and permission to proceed.

(a) *Individuals.* Individuals arriving in the United States, unless excepted by voluntary enrollment in and compliance with PORTPASS—a joint Customs Service/Immigration and Naturalization Service facilitated entry program (See, Immigration and Naturalization Regulations at 8 CFR 235.7), must report their arrival to Customs, and failure to report arrival may result in the individual being liable for certain civil and criminal penalties, as provided under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law. The specific reporting requirements are as follows:

(1) *Individuals not arriving by conveyance.* Persons arriving otherwise than by conveyance may enter the U.S. only at those locations specified by the Commissioner of Customs, or his designee, and shall then immediately report their arrival to Customs. Such persons shall not depart from the Customs port or station until authorized to do so by the appropriate Customs officer.

(2) *Persons arriving aboard a conveyance that reported its arrival.* Persons aboard a conveyance the arrival of which has been reported to Customs at locations specified by the Commissioner of Customs, or his designee in accordance with section 1433, 1644 or 1644a of title 19, United States Code (19 U.S.C. 1433, 1644, 1644a), shall remain on board until authorized by Customs to depart, and shall then immediately report to the designated Customs facility together with all articles accompanying them.

(3) *Persons arriving aboard a conveyance that has not reported its arrival.* Persons aboard a conveyance the arrival of which has not been reported in accordance with the laws referred to in paragraph (a)(2) of this section, shall immediately notify a Customs officer and report their arrival, together with appropriate information concerning the conveyance on or in which they arrived, at a location or locations specified by the Commissioner of Customs, or his designee and shall present themselves and their property for Customs inspection and examination.

(b) *Vehicles.* Vehicles may arrive in the U.S. only at a designated port of entry (see §101.3 of this chapter) or Customs station if the Commissioner of Customs, or his designee authorizes entry at that station (see §101.4 of this chapter). Upon arrival of the vehicle in the U.S., the driver, unless he or she and all of the vehicle's occupants are excepted by enrollment in, and in compliance with, PORTPASS—a joint Customs Service/Immigration and Naturalization Service facilitated entry program (See, Immi-

gration and Naturalization Regulations at 8 CFR 235.1 and 286.8), immediately shall report such arrival to Customs, and shall not depart or discharge any passenger or merchandise (including baggage) without authorization by the appropriate Customs officer.

(c) *Vessels.* For report of arrival requirements applicable to all vessels, regardless of tonnage, and arriving from any location, see §4.2 of this chapter.

(d) *Method of reporting.* Report of arrival under paragraphs (a), (b), and (c) of this section shall be made in person unless the port director, by local instructions, requires that it be made by some other specific means. Such local instructions issued by the port director will be made available to interested parties by posting in Customs offices, publication in a newspaper of general circulation in the Customs port that supervises the location, and/or other appropriate means.

[T.D. 93–96, 58 FR 67317, Dec. 21, 1993, as amended by T.D. 94–44, 59 FR 23795, May 9, 1994; T.D. 97–48, 62 FR 32031, June 12, 1997; T.D. 98–74, 63 FR 51289, Sept. 25, 1998; CBP Dec. 04–28, 69 FR 52599, Aug. 27, 2004]

### § 123.2 Penalty for failure to report arrival or for proceeding without a permit.

(a) *Persons.* Any person arriving otherwise than by conveyance who enters the U.S. at other than a designated port of entry, or Customs station if authorization exists for entry at that station, who fails to report arrival as required in §123.1(a) of this part, or who departs from the port of entry or Customs station without authorization by the appropriate Customs officer, whether or not intentionally, shall be subject to such civil and criminal penalties as are prescribed under 19 U.S.C. 1459 and provided for in §123.1 of this part.

(b) *Vessels.* The penalty provisions applicable to vessels for failure to report arrival or for proceeding without a permit are those as provided in §4.3a.

(c) *Vehicles.* (1) *Civil penalties.* The person in charge of any vehicle who—

(i) Enters the vehicle into the U.S. at other than a designated port of entry, or Customs station if authorization exists for entry at that station;

(ii) Fails to report arrival and present the vehicle and all persons and merchandise (including baggage) on board for inspection as required in §123.1(b) of this part;

(iii) Fails to file a manifest or any other document required to be filed in connection with arrival in the U.S. under this part; or

(iv) Without authorization by the appropriate Customs officer, removes such vehicle from the port of entry or Customs station or discharges any passenger or merchandise (including baggage) shall be subject to such civil penalties as are prescribed in section 436, Tariff Act of 1930, as amended (19 U.S.C. 1436), and any conveyance used in connection with any such violation shall be subject to seizure and forfeiture. The person also may be subject to an additional civil penalty equal to the value of the merchandise on the conveyance which was not entered or reported as required by §123.1(b) of this part, and that merchandise may be subject to seizure and forfeiture unless properly entered by the importer or consignee. If the merchandise consists of any controlled substances, additional penalties may be assessed, as prescribed in section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584).

(2) *Criminal penalties.* Upon conviction, any person in charge of a vehicle who intentionally commits any of the violations described in paragraph (c)(1) of this section shall, in addition to the penalties described therein, be subject to

## PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

Sec.

125.0 Scope.

### Subpart A—General Provisions

- 125.1 Classes of cartage.
- 125.2 Supervision of cartage and lighterage.
- 125.3 Contracts for Government cartage.

### Subpart B—Cartage of Packages for Examination

- 125.11 Cartage for examination in public stores.
- 125.12 Cartage for examination at importers' premises or other place.
- 125.13 Cartage of merchandise withdrawn from general order for regular entry.
- 125.14 Cartage of unclaimed merchandise.

### Subpart C—Importers' Cartage

- 125.21 Cartage other than for examination.
- 125.22 Designation of cartman or lighterman, or other bonded carrier.
- 125.23 Failure to designate.
- 125.24 Failure of designated cartman, lighterman or other bonded carrier to appear.

### Subpart D—Delivery and Receipt

- 125.31 Documents used.
- 125.32 Merchandise delivered to a bonded store or bonded warehouse.
- 125.33 Procedure on receiving merchandise.
- 125.34 Countersigning of documents and notation of bad order or discrepancy.
- 125.35 Report of loss, detention, or accident.
- 125.36 Inability to deliver merchandise.

### Subpart E—Liability

- 125.41 Liability for cartage.
- 125.42 Cancellation of liability.

**Authority:** 19 U.S.C. 66, 1565, and 1624.

Section 125.31, also issued under 5 U.S.C. 301; 19 U.S.C. 1311, 1312, 1484, 1555, 1556, 1557, 1623, and 1646a.

Section 125.32 also issued under 5 U.S.C. 301; 19 U.S.C. 1484.

Section 125.33 also issued under 19 U.S.C. 1311, 1312, 1555, 1556, 1557, 1623, and 1646a.

Sections 125.41 and 125.42 also issued under 19 U.S.C. 1623.

**Source:** T.D. 73-140, 38 FR 13554, May 23, 1973, unless otherwise noted.

### § 125.0 Scope.

This part is concerned with cartage and lighterage of merchandise and the duties and liabilities of cartmen and lightermen, as well as those parties authorized in §112.2(b) to engage in cartage. Provisions for licensing cartmen and lightermen are in part 112 of this chapter.

[T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

### Subpart A—General Provisions

#### § 125.1 Classes of cartage.

(a) *Government cartage.* Government cartage must be done by a licensed customhouse cartman or other bonded carrier as provided in §112.2 of this chapter under contract or other specific authority for that purpose (except as provided for in §125.12). All government cartage must be contracted for using the procedures specified in §125.3.

(b) *Importers' cartage.* Importers' cartage may be done by any licensed customhouse cartman or other bonded carrier as provided in §112.2 of this chapter.

[T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

#### § 125.2 Supervision of cartage and lighterage.

All licensed vehicles or lighters shall be subject to the control and direction of the officer having charge of the merchandise being carried.

#### § 125.3 Contracts for Government cartage.

Contracts for Government cartage shall be procured by formally advertised solicitation for bids and award of contract or by negotiation in accordance with the appropriate provisions of the Federal Procurement Regulations, as supplemented by the special procurement requirements of the U.S. Customs Service.

### Subpart B—Cartage of Packages for Examination

#### § 125.11 Cartage for examination in public stores.

(a) *Government cartage.* The cartage of merchandise in Customs custody designated for examination at the public stores shall be done by a licensed customhouse cartman or a bonded carrier under contract or other specific authority for that purpose.

(b) *Where there is no contract for Government cartage.* At ports where there is no contract for Government cartage in effect, the cartage of packages designated for examination at the public stores shall be done by a licensed customhouse cartman or a bonded carrier designated by the port director for this purpose.

(c) *Payment for Government cartmen.* The cost of the cartage shall be paid by Customs.

[T.D. 73-140, 38 FR 13554, May 23, 1973, as amended by T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

#### § 125.12 Cartage for examination at importers' premises or other place.

Merchandise designated for examination at an importer's premises or other place not in the charge of a Customs officer may be carted, lightered, or carried to any such place by the importer without a cartman's or lighterman's license, when in the judgment of the port director the revenue will not be endangered. Otherwise, such transfer shall be done by a licensed cartman, who shall be the contract cartman whenever practicable.

#### § 125.13 Cartage of merchandise withdrawn from general order for regular entry.

When merchandise withdrawn from general order for regular entry is to be conveyed to a place designated by the port director for examination, the cartage shall be at the expense of the importer and shall be under the cartage arrangements established at the port for hauling examination packages under the provisions of §125.11(a) and (b). Reimbursement of the cost of the cartage shall be collected from the importer prior to release of the merchandise from Customs custody.

#### § 125.14 Cartage of unclaimed merchandise.

Unclaimed merchandise shall be carted to the public stores or a bonded warehouse designated by the port director under the cartage arrangements established at the port for hauling examination packages under the provisions of

§125.11. Reimbursement of the cost of the cartage shall be collected from the importer prior to release if entry is made or from the proceeds of sale of the merchandise.

[T.D. 73-140, 38 FR 13554, May 23, 1973, as amended by T.D. 78-151, 43 FR 23566, May 31, 1978]

### Subpart C—Importers' Cartage

#### § 125.21 Cartage other than for examination.

Any licensed customhouse cartman, including an importer licensed to cart his own imported merchandise and a bonded carrier provided for in §112.2 of this chapter, at the expense of the importer or other party in interest, may transfer merchandise from the importing vessel or other conveyance to a bonded warehouse, from one vessel or conveyance to another, from one bonded warehouse to another, from the public stores to a bonded warehouse, from warehouse for transportation or for exportation, and from an internal revenue warehouse for exportation under the internal revenue laws without payment of tax. Foreign trade zone operators, bonded warehouse proprietors, container station operators and centralized examination station operators may engage in limited cartage or lighterage under the conditions specified in §112.2 of this chapter. Nothing in this section shall apply to the cartage of examination packages to the place of examination.

[T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

#### § 125.22 Designation of cartman or lighterman, or other bonded carrier.

Importers and exporters shall designate on the entry and permit of bonded merchandise the bonded cartman, lighterman, or other bonded carrier as provided in §112.2 of this chapter by whom they wish their merchandise to be conveyed. An importer also may designate a foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator under the conditions specified in §112.2 of this chapter for limited cartage; if he does so, the importer must also designate that the merchandise is bound for the facility run by the operator he designates. Approval of a designation shall be indicated on the entry papers by the initials of the appropriate Customs officer placed in close proximity to the designation.

[T.D. 94-81, 59 FR 51495, Oct. 12, 1994]

#### § 125.23 Failure to designate.

If an importer does not cart his merchandise or designate a licensed customhouse cartman, other bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator, as provided for in §112.2 of this chapter, for the purpose, it shall be carted by a bonded carrier or by a public store cartman authorized by contract or designated by the port director for that purpose. The cost of such cartage shall be paid by the importer of the merchandise before its release from Customs custody.

[T.D. 94-81, 59 FR 51496, Oct. 12, 1994]

#### § 125.24 Failure of designated cartman, lighterman or other bonded carrier to appear.

The cartman, lighterman, other bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator designated to convey the merchandise shall be present to take the merchandise when the Customs officer in charge is

ready to send it. If the designated vehicle or lighter is not present, after waiting a reasonable time, such officer shall send the merchandise by any available licensed cartman, lighterman, or qualifying bonded carrier.

[T.D. 94-81, 59 FR 51496, Oct. 12, 1994]

### Subpart D—Delivery and Receipt

#### § 125.31 Documents used.

When merchandise is carted or lightered to and received from a bonded store or bonded warehouse, it shall be accompanied by one of the following tickets or documents:

(a) Customs Form 6043—Delivery Ticket.

(b) Customs Form 7501, or its electronic equivalent, Entry Summary, annotated "Permit".

(c) Customs Form 7512—Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit.

[T.D. 82-204, 47 FR 49375, Nov. 1, 1982, as amended by T.D. 84-129, 49 FR 23167, June 5, 1984; T.D. 95-81, 60 FR 52295, Oct. 6, 1995; CBP Dec. 15-14, 80 FR 61278, Oct. 13, 2015]

#### § 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carried, carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representative shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of the permit, Customs Form 7501, or its electronic equivalent, and countersign the document acknowledging receipt of the merchandise as listed thereon. If the proprietor or his agent has been designated to carry the merchandise to his own bonded warehouse, he shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of the permit, Customs Form 7501, or its electronic equivalent, at the time he picks up the cargo. Receipt of merchandise by a bonded warehouse proprietor for the purpose of transportation to his own warehouse constitutes receipt into a bonded warehouse.

[T.D. 94-81, 59 FR 51496, Oct. 12, 1994; CBP Dec. 15-14, 80 FR 61278, Oct. 13, 2015]

#### § 125.33 Procedure on receiving merchandise.

(a) *From public or bonded store.* A receipt shall be taken from the cartman, lighterman or bonded carrier for all goods delivered to him from public store or bonded store. The receipt may be taken on Customs Form 6043, or on the appraising officer's release ticket at the time delivery is made.

(b) *From bonded warehouse.* In case of withdrawals from bonded warehouse, the merchandise shall be released only to the proprietor of the warehouse, who shall acknowledge such release on the appropriate withdrawal or removal document.

(c) *All other cases.* A receipt shall be taken for all goods delivered from Customs custody in any other case where the port director deems such receipt necessary.

[T.D. 73-140, 38 FR 13554, May 23, 1973, as amended by T.D. 82-204, 47 FR 49375, Nov. 1, 1982; T.D. 94-81, 59 FR 51496, Oct. 12, 1994]

#### § 125.34 Countersigning of documents and notation of bad order or discrepancy.

When a cartman, lighterman, other bonded carrier, foreign trade zone operator, bonded warehouse proprietor, container station operator or centralized examination station operator,



**PART 127—GENERAL ORDER, UNCLAIMED,  
AND ABANDONED MERCHANDISE**

Sec.

127.0 Scope.

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Merchandise Vesting in Government**

- 127.41 Government title to unclaimed and abandoned merchandise.
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**Authority:** 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1493, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

Section 127.12 also issued under 19 U.S.C. 1753;

Section 127.14 also issued under 19 U.S.C. 1555, 1556, 1557;

Section 127.21 also issued under 19 U.S.C. 1753;

Section 127.28 also issued under 15 U.S.C. 2612, 26 U.S.C. 5688;

Sections 127.31, 127.36, 127.37 also issued under 19 U.S.C. 1753.

**Source:** T.D. 74–114, 39 FR 12092, Apr. 3, 1974, unless otherwise noted.

**§ 127.0 Scope.**

This part sets forth regulations pertaining to general order merchandise, unclaimed merchandise, and abandoned merchandise, the storage and sale thereof, and the distribution of the proceeds from the sale thereof. Regulations regarding

the abandonment of merchandise by the importer to the Government in accordance with section 506(1), Tariff Act of 1930, as amended (19 U.S.C. 1506(1)), appear in part 158 of this chapter.

**Subpart A—General Order Merchandise**

**§ 127.1 Merchandise considered general order  
merchandise.**

Merchandise shall be considered general order merchandise when it is taken into the custody of the port director and deposited in the public stores or a general order warehouse at the risk and expense of the consignee for any of the following reasons:

(a) Whenever entry of any imported merchandise is not made within the time provided by law or regulations prescribed by the Secretary of the Treasury.

(b) Whenever entry is incomplete because of failure to pay estimated duties.

(c) Whenever, in the opinion of the port director, entry cannot be made for want of proper documents or other causes.

(d) Whenever the port director believes that any merchandise is not correctly or legally invoiced.

(e) Whenever, at the request of the consignee or the owner or master of the vessel or person in charge of the vehicle in which merchandise is imported, any merchandise is taken possession of by the port director after the expiration of 1 day after entry of the vessel or report of the vehicle.

**§ 127.2 Withdrawal from general order for entry or  
exportation.**

(a) *Exportation within 6 months from date of importation.* Merchandise in general order may be exported without examination or appraisal if the merchandise is delivered to the exporting carrier within 6 months from the date of importation. This merchandise may be entered within 6 months from date of importation for immediate transportation to any port of entry designated by the consignee.

(b) *After expiration of 6 months from date of importation.* Entry for immediate transportation shall be permitted after the expiration of the 6-month period only for the purpose of filing an entry for consumption at the port of destination.

(c) *Withdrawal of less than single general order lot.* The withdrawal from general order of less than a single general order lot shall not be permitted except as provided for in §141.52 of this chapter.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 98–74, 63 FR 51290, Sept. 25, 1998]

**§ 127.4 General order period defined.**

The general order period is that period of time during which general order merchandise, as defined in §127.1, is not subject to sale. The general order period expires 6 months from the date of importation.

[T.D. 79–221, 44 FR 46814, Aug. 9, 1979, as amended by T.D. 98–74, 63 FR 51290, Sept. 25, 1998]

**Subpart B—Unclaimed and Abandoned  
Merchandise**

**§ 127.11 Unclaimed merchandise.**

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for trans-

portation in bond or for exportation) which remains in Customs custody for 6 months from the date of importation or a lesser period for special merchandise as provided by §127.28 (c), (d), and (h), and without all estimated duties and storage or other charges having been paid, shall be considered unclaimed and abandoned.

[T.D. 79–221, 44 FR 46814, Aug. 9, 1979, as amended by T.D. 98–74, 63 FR 51290, Sept. 25, 1998]

### § 127.12 Abandoned merchandise.

(a) *Involuntarily abandoned merchandise.* The following shall be considered to be involuntarily abandoned merchandise:

(1) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which are still in Customs custody at the expiration of 3 months after the closing date of the fair for which they were entered. (See §147.47 of this chapter.)

(2) Any imported merchandise upon which any duties or charges are unpaid, remaining in a bonded warehouse beyond the 5-year warehouse period.

(b) *Voluntarily abandoned merchandise.* The following merchandise shall be considered to be voluntarily abandoned merchandise and the property of the United States Government:

(1) Merchandise which is taken possession of by the port director at the request of the consignee, or owner or master of the vessel or person in charge of the vehicle in which the merchandise was imported.

(2) Merchandise abandoned by the importer to the United States within 30 days after entry in the case of merchandise not sent to the public stores for examination, or within 30 days after the release of the examination packages or merchandise in the case of merchandise sent to the public stores for examination.

(3) Articles entered for a trade fair under the provisions of section 3 of the Trade Fair Act of 1959 (19 U.S.C. 1752), which have been abandoned to the United States within 3 months of the closing of the fair.

(4) Merchandise in a bonded warehouse abandoned by the consignee within 3 years from the date of original importation. (See subpart D of part 158 of this chapter.)

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 79–221, 44 FR 46814, Aug. 9, 1979]

### § 127.13 Storage of unclaimed and abandoned merchandise.

(a) *Place of storage.* A class 11 bonded warehouse or warehouse of class 3, 4, or 5, certified by the port director as qualified to receive general order merchandise, will be responsible for the transportation and storage of unclaimed and abandoned merchandise, upon due notification to the proprietor of the warehouse by the arriving carrier (or other party to whom the carrier has transferred the merchandise under a Customs-authorized permit to transfer or in-bond entry), as provided in §§4.37(c), 122.50(c), and 123.10(c) of this chapter. If no warehouse of these classes is available to receive general order merchandise, or if the merchandise requires specialized storage facilities which are unavailable in a bonded facility, the port director, after having received notice of the presence of unentered merchandise or baggage in accordance with the provisions of this section, will direct the storage of the merchandise by the carrier or by any other appropriate means.

(b) *Payment of storage and expenses.* Storage at the ordinary rates and all other expenses shall be paid by the

owner or consignee of the merchandise upon entry thereof. If the goods are sold, such charges shall be paid from the proceeds of the sale to the extent that proceeds are available.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 02–65, 67 FR 68034, Nov. 8, 2002]

### § 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

(a) *Merchandise subject to sale or other disposition—(1) General.* If storage or other charges due the United States have not been paid on merchandise remaining in Customs custody after the expiration of the bond period in the case of merchandise entered for warehouse, or after the expiration of the general order period, as defined in §127.4, in any other case, even though any duties due have been paid, such merchandise will be sold as provided in subpart C of this part, retained for official use as provided in subpart E of this part, destroyed, or otherwise disposed of as authorized by the Commissioner of Customs under the law, unless the merchandise is entered or withdrawn for consumption in accordance with paragraph (b) of this section.

(2) *Destruction of merchandise.—(i) Proprietor responsibility.* If the port director concludes that merchandise in general order has no commercial value or is otherwise unsalable and cannot be disposed of at public auction (see §127.29), and that its destruction is warranted, the warehouse proprietor must assume responsibility under bond, including the expense, for destroying the merchandise (see §113.63(c)(3) of this chapter). The port director will authorize such destruction on Customs Form (CF) 3499, or on a similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs.

(ii) *Notice of destruction.* Before destroying the merchandise, the warehouse proprietor must first make a reasonable effort under bond (see §113.63(b) and (c) of this chapter), to identify and inform the importer (owner) or consignee regarding the intended destruction of the merchandise. When the appropriate party is identified, notice of destruction will be provided to the party on Customs Form (CF) 5251, appropriately modified, or other similar Customs document as designated by the port director or an electronic equivalent as authorized by Customs, at least 30 calendar days prior to the date of intended destruction.

(b) *Entry of merchandise subject to sale.* Merchandise subject to sale (except merchandise abandoned under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1), 1563(b))), may be entered or withdrawn for consumption at any time prior to the sale upon payment of the duties, any internal revenue tax, and all charges and expenses that may have accrued thereon. Such merchandise may not be exported without payment of duty nor entered for warehouse.

(c) *Release of merchandise to warehouse proprietor.* The following merchandise for which a permit to release has been issued shall be held to be no longer in the custody of Customs officers and shall be released to the warehouse proprietor:

(1) Merchandise upon which all duties and charges have been paid.

(2) Free and duty-paid merchandise upon which all charges have been paid, not entered for warehouse which remains in bonded warehouse for more than the general order period.

[T.D. 74–114, 39 FR 12092, Apr. 3, 1974, as amended by T.D. 75–161, 40 FR 28790, July 9, 1975; T.D. 79–221, 44 FR

## PART 128—EXPRESS CONSIGNMENTS

Sec.

128.0 Scope.

### Subpart A—General

128.1 Definitions.

### Subpart B—Administration

128.11 Express consignment carrier application process.

128.12 Application approval/denial and suspension of operating privileges.

128.13 Application processing fee.

### Subpart C—Procedures

128.21 Manifest requirements.

128.22 Bonds.

128.23 Entry requirements.

128.24 Informal entry procedures.

128.25 Formal entry procedures.

**Authority:** 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

**Source:** T.D. 89–53, 54 FR 19566, May 8, 1989, unless otherwise noted.

### § 128.0 Scope.

This part sets forth requirements and procedures for the clearance of imported merchandise carried by express consignment operators and carriers, including couriers, under special procedures.

### Subpart A—General

#### § 128.1 Definitions.

For the purpose of this part the following definitions shall apply:

(a) *Express consignment operator or carrier.* An “express consignment operator or carrier” is an entity operating in any mode or intermodally moving cargo by special express commercial service under closely integrated administrative control. Its services are offered to the public under advertised, reliable timely delivery on a door-to-door basis. An express consignment operator assumes liability to Customs for the articles in the same manner as if it is the sole carrier.

(b) *Cargo.* “Cargo” means any and all shipments imported into the Customs territory of the United States by an express consignment operator or carrier whether manifested, accompanied, or unaccompanied.

(c) *Courier shipment.* A “courier shipment” is an accompanied express consignment shipment.

(d) *Hub.* A “hub” is a separate, unique, single purpose facility normally operating outside of Customs operating hours approved by the port director for entry filing, examination, and release of express consignment shipments.

(e) *Express consignment carrier facility.* An “express consignment carrier facility” is a separate or shared specialized facility approved by the port director solely for the examination and release of express consignment shipments.

(f) *Closely integrated administrative control.* The term “closely integrated administrative control” means operations must be sufficiently integrated at both ends of the service (i.e., pick-up and delivery) so that the express consignment company can exercise a high degree of control over the shipments, particularly in regard to the reliability of information supplied for Customs purposes. Such control would be indicated by substantial common ownership between the

local company and the foreign affiliate and/or by a very close contractual relationship between the local company and its foreign affiliate(s) (e.g., a franchise arrangement).

(g) *Reimbursable.* “Reimbursable” means all normal costs incurred at an express consignment operator’s hub or an express consignment carrier facility that are required to be reimbursed to the Government.

### Subpart B—Administration

#### § 128.11 Express consignment carrier application process.

(a) *Facility application.* Requests for approval of an express consignment carrier or hub facility must be in writing to the port director.

(b) *Application contents.* The application for approval of an express consignment carrier or hub facility must include the following:

(1) A full description of the international cargo facilities, including blueprints, floor plans and facility location(s).

(2) A statement of the general character of the express consignment operations that includes, in the case of an express consignment carrier facility, a list of all carriers or operators that intend to use the facility.

(3) An estimate of volume of transactions by:

(i) Formal entries.

(ii) Informal entries.

(iii) Shipments not requiring entry (see §128.23 of this part).

(4) An application processing fee, as set forth in §128.13.

(5) A list of principal company officials or officers.

(6) A projected start-up date, and days and hours of operation.

(7) An agreement that the express consignment entity will:

(i) Ensure that all cargo will be processed in the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, and associated applications, including, but not limited to, Automated Broker Interface (ABI), Automated Manifest System (AMS), Cargo Selectivity, and Statement Processing.

(ii) Sign and implement a narcotics enforcement agreement with U.S. Immigration and Customs Enforcement (ICE).

(iii) Provide, without cost to the Government, adequate office space, equipment, furnishings, supplies and security as per CBP’s specifications.

(iv) If the entity is an express consignment carrier facility, provide to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278, at the beginning of each calendar quarter, a list of all carriers or operators currently using the facility and notify that office whenever a new carrier or operator begins to use the facility or whenever a carrier or operator ceases to use the facility.

(v) If the entity is a hub facility or an express consignment carrier, timely pay all applicable processing fees prescribed in §24.23 of this chapter.

(c) *Changes or alterations to facility.* All proposed changes or alterations to an existing approved international cargo processing facility must be submitted in writing to the port director for approval prior to the implementation thereof and must contain the information specified in paragraph (b) of this section. Failure to obtain CBP approval by an express consignment operator or carrier for any modifications to the international cargo processing area may result in the suspen-

sion of approval as an express consignment facility or hub and the procedures for processing cargo contained in this part.

[T.D. 89–53, 54 FR 19566, May 8, 1989, as amended by T.D. 93–66, 58 FR 44130, Aug. 19, 1993; CBP Dec. 07–29, 72 FR 31725, June 8, 2007; CBP Dec. 15–14, 80 FR 61287, Oct. 13, 2015]

### § 128.12 Application approval/denial and suspension of operating privileges.

(a) *Notice.* (1) The port director shall promptly notify the applicant in writing of the decision to approve or deny the application to establish an express consignment carrier or hub facility or to suspend or revoke operating privileges at an existing facility.

(2) The notice shall specifically state the grounds for denial or for the proposed suspension or revocation.

(b) *Appeal.* The express consignment entity may file a written notice of appeal seeking review of the denial or proposed suspension or revocation within 30 days after notification.

(c) *Recommendation.* The port director shall consider the allegations and responses in the appeal unless, in the case of a suspension or revocation, the express consignment entity requests a hearing. The appeal along with the port director's recommendation shall be forwarded to the Commissioner of Customs or his designee for a final administrative decision.

(d) *Hearing.* In the case of a proposed suspension or revocation, a hearing may be requested within 30 days after notification. If a hearing is requested, it shall be held before a hearing officer appointed by the Commissioner of Customs or his designee within 30 days following the express consignment entity's request. The entity shall be notified of the time and place of the hearing at least 5 days prior thereto. The express consignment entity may be represented by counsel at such hearing, and all evidence and testimony of witnesses in such proceedings, including substantiation of the allegations and the responses thereto shall be presented, with the right of cross-examination to both parties. A stenographic record of any such proceeding shall be made and a copy thereof shall be delivered to the express consignment entity. At the conclusion of the hearing, all papers and the stenographic record of the hearing shall promptly be transmitted to the Commissioner of Customs or his designee together with a recommendation for final action. The express consignment entity may submit in writing additional views or arguments to the Commissioner or his designee following a hearing on the basis of the stenographic record, within 10 days after delivery to it of a copy of such record. The Commissioner or his designee shall thereafter render the decision in writing, stating the reasons therefor. Such decision shall be served on the express consignment entity, and shall be considered the final administrative action.

### § 128.13 Application processing fee.

Each operator of an express consignment hub or carrier facility will be charged a fee to establish, alter, or relocate such facility which shall be determined under the provisions of 31 U.S.C. 9701. The fee will be periodically reviewed and revised to reflect changes in processing expenses and any changes thereto will be published in the Federal Register and "Customs Bulletin".

## Subpart C—Procedures

### § 128.21 Manifest requirements.

(a) *Additional information.* Express consignment operators and carriers shall provide the following manifest information in advance of the arrival of all cargo, including all articles for which an entry is not required as noted in §128.23 (which shall be listed separately and their entry status noted), in addition to the information and documents otherwise required by this chapter:

(1) Country of origin of the merchandise.

(2) Shipper name, address and country.

(3) Ultimate consignee name and address.

(4) Specific description of the merchandise, and under the following conditions, the Harmonized Tariff Schedule of the United States (HTSUS) subheading number:

(i) If the merchandise is required to be formally entered as provided in §128.25; or

(ii) If the merchandise is eligible for, and is entered under, the informal entry procedures as provided in §128.24, but may not be passed free of duty and tax as consisting of a shipment of merchandise imported by one person on one day having a fair retail value in the country of shipment not exceeding \$800, as provided in §128.24(e).

(5) Quantity.

(6) Shipping weight.

(7) Value.

(b) *Sorting of cargo.* If the shipments are physically sorted by country of origin of the merchandise when they arrive at the hub or express consignment facility and are presented to Customs in this manner, the advance manifest information shall also be provided with the merchandise segregated by country of origin.

[T.D. 89–53, 54 FR 19566, May 8, 1989, as amended by T.D. 94–51, 59 FR 30294, June 13, 1994; CBP Dec. 16–13, 81 FR 58831, Aug. 26, 2016]

### § 128.22 Bonds.

Each express consignment operator or carrier must be recognized by Customs as an international carrier and approved as a carrier of bonded merchandise, and shall file bonds on Customs Form 301, containing the bond conditions set forth in §§113.62, 113.63, 113.64 and 113.66 of this chapter, to insure compliance with Customs requirements relating to the importation and entry of merchandise as well as the carriage and custody of merchandise under Customs control.

### § 128.23 Entry requirements.

(a) *General rule.* Except as provided in paragraph (c) of this section, all articles carried by an express consignment entity shall be entered by a person with the right to file entry.

(b) *Procedures—(1) General.* All express consignment entities utilizing the procedures in this part must comply with the requirements of the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. These requirements include those under the Automated Manifest System (AMS), Cargo Selectivity, Statement Processing, the Automated Broker Interface System (ABI), and enhancements of ACE or any other CBP-authorized electronic data interchange system.

(2) *Entry number.* All entry numbers must be furnished to CBP in a CBP approved bar coded readable format in order to assist in the processing of express consignment cargo under the CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

## PART 132—QUOTAS

Sec.

132.0 Scope.

### Subpart A—General Provisions

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- 132.2 Enactment and administration of quotas.
- 132.3 Observation of official hours.
- 132.4 Quota quantity entry limits.
- 132.5 Merchandise imported in excess of quota quantities.
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### Subpart B—Administration of Quotas

- 132.11 Quota priority and status.
- 132.11a Time of presentation.
- 132.12 Procedure on opening of potentially filled quotas.
- 132.13 Quotas after opening.
- 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.
- 132.15 Export certificate for beef subject to tariff-rate quota.
- 132.16 [Reserved]
- 132.17 Export certificate for sugar-containing products subject to tariff-rate quota.
- 132.18 License for certain worsted wool fabric subject to tariff-rate quota.

### Subpart C—Mail Importation of Absolute Quota Merchandise

- 132.21 Regulations applicable.
- 132.22 When quota is filled.
- 132.23 Partial release procedure.
- 132.24 Entry.
- 132.25 Undeliverable shipment.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1623, 1624.

Sections 132.15, 132.17, and 132.18 also issued under 19 U.S.C. 1202 (additional U.S. Note 3 to Chapter 2, HTSUS; additional U.S. Note 8 to Chapter 17, HTSUS; and subchapter II of Chapter 99, HTSUS, respectively), 1484, 1508.

**Source:** T.D. 73–203, 38 FR 20230, July 30, 1973, unless otherwise noted.

### § 132.0 Scope.

This part sets forth rules and procedures applicable to quotas administered by Headquarters, U.S. Customs Service.

### Subpart A—General Provisions

#### § 132.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Absolute (or quantitative) quotas.* “Absolute (or quantitative) quotas” are those which permit a limited number of units of specified merchandise to be entered or withdrawn for consumption during specified periods. Once the quantity permitted under the quota is filled, no further entries or withdrawals for consumption of merchandise subject to quota are permitted. Some absolute quotas limit the entry or withdrawal of merchandise from particular countries (geographic quotas) while others are global quotas and limit the entry or withdrawal of merchandise not by source but by total quantity.

(b) *Tariff-rate quotas.* “Tariff-rate quotas” permit a specified quantity of merchandise to be entered or withdrawn for consumption at a reduced duty rate during a specified period.

(c) [Reserved]

(d) *Presentation.* “Presentation” is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see §141.0a(b)); or

(2) An entry summary for consumption, which shall serve as both the entry and the entry summary, without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date (pursuant to §24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface; or

(3) A withdrawal for consumption with estimated duties attached.

(e) *Quota-class merchandise.* “Quota-class merchandise” is any imported merchandise subject to limitations under an absolute or a tariff-rate quota.

(f) *Quota priority.* “Quota priority” is the precedence granted to one entry or withdrawal for consumption of quota-class merchandise over other entries or withdrawals of merchandise subject to the same quota.

(g) *Quota status.* “Quota status” is the standing which entitles quota-class merchandise to admission under an absolute quota, or to a reduced rate of duty under a tariff-rate quota, or to any other quota benefit.

[T.D. 73–203, 38 FR 20230, July 30, 1973, as amended by T.D. 79–221, 44 FR 46814, Aug. 9, 1979; T.D. 89–104, 54 FR 50498, Dec. 7, 1989]

#### § 132.2 Enactment and administration of quotas.

(a) *Enactment.* Tariff-rate quotas and absolute quotas are established by Presidential proclamations, Executive orders, and legislative enactments. These documents are published in the Customs Bulletin.

(b) *Administration.* Quotas vary by the type of commodity involved, the country of exportation, the period or periods the quota is open and the type of quota. Quotas are divided into two categories: Quotas administered directly by Headquarters, U.S. Customs Service, and quotas administered by other agencies which are enforced by Headquarters, U.S. Customs Service, and which may require special procedures or special documentation in accordance with the regulations and directives of the particular agency involved.

(c) *Strict construction employed.* The terms of a Presidential proclamation, Executive order, or legislative enactment establishing a quota, and the regulations implementing the quota, must be strictly complied with.

#### § 132.3 Observation of official hours.

An entry summary for consumption or a withdrawal for consumption for quota-class merchandise shall be presented only during official office hours, except as provided in §§132.12 and 141.62(b) of this chapter. For purposes of administering quotas, “official office hours” shall mean 8:30 a.m. to 4:30 p.m. in all time zones.

[T.D. 79–221, 44 FR 46814, Aug. 9, 1979]

#### § 132.4 Quota quantity entry limits.

At the opening of the quota no importer shall be permitted to present entries or withdrawals for consumption of quota-class merchandise for a quantity in excess of the quantity admissible under the applicable quota.

### § 132.5 Merchandise imported in excess of quota quantities.

(a) *Absolute quota merchandise.* Absolute quota merchandise imported in excess of the quantity admissible under the applicable quota must be disposed of in accordance with paragraph (c) of this section.

(b) *Tariff-rate quota merchandise.* Merchandise imported in excess of the quantity admissible at the reduced quota rate under a tariff-rate quota is permitted entry at the higher duty rate. However, it may be disposed of in accordance with paragraph (c) of this section.

(c) *Disposition of excess merchandise.* Merchandise imported in excess of either an absolute or a tariff-rate quota may be held for the opening of the next quota period by placing it in a foreign-trade zone or by entering it for warehouse, or it may be exported or destroyed under Customs supervision.

### § 132.6 Exception to reduced rates.

Reduced or modified duty rates under tariff-rate quotas established pursuant to section 350 of the Tariff Act of 1930, as amended and extended (19 U.S.C. 1351), are not applicable to products imported directly or indirectly from the countries or areas listed under General Note 3(b), Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). [T.D. 73–203, 53 FR 20230, July 30, 1973, as amended by T.D. 89–1, 53 FR 51255, Dec. 21, 1988; T.D. 90–78, 55 FR 40166, Oct. 2, 1990]

## Subpart B—Administration of Quotas

### § 132.11 Quota priority and status.

(a) *Determination of quota priority and status.* Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with §132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption, which serves as both the entry and entry summary, or by a withdrawal for consumption, shall be regarded as entered for purposes of quota priority and shall acquire quota status if:

(1) The entry summary or withdrawal for consumption is in proper form, and duties have been attached to the entry summary or withdrawal for consumption in proper form; or

(2) The entry summary for consumption is in proper form, and the entry/entry summary information and a valid scheduled statement date (pursuant to §24.25 of this chapter) have been successfully received by Customs via the Automated Broker Interface.

See §§141.4, 141.63, 141.68, 141.69, and 141.101 of this chapter.

(c) *Informal entries.* Mail entries or informal entries shall be regarded as presented for purposes of quota priority when all requirements have been met for the preparation of such an entry.

(d) *Premature presentation of entry or withdrawal.* Quota status will not attach to merchandise in a quota period by reason of the presentation of an entry or withdrawal for consumption at any time prior to the opening of that period.

[T.D. 73–203, 38 FR 20230, July 30, 1973, as amended by T.D. 79–221, 44 FR 46814, Aug. 9, 1979; T.D. 89–104, 54 FR 50498, Dec. 7, 1989]

### § 132.11a Time of presentation.

(a) *General rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry/entry summary for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, or its electronic equivalent, which serves as both the entry and the entry summary, with estimated duties attached; or

(2) An entry summary for consumption, or its electronic equivalent, which shall serve as both the entry and the entry summary without estimated duties attached, if the entry/entry summary information and a valid scheduled statement date have been successfully received by Customs via the Automated Broker Interface (see §132.1(d)(2); payment must be subsequently made by the statement processing method as set forth in §24.25 of this chapter); or

(3) A withdrawal for consumption with estimated duties attached.

(b) *Before arrival of merchandise.* The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits.

(c) *Failure to use statement processing method.* If presentation is chosen to be made pursuant to §132.11a(a)(2) and payment is not made as required through the statement processing method, the Center director may require filing of an entry summary for consumption with estimated duties attached as described in §132.11(a)(1) for future filings.

[T.D. 79–221, 44 FR 46814, Aug. 9, 1979, as amended by T.D. 89–104, 54 FR 50498, Dec. 7, 1989; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

### § 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.* When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon Eastern Standard Time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the Center director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.* Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the deposit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.* (1) The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by Headquarters against the quota quantity admissible to determine the per-

**PART 133—TRADEMARKS, TRADE NAMES,  
AND COPYRIGHTS**

Sec.

133.0 Scope.

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- 133.1 Recordation of trademarks.
- 133.2 Application to record trademark.
- 133.3 Documents and fee to accompany application.
- 133.4 Effective date, term, and cancellation of trademark recordation and renewals.
- 133.5 Change of ownership of recorded trademark.
- 133.6 Change in name of owner of recorded trademark.
- 133.7 Renewal of trademark recordation.

**Subpart B—Recordation of Trade Names**

- 133.11 Trade names eligible for recordation.
- 133.12 Application to record a trade name.
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- 133.14 Publication of trade name recordation.
- 133.15 Term of CBP trade name recordation.

**Subpart C—Importations Bearing Recorded Marks or Trade Names**

- 133.21 Articles suspected of bearing counterfeit marks.
- 133.22 Restrictions on importation of articles bearing copying or simulating trademarks.
- 133.23 Restrictions on importation of gray market articles.
- 133.24 Restrictions on articles accompanying importer and mail importations.
- 133.25 Procedure on detention of articles subject to restriction.
- 133.26 Demand for redelivery of released merchandise.
- 133.27 Civil fines for those involved in the importation of merchandise bearing a counterfeit mark.

**Subpart D—Recordation of Copyrights**

- 133.31 Recordation of copyrighted works.
- 133.32 Application to record copyright.
- 133.33 Documents and fee to accompany application.
- 133.34 Effective date, term, and cancellation of recordation.
- 133.35 Change of ownership of recorded copyright.
- 133.36 Change in name of owner of recorded copyright.
- 133.37 Renewal of copyright recordation.

**Subpart E—Importations Violating Copyright Laws**

- 133.41 [Reserved]
- 133.42 Infringing copies or phonorecords.
- 133.43 Procedure on suspicion of infringing copies.
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**Subpart F—Procedure Following Forfeiture or Assessment of Liquidated Damages**

- 133.51 Relief from forfeiture or liquidated damages.
- 133.52 Disposition of forfeited merchandise.
- 133.53 Refund of duty.

**Subpart G—[Reserved]**

**Subpart H—Donations of Intellectual Property Rights Technology and Related Support Services**

Sec.

133.61 Donations of intellectual property rights technology and related support services.

**Authority:** 15 U.S.C. 1124, 1125, 1127; 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1202, 1499, 1526, 1624; 31 U.S.C. 9701. Sections 133.21 through 133.25 also issued under 18 U.S.C. 1905; Sec. 818(g), Pub. L. 112-81 (10 U.S.C. 2302).

Section 133.1 also issued under 15 U.S.C. 1096, 1124; Sections 133.2 through 133.7, 133.11 through 133.13, and 133.15 also issued under 15 U.S.C. 1124; Sections 133.21 through 133.25 also issued under 18 U.S.C. 1905; Sec. 818(g), Pub. L. 112-81; Sections 133.26 and 133.46 also issued under 19 U.S.C. 1623; Sections 133.27 and 133.52 also issued under 19 U.S.C. 1526; Section 133.53 also issued under 19 U.S.C. 1558(a).

**Source:** T.D. 72-266, 37 FR 20678, Oct. 3, 1972, unless otherwise noted.

**§ 133.0 Scope.**

This part provides for the recordation of trademarks, trade names, and copyrights with the U.S. Customs and Border Protection for the purpose of prohibiting the importation of certain articles. It also sets forth the procedures for the disposition of articles bearing prohibited marks or names, and copyrighted or piratical articles, including release to the importer in appropriate circumstances.

**Subpart A—Recordation of Trademarks**

**§ 133.1 Recordation of trademarks.**

(a) *Eligible trademarks.* Trademarks registered by the U.S. Patent and Trademark Office under the Trademark Act of March 3, 1881, the Trademark Act of February 20, 1905, or the Trademark Act of 1946 (15 U.S.C. 1051 *et seq.*) except those registered on the supplemental register under the 1946 Act (15 U.S.C. 1096), may be recorded with the U.S. Customs and Border Protection if the registration is current.

(b) *Notice of recordation and other action.* Applicants and recordants will be notified of the approval or denial of an application filed in accordance with §§133.2, 133.5, 133.6, and 133.7 of this subpart.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

**§ 133.2 Application to record trademark.**

An application to record one or more trademarks shall be in writing, addressed to the Intellectual Property Rights (IPR) & Restricted Merchandise Branch, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, and shall include the following information:

(a) The name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

(b) The places of manufacture of goods bearing the recorded trademark;

(c) The name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(d) The identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad. For this purpose:

(1) *Common ownership* means individual or aggregate ownership of more than 50 percent of the business entity; and

(2) *Common control* means effective control in policy and operations and is not necessarily synonymous with common ownership.

(e) *Lever-rule protection*. For owners of U.S. trademarks who desire protection against gray market articles on the basis of physical and material differences (see *Lever Bros. Co. v. United States*, 981 F.2d 1330 (D.C. Cir. 1993)), a description of any physical and material difference between the specific articles authorized for importation or sale in the United States and those not so authorized. In each instance, owners who assert that physical and material differences exist must state the basis for such a claim with particularity, and must support such assertions by competent evidence and provide summaries of physical and material differences for publication. CBP determination of physical and material differences may include, but is not limited to, considerations of:

(1) The specific composition of both the authorized and gray market product(s) (including chemical composition);

(2) Formulation, product construction, structure, or composite product components, of both the authorized and gray market product;

(3) Performance and/or operational characteristics of both the authorized and gray market product;

(4) Differences resulting from legal or regulatory requirements, certification, etc.;

(5) Other distinguishing and explicitly defined factors that would likely result in consumer deception or confusion as proscribed under applicable law.

(f) CBP will publish in the Customs Bulletin a notice listing any trademark(s) and the specific products for which gray market protection for physically and materially different products has been requested. CBP will examine the request(s) before issuing a determination whether gray market protection is granted. For parties requesting protection, the application for trademark protection will not take effect until CBP has made and issued this determination. If protection is granted, CBP will publish in the Customs Bulletin a notice that a trademark will receive *Lever-rule* protection with regard to a specific product.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 99-21, 64 FR 9062, Feb. 24, 1999; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; CBP Dec. 07-82, 72 FR 59171, Oct. 19, 2007]

### § 133.3 Documents and fee to accompany application.

(a) *Documents*. The application shall be accompanied by:

(1) A status copy of the certificate of registration certified by the U.S. Patent and Trademark Office showing title to be presently in the name of the applicant; and

(2) Five copies of this certificate, or of a U.S. Patent and Trademark Office facsimile. The copies may be reproduced privately and shall be on paper approximately 8"×10½" in size. If the certificate consists of two or more pages, the copies may be reproduced on both sides of the paper.

(b) *Fee*. The application shall be accompanied by a fee of \$190 for each trademark to be recorded. However, if the trademark is registered for more than one class of goods (based on the class, or classes, first stated on the certificate of registration, without consideration of any class, or classes, also stated in parentheses) the fee for recordation shall be \$190 for each class for which the applicant desires to record

the trademark with the United States Customs Service. For example, to secure recordation of a trademark registered for three classes of goods, a fee of \$570 is payable. A check or money order shall be made payable to the United States Customs Service.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 73-174, 38 FR 16850, June 27, 1973; T.D. 75-160, 40 FR 28790, July 9, 1975; T.D. 84-133, 49 FR 26571, June 28, 1984; T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

### § 133.4 Effective date, term, and cancellation of trademark recordation and renewals.

(a) *Effective date*. Recordation of trademark and protection thereunder shall be effective on the date an application for recordation is approved, as shown on the recordation notice issued by the U.S. Customs and Border Protection instructing U.S. Customs and Border Protection Officers as to the terms and conditions of import protection appropriate.

(b) *Term*. The recordation or renewal of an existing recordation of a trademark shall remain in force concurrently with the 20-year current registration period or last renewal thereof in the U.S. Patent and Trademark Office.

(c) *Cancellation of recordation*. Recordation of a trademark with the U.S. Customs and Border Protection shall be canceled if the trademark registration is finally canceled or revoked.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991; CBP Dec. 07-82, 72 FR 59171, Oct. 19, 2007]

### § 133.5 Change of ownership of recorded trademark.

If there is a change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the United States Customs Service, he shall apply therefor by:

(a) Complying with §133.2;

(b) Describing any time limit on the rights of ownership transferred;

(c) Submitting a status copy of the certificate of registration certified by the U.S. Patent and Trademark Office showing title to be presently in the name of the new owner; and

(d) Paying a fee of \$80, which covers all trademarks included in the application which have been previously recorded with the United States Customs Service. A check or money order shall be made payable to the United States Customs Service.

[T.D. 72-266, 37 FR 20678, Oct. 3, 1972, as amended by T.D. 75-160, 40 FR 28791, July 9, 1975; T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

### § 133.6 Change in name of owner of recorded trademark.

If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the IPR & Restricted Merchandise Branch, CBP Headquarters, accompanied by:

(a) A status copy of the certificate of registration certified by the U.S. Patent and Trademark Office showing title to be presently in the name as changed; and

(b) A fee of \$80, which covers all trademarks included in the application which have been previously recorded with the U.S. Customs and Border Protection. A check or money order shall be made payable to the United States Customs Service.



**PART 134—COUNTRY OF ORIGIN MARKING**

Sec.

134.0 Scope.

**Subpart A—General Provisions**

- 134.1 Definitions.
- 134.2 Additional duties.
- 134.3 Delivery withheld until marked and redelivery ordered.
- 134.4 Penalties for removal, defacement, or alteration of marking.

**Subpart B—Articles Subject to Marking**

- 134.11 Country of origin marking required.
- 134.12 Foreign articles reshipped from a U.S. possession.
- 134.13 Imported articles repacked or manipulated.
- 134.14 Articles usually combined.

**Subpart C—Marking of Containers or Holders**

- 134.21 Special marking.
- 134.22 General rules for marking of containers or holders.
- 134.23 Containers or holders designed for or capable of reuse.
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- 134.25 Containers or holders for repacked J-list articles and articles incapable of being marked.
- 134.26 Imported articles repacked or manipulated.

**Subpart D—Exceptions to Marking Requirements**

- 134.31 Requirements of other agencies.
- 134.32 General exceptions to marking requirements.
- 134.33 J-List exceptions.
- 134.34 Certain repacked articles.
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- 134.36 Inapplicability of marking exception for articles processed by importer.

**Subpart E—Method and Location of Marking Imported Articles**

- 134.41 Methods and manner of marking.
- 134.42 Specific method may be required.
- 134.43 Methods of marking specific articles.
- 134.44 Location and other acceptable methods of marking.
- 134.45 Approved markings of country name.
- 134.46 Marking when name of country or locality other than country of origin appears.
- 134.47 Souvenirs and articles marked with trademarks or trade names.

**Subpart F—Articles Found Not Legally Marked**

- 134.51 Procedure when importation found not legally marked.
- 134.52 Certificate of marking.
- 134.53 Examination packages.
- 134.54 Articles released from Customs custody.
- 134.55 Compensation of Customs officers and employees.

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1304, 1624.

**Source:** T.D. 72–262, 37 FR 20318, Sept. 29, 1972, unless otherwise noted.

**§ 134.0 Scope.**

This part sets forth regulations implementing the country of origin marking requirements and exceptions of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking provisions of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). The consequences and procedures to be followed when articles are not legally marked are set forth in this part. The consequences and procedures to be followed when articles are falsely marked are set forth in §11.13 of this chapter. Special marking and labeling requirements are covered elsewhere. Provisions regarding the review and appeal rights of exporters and producers resulting from adverse North American Free Trade Agreement marking decisions are contained in subpart J of part 181 of this chapter.

[T.D. 81–290, 46 FR 58070, Nov. 30, 1981, as amended by T.D. 89–1, 53 FR 51255, Dec. 21, 1988; T.D. 94–1, 58 FR 69471, Dec. 30, 1993]

**Subpart A—General Provisions**

**§ 134.1 Definitions.**

When used in this part, the following terms shall have the meaning indicated:

(a) *Country*. “Country” means the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of the mother country are considered separate countries.

(b) *Country of origin*. “Country of origin” means the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the “country of origin” within the meaning of this part; however, for a good of a NAFTA or USMCA country, the marking rules set forth in part 102 of this chapter (hereinafter referred to as the part 102 Rules) will determine the country of origin.

(c) *Foreign origin*. “Foreign origin” refers to a country of origin other than the United States, as defined in paragraph (e) of this section, or its possessions and territories.

(d) *Ultimate purchaser*. The “ultimate purchaser” is generally the last person in the United States who will receive the article in the form in which it was imported; however, for a good of a NAFTA or USMCA country, the “ultimate purchaser” is the last person in the United States who purchases the good in the form in which it was imported. It is not feasible to state who will be the “ultimate purchaser” in every circumstance. The following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the “ultimate purchaser” if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article, or for a good of a NAFTA or USMCA country, a process which results in one of the changes prescribed in the part 102 Rules as effecting a change in the article’s country of origin.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the “ultimate purchaser.” With respect to a good of a NAFTA or USMCA country, if the manufacturing process does not result in one of the changes prescribed in the part 102 Rules as effecting a change in the article’s country of origin, the consumer who purchases the article after processing will be regarded as the ultimate purchaser.

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the “ultimate purchaser.”

(4) If the imported article is distributed as a gift the recipient is the “ultimate purchaser”, unless the good is a good of a NAFTA or USMCA country. In that case, the purchaser of the gift is the ultimate purchaser.

(e) *United States*. “United States” includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(f) *Customs territory of the United States*. “Customs territory of the United States,” as used in this chapter includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(g) *Good of a NAFTA or USMCA country*. A “good of a NAFTA or USMCA country” is an article for which the country of origin is Canada, Mexico or the United States as determined under the part 102 Rules.

(h) *NAFTA*. “NAFTA” means the North American Free Trade Agreement entered into by the United States, Canada and Mexico on August 13, 1992. NAFTA is not applicable to goods entered for consumption, or withdrawn from warehouse for consumption, on or after July 1, 2020.

(i) *NAFTA or USMCA country*. “NAFTA or USMCA country” means the territory of the United States, Canada or Mexico, as defined in Annex 201.1 of NAFTA and Chapter 1, Section C of the USMCA.

(j) *Part 102 Rules*. “Part 102 Rules” are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country, as set forth in part 102 of this chapter. The rules also apply to determine the country of origin for marking purposes for goods imported under the USMCA.

(k) *Conspicuous*. “Conspicuous” means capable of being easily seen with normal handling of the article or container.

(l) *USMCA*. “USMCA” means the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), entered into force by the United States, Canada and Mexico on July 1, 2020.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69471, Dec. 30, 1993; T.D. 95–68, 60 FR 46362, Sept. 6, 1995; CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

### § 134.2 Additional duties.

Articles not marked as required by this part shall be subject to additional duties of 10 percent of the final appraised value unless exported or destroyed under Customs supervision prior to liquidation of the entry, as provided in 19 U.S.C. 1304(f). The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90–51, 55 FR 28190, July 10, 1990]

### § 134.3 Delivery withheld until marked and redelivered ordered.

(a) Any imported article (or its container) held in CBP custody for inspection, examination, or appraisalment will not be delivered until marked with its country of origin, or until estimated duties payable under 19 U.S.C. 1304(f), or adequate security for those duties (see §134.53(a)(2)), are deposited.

(b) An authorized CBP official may demand redelivery to CBP custody of any article (or its container) previously re-

leased which is found to be not marked legally with its country of origin for the purpose of requiring the article (or its container) to be properly marked. A demand for redelivery will be made, as required under §141.113(a) of this chapter, not later than 30 days after—

(1) The date of entry, in the case of merchandise examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(2) The date of examination, in the case of merchandise examined at the importer’s premises or such other appropriate places as determined by the port director.

(c) Nothing in this part shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

[T.D. 80–88, 45 FR 18921, Mar. 24, 1980, as amended by T.D. 90–51, 55 FR 28190, July 10, 1990; CBP Dec. 08–25, 73 FR 40726, July 16, 2008; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

### § 134.4 Penalties for removal, defacement, or alteration of marking.

Any intentional removal, defacement, destruction, or alteration of a marking of the country of origin required by section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), and this part in order to conceal this information may result in criminal penalties of up to \$5,000 and/or imprisonment for 1 year, as provided in 19 U.S.C. 1304(h).

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90–51, 55 FR 28191, July 10, 1990]

## Subpart B—Articles Subject to Marking

### § 134.11 Country of origin marking required.

Unless excepted by law, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article, at the time of importation into the Customs territory of the United States. Containers of articles excepted from marking shall be marked with the name of the country of origin of the article unless the container is also excepted from marking.

### § 134.12 Foreign articles reshipped from a U.S. possession.

Articles of foreign origin imported into any possession of the United States outside its Customs territory and reshipped to the United States are subject to all marking requirements applicable to like articles of foreign origin imported directly from a foreign country to the United States.

### § 134.13 Imported articles repacked or manipulated.

(a) *Marking requirement*. An article within the provisions of this section shall be marked with the name of the country of origin at the time the article is withdrawn for consumption unless the article and its container are exempted from marking under provisions of subpart D of this part at the time of importation.

(b) *Applicability*. The provisions of this section are applicable to the following articles:

(1) Articles repacked in a bonded warehouse under §19.8 of this chapter;

**PART 141—ENTRY OF MERCHANDISE**

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141.0 Scope.

141.0a Definitions.

**Subpart A—Liability for Duties and Requirement To Enter Merchandise**

141.1 Liability of importer for duties.

141.2 Liability for duties on reimportation.

141.3 Liability for duties includes liability for taxes.

141.4 Entry required.

141.5 Time limit for entry.

**Subpart B—Right to Make Entry and Declarations on Entry**

141.11 Evidence of right to make entry for importations by common carrier.

141.12 Right to make entry of importations by other than common carrier.

141.13 Right to make entry of abandoned or salvaged merchandise.

141.14 Deceased or insolvent consignees and court-appointed administrators.

141.15 Bond for production of bill of lading or air waybill.

141.16 Disposition of documents.

141.17 Entry by nonresident consignee.

141.18 Entry by nonresident corporation.

141.19 Declaration of entry.

141.20 Actual owner's declaration and superseding bond of actual owner.

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141.31 General requirements and definitions.

141.32 Form for power of attorney.

141.33 Alternative form for noncommercial shipment.

141.34 Duration of power of attorney.

141.35 Revocation of power of attorney.

141.36 Nonresident principals in general.

141.37 Additional requirements for nonresident corporations.

141.38 Resident corporations.

141.39 Partnerships.

141.40 Trusteeships.

141.41 Surety on Customs bonds.

141.42 Protests.

141.43 Delegation to subagents.

141.44 Designation of Customs ports in which power of attorney is valid.

141.45 Certified copies of power of attorney.

141.46 Power of attorney retained by customhouse broker.

**Subpart D—Quantity of Merchandise To Be Included in an Entry**

141.51 Quantity usually required to be in one entry.

141.52 Separate entries for different portions.

141.53 Procedure for separate entries.

141.54 Separate entries for consolidated shipments.

141.55 Single entry summary for shipments arriving under one transportation entry.

141.56 Single entry summary for multiple transportation entries consigned to the same consignee.

141.57 Single entry for split shipments.

141.58 Single entry for separately arriving portions of unassembled or disassembled entities.

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**Subpart E—Presentation of Entry Papers**

141.61 Completion of entry and entry summary documentation.

141.62 Place and time of filing.

141.63 Submission of entry summary documentation for preliminary review.

141.64 Review and correction of entry and entry summary documentation.

141.65 [Reserved]

141.66 Bond for missing documentation.

141.67 Recall of documentation.

141.68 Time of entry.

141.69 Applicable rates of duty.

**Subpart F—Invoices**

141.81 Invoice for each shipment.

141.82 Invoice for installment shipments arriving within a period of 10 days.

141.83 Type of invoice required.

141.84 Photocopies of invoice for separate entries of same shipment.

141.85 Pro forma invoice.

141.86 Contents of invoices and general requirements.

141.87 Breakdown on component materials.

141.88 Computed value.

141.89 Additional information for certain classes of merchandise.

141.90 Notation of tariff classification and value on invoice.

141.91 Entry without required invoice.

141.92 Waiver of invoice requirements.

**Subpart G—Deposit of Estimated Duties**

141.101 Time of deposit.

141.102 When deposit of estimated duties, estimated taxes, or both not required.

141.103 Amount to be deposited.

141.104 Computation of duties.

141.105 Voluntary deposit of additional duties.

**Subpart H—Release of Merchandise**

141.111 Carrier's release order.

141.112 Liens for freight, charges, or contribution in general average.

141.113 Recall of merchandise released from Customs and Border Protection custody.

**Authority:** 19 U.S.C. 66, 1448, 1484, 1498, 1624.

Subpart F also issued under 19 U.S.C. 1481;

Subpart G also issued under 19 U.S.C. 1505;

Section 141.1 also issued under 11 U.S.C. 507(a)(7)(F), 31 U.S.C. 191, 192;

Section 141.4 also issued under 19 U.S.C. 1202 (General Note 3(e); Chapter 86, Additional U.S. Note 1; Chapter 89, Additional U.S. Note 1; Chapter 98, Subchapter III, U.S. Notes 3 and 4; Harmonized Tariff Schedule of the United States), 1498;

Section 141.19 also issued under 19 U.S.C. 1485, 1486;

Section 141.20 also issued under 19 U.S.C. 1485, 1623;

Section 141.66 also issued under 19 U.S.C. 1490, 1623;

Section 141.68 also issued under 19 U.S.C. 1315;

Section 141.69 also issued under 19 U.S.C. 1315;

Section 141.88 also issued under 19 U.S.C. 1401a(d), 1402(f);

Section 141.90 also issued under 19 U.S.C. 1487;

Section 141.112 also issued under 19 U.S.C. 1564;

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

**Source:** T.D. 73-175, 38 FR 17447, July 2, 1973, unless otherwise noted.

**§ 141.0 Scope.**

This part sets forth general requirements and procedures for the entry of imported merchandise, except entries under carnet, and entries for transportation in bond or exportation, for foreign-trade zones, or for trade fairs, which are covered in parts 114, 18, 146, and 147 of this chapter. More specific requirements and procedures in addition to those in this part are set forth in parts 143, 144, and 145 of this chapter for consumption, appraisal and informal entries, for warehouse entries, and for mail entries.

**§ 141.0a Definitions.**

Unless the context requires otherwise or a different definition is prescribed, the following terms will have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry*. "Entry" means that documentation or data required by §142.3 of this chapter to be filed with the appropriate CBP officer or submitted electronically to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system to secure the release of imported merchandise from CBP custody, or the act of filing that documentation. "Entry" also means that documentation or data required by §181.53 of this chapter to be filed with CBP to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico.

(b) *Entry summary*. "Entry summary" means any other documentation or electronic submission of data necessary to enable CBP to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission*. "Submission" means the voluntary delivery to the appropriate CBP officer or electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system of the entry summary documentation or data for preliminary review or of entry documentation or data for other purposes.

(d) *Filing*. "Filing" means:

(1) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, of the entry documentation or data required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, together with the deposit of estimated duties, of the entry summary documentation or data required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to CBP, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system, together with the deposit of estimated duties, of the entry summary documentation or data, which will serve as both the entry and the entry summary.

(e) *Presentation*. "Presentation" is used only in connection with quota-class merchandise and is defined in §132.1(d) of this chapter.

(f) *Entered for consumption*. "Entered for consumption" means that an entry summary for consumption has been filed with CBP in proper form, including electronic submission to the Automated Commercial Environment (ACE) or any other

CBP-authorized electronic data interchange system, with estimated duties attached. "Entered for consumption" also means the necessary documentation has been filed with CBP to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico (see §181.53 of this chapter).

(g) *Entered for warehouse*. "Entered for warehouse" means that an entry summary for warehouse has been filed with CBP in proper form, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

(h) *Entered temporarily under bond*. "Entered temporarily under bond" means that an entry summary supporting a temporary importation under bond has been filed with CBP in proper form, including electronic submission to the Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system.

(i) *Released conditionally*. "Released conditionally" means any release from CBP custody before liquidation.

[CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015]

## Subpart A—Liability for Duties and Requirement To Enter Merchandise

**§ 141.1 Liability of importer for duties.**

(a) *Time duties accrue*. Duties and the liability for their payment accrue upon imported merchandise on arrival of the importing vessel within a Customs port with the intent then and there to unlade, or at the time of arrival within the Customs territory of the United States if the merchandise arrives otherwise than by vessel, unless otherwise specially provided for by law.

(b) *Payment of duties*—(1) *Personal debt of importer*. The liability for duties, both regular and additional, attaching on importation, constitutes a personal debt due from the importer to the United States which can be discharged only by payment in full of all duties legally accruing, unless relieved by law or regulation. Payment to a broker covering duties does not relieve the importer of liability if the duties are not paid by the broker. The liability may be enforced notwithstanding the fact that an erroneous construction of law or regulation may have enabled the importer to pass his goods through the customhouse without payment. Delivery of a Customs bond with an entry is solely to protect the revenue of the United States and does not relieve the importer of liabilities incurred from the importation of merchandise into the United States.

(2) *Means of payment*. An importer or his agent may pay Customs by using any of the applicable means provided in §24.1(a).

(3) *Methods of payment*. An importer may pay duties either:

(i) Directly to Customs whether or not a licensed customhouse broker is used; or

(ii) Through a licensed customhouse broker. When an importer uses a broker and elects to pay by check or bank draft, the importer may issue the broker either:

(A) One check or bank draft payable to the broker covering both duties and the broker's fees and charges, in which case the broker shall pay the duties to Customs on behalf of the importer, or

(B) Separate checks or bank drafts, one covering duties payable to the "U.S. Customs Service," for transmittal by the broker to Customs, and the other covering the broker's fees

**PART 142—ENTRY PROCESS**

Sec.

142.0 Scope.

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- 142.1 Definitions.
- 142.2 Time for filing entry.
- 142.3 Entry documentation required.
- 142.3a Entry numbers.
- 142.4 Bond requirements.
- 142.5 [Reserved]
- 142.6 Invoice requirements.
- 142.7 Examination of merchandise.
- 142.8 Failure to file entry timely.

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- 142.11 Entry summary form.
- 142.12 Time for filing or submission for preliminary review.
- 142.13 When entry summary must be filed at time of entry.
- 142.14 Delinquent payment of Customs bills.
- 142.15 Failure to file entry summary timely.
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- 142.17 One entry summary for multiple entries.
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- 142.18 Entry summary not required for prohibited merchandise.
- 142.19 Release of merchandise under the entry summary.

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- 142.21 Merchandise eligible for special permit for immediate delivery.
- 142.22 Application for special permit for immediate delivery.
- 142.23 Time limit for filing documentation after release.
- 142.24 Special permit.
- 142.25 Discontinuance of immediate delivery privileges.
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**Prohibited Merchandise, No Other Entry Filed**

- 142.29 Other procedures applicable.

**Subpart D—Line Release**

- 142.41 Line Release.
- 142.42 Application for Line Release processing.
- 142.43 Line Release application approval process.
- 142.44 Entry number range.
- 142.45 Use of bar code by entry filer.
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- 142.47 Examinations of Line Release transactions.
- 142.48 Release procedure.
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- 142.50 Line Release data base corrections or changes.
- 142.51 Changing election of entry or immediate delivery.
- 142.52 Port-wide and multiple port acceptance of Line Release.

**Authority:** 19 U.S.C. 66, 1448, 1484, 1624.

**Source:** T.D. 79-221, 44 FR 46821, Aug. 9, 1979, unless otherwise noted.

**§ 142.0 Scope.**

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

**Subpart A—Entry Documentation**

**§ 142.1 Definitions.**

For definitions of “entry”, “entry summary”, “submission”, “filing”, “presentation”, “entered for consumption”, “entered for warehouse”, and “entered temporarily under bond”, as these terms relate to the entry of merchandise, see §141.0a of this chapter.

**(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))**

**[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 84-213, 49 FR 41184, Oct. 19, 1984]**

**§ 142.2 Time for filing entry.**

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required will be entered within 15 calendar days after landing from a vessel, aircraft or vehicle, or after arrival at the port of destination in the case of merchandise transported in bond.

(b) *Before arrival of merchandise—(1) Entry.* The entry documentation required by §142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in §141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in §142.3(b), may be submitted for preliminary review in accordance with §§141.63(a) and 142.12(a)(2).

**[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 02-65, 67 FR 68035, Nov. 8, 2002]**

**§ 142.3 Entry documentation required.**

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise must consist of the following:

(1) *Entry.* CBP Form 3461 (appropriately modified), or its electronic equivalent, except that CBP Form 7533 (appropriately modified), or its electronic equivalent, in duplicate, may be used in place of CBP Form 3461 for merchandise imported from a contiguous country. The form used must be prepared in accordance with §141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in §141.11 of this chapter.

(3) *Commercial invoice.* A commercial invoice, except that in those instances listed in §141.83(d) of this chapter where a commercial invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by CBP or other Federal, State, or local agencies for a particular shipment.

(6) *Identification.* When merchandise is imported having been sold, or consigned, to a person in the United States, the

name, street address, and appropriate identification number of that person, as provided in §24.5 of this chapter, must be shown on the entry documents (CBP Form 3461, 3461 ALT, 7501), or their electronic equivalents. When, at the time of immediate delivery, entry or release, there is no known buyer, the name, street address, and appropriate identification number (as above) of the premises in the United States to which the merchandise is to be delivered must be shown on the entry or release documents.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry in accordance with §142.12(a)(1) or §142.13:

(1) CBP Form 3461 or 7533, or their electronic equivalents, will not be required; and

(2) CBP Form 7501 or CBP Form 3311, or their electronic equivalent, (as appropriate, see §142.11) may serve as both the entry and the entry summary documentation if the additional documentation set forth in paragraphs (a)(2), (3), (4) and (5) of this section and §142.16(b) is filed.

(c) *Extra copies.* The CBP may require additional copies of the documentation.

(d) *Electronic format.* The entry documentation identified in this section may be submitted to CBP in either a paper or, where appropriate, an electronic format.

(R.S. 251, as amended (19 U.S.C. 66), secs. 484, 624, 46 Stat. 722, as amended, 759 (19 U.S.C. 1484, 1624); sec. 301, 80 Stat. 379 (5 U.S.C. 301), Pub. L. 95-410 (Oct. 3, 1978); Pub. L. 96-511 (Dec. 11, 1980))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 84-129, 49 FR 23167, June 5, 1984; T.D. 90-92, 55 FR 49884, Dec. 3, 1990; CBP Dec. 09-47, 74 FR 69020, Dec. 30, 2009; CBP Dec. 15-14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16-26, 81 FR 92978, Dec. 20, 2016]

### § 142.3a Entry numbers.

(a) *Placement on CBP Forms.* The importer or broker shall place an 11 character entry number on the entry and corresponding entry summary documentation. For documentation prepared on data processing equipment, the number shall be printed directly on the form. For manually prepared documentation, the number shall be pre-printed in a machine readable format specified by CBP. The same number shall not be used for more than one entry transaction.

(b) *Format.* The following format, including hyphens, must be used when showing the entry number:

XXX-NNNNNNN-N

XXX represents an entry filer code assigned by CBP, NNNNNNN is a unique number which is assigned by the broker or importer, and N is a check digit computed from the first 10 characters based on a formula provided by CBP.

(1) *Assignment of Entry Filer Code.* CBP will assign a unique 3 character (alphabetic, numeric, or alpha numeric) entry filer code to all licensed brokers filing CBP entries. CBP will assign an entry filer code to certain importers filing CBP entries based on importer entry volume, frequency of entry filing, and other considerations. The broker or importer shall use this assigned code as the beginning three characters of the number for all CBP entries, regardless of where the entries are filed.

(2) *Entry Filer Assigned Number.* For each entry, the broker or importer shall assign a unique 7 digit number. This number shall not be assigned to more than one transaction.

(3) *Check Digit.* The broker or importer is responsible for ensuring that the check digit is computed by data processing equipment.

(c) *Pulication of Entry Filer Codes.* CBP shall make available electronically a listing of filer codes and the importers, consignees, and customs brokers assigned those filer codes. The listing will be updated periodically.

(d) *Misuse of the Entry Filer Code.* The Assistant Commissioner, Office of International Trade, or his designee may refuse to allow use of an assigned entry filer code if it is misused by the importer or broker.

(e) *Alternative Procedure.* If an importer does not have an assigned entry filer code, or if the Assistant Commissioner, Office of International Trade, or his designee, in accordance with paragraph (d) of this section refuses to allow use of an assigned entry filer code, the importer or broker shall obtain forms with a CBP assigned pre-printed machine readable entry number with a computed check digit. These forms will be available for sale by CBP and must be obtained and used before the merchandise may be released from CBP custody.

[T.D. 86-106, 51 FR 19167, May 28, 1986, as amended by T.D. 98-25, 63 FR 12996, Mar. 17, 1998; CBP Dec. 07-82, 72 FR 59171, Oct. 19, 2007]

### § 142.4 Bond requirements.

(a) *At the time of entry.* Except as provided in §10.101(d) of this chapter, or paragraph (c) of this section, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by §142.3 unless a single entry or continuous bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in §113.40 of this chapter, has been filed. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(b) *If entry summary is filed after entry.* (1) Except as provided in §141.102(d) of this chapter, if the entry summary is filed after the entry, the bond filed at the time of entry, as required by paragraph (a) of this section or by §142.19, shall continue to be obligated unless a superseding bond is filed, as provided in §141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary shall file a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter. In this circumstance, the bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accrue after the bond filed by the party named in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under §141.20 of this chapter.

(c) *Waiver of surety or cash deposit.* (1) The port director may waive the requirement for surety or cash deposit on the bond required by this section when (i) the value of the

## PART 143—SPECIAL ENTRY PROCEDURES

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143.0 Scope.

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- 143.1 Eligibility.
- 143.2 Application.
- 143.3 Action on application.
- 143.4 Confidentiality of data.
- 143.5 System performance requirements.
- 143.6 Failure to maintain performance standards.
- 143.7 Revocation of ABI participation.
- 143.8 Appeal of suspension or revocation.

### Subpart B—Appraisalment Entry

- 143.11 Merchandise eligible for appraisalment entry.
- 143.12 Form of entry.
- 143.13 Documents to be presented with entry.
- 143.14 Payment of additional expenses.
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- 143.21 Merchandise eligible for informal entry.
- 143.22 Formal entry may be required.
- 143.23 Form of entry.
- 143.24 Preparation of Customs Form 7501 and Customs Form 368 or 368A (serially numbered).
- 143.25 Information on entry form.
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- 143.27 Invoices.
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- 143.31 Applicability.
- 143.32 Definitions.
- 143.33 Eligibility criteria for participation.
- 143.34 Procedure for electronic immediate delivery or entry.
- 143.35 Procedure for electronic entry summary.
- 143.36 Form of immediate delivery, entry and entry summary.
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- 143.38 [Reserved]
- 143.39 Penalties.

### Subpart E—Remote Location Filing

- 143.41 Applicability.
- 143.42 Definitions.
- 143.43 RLF eligibility criteria.
- 143.44 RLF procedure.
- 143.45 Filing of additional entry information.

**Authority:** 19 U.S.C. 66, 1414, 1481, 1484, 1498, 1624, 1641.

**Source:** T.D. 73–175, 38 FR 17463, July 2, 1973, unless otherwise noted.

### § 143.0 Scope.

This part sets forth the requirements and procedures for participation in the Automated Broker Interface (ABI), for the clearance of imported merchandise under appraisalment and informal entries, and under electronic entry filing and under Remote Location Filing (RLF). All requirements and procedures set forth in this part are in addition to the general

requirements and procedures for all entries set forth in part 141 of this chapter. More specific requirements and procedures are set forth elsewhere in this chapter; for example, part 145 concerns importations by mail and part 10 concerns merchandise conditionally free of duty or subject to a reduced rate.

[CBP Dec. 09–47, 74 FR 69020, Dec. 30, 2009]

### Subpart A—Automated Broker Interface

**Source:** T.D. 90–92, 55 FR 49884, Dec. 3, 1990, unless otherwise noted.

#### § 143.1 Eligibility.

The Automated Broker Interface (ABI) allows participants to transmit data electronically to CBP through ABI and to receive transmissions from Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. Its purposes are to improve administrative efficiency, enhance enforcement of customs and related laws, lower costs and expedite the release of cargo.

(a) *Participants for entry and entry summary purposes.* Participants in ABI for the purposes of transmitting data relating to entry and entry summary may be:

- (1) Customs brokers as defined in §111.1 of this chapter;
- (2) Importers as defined in §101.1 of this chapter; and
- (3) ABI service bureaus, that is, an individual, partnership, association or corporation which provides communications facilities and data processing services for brokers and importers, but which does not engage in the conduct of customs business as defined in §111.1 of this chapter.

(b) *Participants for Importer Security Filing purposes.* Any party may participate in ABI solely for the purposes of filing the Importer Security Filing pursuant to §149.2 of this chapter if that party fulfills the eligibility requirements contained in §149.5 of this chapter. If a party other than a customs broker as defined in §111.1 of this chapter or an importer as defined in 19 U.S.C. 1484 submits the Importer Security Filing, no portion of the Importer Security Filing can be used for entry or entry summary purposes pursuant to §149.5 of this chapter.

(c) *Participants for other purposes.* Upon approval by CBP, any party may participate in ABI for other purposes, including transmission of protests, filing of in-bond applications, and applications for FTZ admission (CBP Form 214).

[T.D. 90–92, 55 FR 49884, Dec. 3, 1990, as amended by T.D. 97–82, 62 FR 51771, Oct. 3, 1997; T.D. 01–14, 66 FR 8767, Feb. 2, 2001; CBP Dec. 08–46, 73 FR 71782, Nov. 25, 2008; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 17-13, 82 FR 45366, Sept. 28, 2017]

#### § 143.2 Application.

A prospective participant in ABI shall submit a letter of intent to the port director closest to his principal office, with a copy to the Assistant Commissioner, Information and Technology, or designee. The letter of intent shall set forth a commitment to develop, maintain and adhere to the performance requirements and operational standards of the ABI system in order to ensure the validity, integrity and confidentiality of the data transmitted. The letter of intent must also contain the following, as applicable:

(a) A description of the computer hardware, communications and entry processing systems to be used and the estimated completion date of the programming;

(b) If the participant has offices in more than one location, the location of each office and the estimated start-up date for each office listed;

(c) The name(s) of the participant's principal management and contact person(s) regarding the system;

(d) If the system is being developed or supported by a data processing company, the data processing company's name and the contact person;

(e) The software vendor's name and the contact person; and

(f) The participant's entry filer code and average monthly volume.

### § 143.3 Action on application.

(a) *Approval.* Permission to use ABI will be granted by the Assistant Commissioner, Information and Technology, or his designee, only to those applicants who are not delinquent or otherwise remiss in their transactions with Customs and are in compliance with the ABI system performance procedures and standards as described in §143.5 of this subpart. If there is any cause to question the qualifications or fitness of the applicant to participate in ABI, the application may be referred for investigation and report. The investigation may include, but need not be limited to:

(1) The accuracy of the information provided in the letter of intent;

(2) The business integrity of the applicant;

(3) The character and reputation of an individual applicant or a member of a partnership or an officer of an association or corporation; and

(4) The character and reputation of the software vendor.

(b) *Denial.* If permission to use ABI is denied to an applicant by the Assistant Commissioner, Information and Technology, or his designee, written notice, including the grounds for the denial, will be given to him and to the port director. The applicant may appeal the denial in the manner prescribed in §143.8 of this subpart and those procedures for handling an appeal shall apply.

### § 143.4 Confidentiality of data.

The electronic data received and exchanged by a service bureau shall be considered confidential, and the service bureau shall maintain the accuracy of data received in the process of formatting and transmitting such data on behalf of a filer, and shall not disclose this data or any information connected therewith to any persons other than the filer or Customs (see §111.24 of this chapter).

### § 143.5 System performance requirements.

The performance requirements and operational standards for electronic data filing are detailed in Customs Publication 552, Customs And Trade Automated Interface Requirements (CATAIR), which is updated periodically. The User Support Services Division, Customs Headquarters, upon request, shall provide each prospective participant with a copy of this publication. Each prospective participant must demonstrate that his system can interface directly with the Customs computer and ensure accurate submission of required data. Such demonstration will include intensive testing of the participant's system and monitoring of its performance in accordance with Publication 552.

### § 143.6 Failure to maintain performance standards.

ABI participants must adhere to the performance requirements and operational standards of the ABI system and maintain a high level of quality in the transmission of data, as defined in Customs Publication 552 (CATAIR) and Customs directives and policy statements, in order to participate in ABI.

(a) *Probational status.* A participant who does not adhere to the requirements and standards of the ABI system or maintain a high level of quality as described above may be placed on probational status. The participant will be notified, electronically and in writing, by the Director, User Support Services Division, of any action to place the participant on probation. The notice will specifically set forth the grounds for the proposed probation, and advise the participant that he will have 15 days from the date of the notice to show cause why the probationary period should not take effect. If the participant fails to respond within the allotted time, or fails to show to the satisfaction of the Director, User Support Services Division, that the probationary period should not take effect, the Director will notify the participant of the effective date of the probationary period. The length of the probationary period may, in the discretion of the Director, User Support Services Division, be extended up to a maximum of 90 days, if the participant's performance remains below standard, but, except for immediate revocation under §143.7, participation will not be suspended or revoked until the probationary period has lasted a minimum of 30 days. The participant's performance will be closely monitored during this time, which will include working with the participant and providing any necessary guidance to assist the participant in bringing his performance back to standard.

(b) *Suspension following probationary period.* If deficiencies are not corrected within the probationary period, the participant will be suspended from operational status. The participant will be notified, electronically and in writing, by the Director, User Support Services Division, of any action to suspend participation. The notice will specifically set forth the grounds and effective date for the suspension, and the right to appeal the suspension to the Assistant Commissioner, Information and Technology, within 10 days following the date of the written notice of suspension (see §143.8).

(c) *Reinstatement following suspension.* To obtain reinstatement to operational status, a suspended participant must submit a letter to the Director, User Support Services Division, stating that the deficiencies for which the suspension was invoked have been corrected. If, after the participant has demonstrated compliance with the system performance requirements and operational standards specified in §143.5 of this part, if required, the Director is satisfied that the deficiencies have been corrected, the participant will be reinstated.

### § 143.7 Revocation of ABI participation.

(a) *Fraud or misstatement of material fact.* If it is determined at any time that participation in the system was obtained through fraud or the misstatement of a material fact, the Executive Director, Trade Policy and Programs, Office of International Trade, will immediately revoke ABI participation.

(b) *Risk of significant harm to system.* If the participant's continued use of ABI would pose a potential risk of significant harm to the integrity and functioning of the system, the Director, User Support Services Division, will immediately revoke ABI participation.

(c) *Notification to participant.* The participant will be notified, electronically and in writing, by the applicable Director, of the revocation. The notice will specifically set forth the grounds and effective date of revocation, and the right to appeal the revocation to the Assistant Commissioner, Information and Technology, within 10 days following the date of the written notice of revocation.



**PART 144—WAREHOUSE AND  
REWAREHOUSE ENTRIES AND  
WITHDRAWALS**

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- 144.2 Liability of importers and sureties.
- 144.3 Allowance for damage.
- 144.4 Allowance for abandoned, destroyed, or  
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- 144.5 Period of warehousing.
- 144.6 [Reserved]
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- 144.11 Form of entry.
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- 144.13 Bond requirements.
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- 144.21 Conditions for transfer.
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- 144.26 Further transfer.
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- 144.41 Entry for rewarehouse.
- 144.42 Combined entry for rewarehouse and withdrawal  
for consumption.

**Authority:** 19 U.S.C. 66, 1484, 1557, 1559, 1624.

Section 144.3 also issued under 19 U.S.C. 1563;  
Section 144.33 also issued under 19 U.S.C. 1562;  
Section 144.37 also issued under 19 U.S.C. 1555, 1562.

**Source:** T.D. 73–175, 38 FR 17464, July 2, 1973, unless other-  
wise noted.

**§ 144.0 Scope.**

This part contains regulations pertaining to the entry and  
withdrawal of merchandise under the provisions of section  
557, Tariff Act of 1930, as amended (19 U.S.C. 1557), which

among other things provides that articles subject to duty may  
be entered for warehousing and deposited in a bonded  
warehouse at the expense and risk of the owner, importer, or  
consignee, and withdrawn from warehouse for consumption  
upon payment of duties and charges. The requirements and  
procedures set forth in this part are in addition to the general  
requirements and procedures for all entries set forth in part  
141 of this chapter. Regulations pertaining to manipulation in  
warehouse, manufacturing warehouses, and smelting and  
refining warehouses are set forth in part 19 of this chapter.

**Subpart A—General Provisions**

**§ 144.1 Merchandise eligible for warehousing.**

(a) *Types of merchandise.* Any merchandise subject to  
duty may be entered for warehousing except for perishable  
merchandise and explosive substances (other than fire-  
crackers). Dangerous and highly flammable merchandise,  
though not classified as explosive, shall not be entered for  
warehouse without the written consent of the insurance  
company insuring the warehouse in which the merchandise  
is to be stored.

(b) [Reserved]

(c) *Merchandise previously entered.* If merchandise has  
been entered under other than a warehouse entry and has  
remained in continuous Customs custody, a warehouse entry  
may be substituted for the previous entry. If estimated duties  
were deposited with the superseded previous entry, that  
entry shall be liquidated for refund of the estimated duties  
without awaiting liquidation of the warehouse entry. All copies  
of the warehouse entry shall bear the following notation: This  
entry is in substitution of \_\_\_\_\_; entry No. \_\_\_\_\_,  
dated \_\_\_\_\_.

[T.D. 73–175, 38 FR 17464, July 2, 1973, as amended by  
T.D. 82–204, 47 FR 49376, Nov. 1, 1982; T.D. 84–149, 49 FR  
28699, July 16, 1984]

**§ 144.2 Liability of importers and sureties.**

The importer of merchandise entered for warehouse is  
liable for the payment of all unpaid duties not only as principal  
on the bond filed on Customs Form 301, containing the bond  
conditions set forth in §113.62 of this chapter, but also by  
reason of his personal liability as consignee. Under the  
conditions of the bond, the sureties on the bond shall be held  
liable for the payment of duties and Customs charges not  
paid by the principal on the bond, whether such duties and  
charges are finally ascertained before the merchandise is  
withdrawn from Customs custody or thereafter. Liability may  
be transferred in part along with the right to withdraw the  
merchandise, in accordance with Subpart C of this part.

[T.D. 73–175, 38 FR 17464, July 2, 1973, as amended by  
T.D. 84–213, 49 FR 41185, Oct. 19, 1984]

**§ 144.3 Allowance for damage.**

No abatement or allowance of duties shall be made on  
account of damage, loss, or deterioration of the merchandise  
while in warehouse, except as provided for by law (see part  
158 of this chapter).

**§ 144.4 Allowance for abandoned, destroyed, or  
exported merchandise.**

Allowance in duties shall be made for merchandise in  
warehouse which is abandoned or destroyed in accordance  
with §158.43 of this chapter or exported in accordance with  
§144.37.

**§ 144.5 Period of warehousing.**

Merchandise must not remain in a bonded warehouse beyond 5 years from the date of importation or such longer period of time as the Center director may at his discretion permit upon proper request being filed and good cause shown.

[T.D. 86–118, 51 FR 22516, June 20, 1986; CBP Dec. 09–48, 74 FR 68686, Dec. 29, 2009; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 144.6 [Reserved]****§ 144.7 Disposition of merchandise after expiration of warehousing period.**

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with §127.14 of this chapter.

[T.D. 79–221, 44 FR 46828, Aug. 9, 1979]

## Subpart B—Requirements and Procedures for Warehouse Entry

**§ 144.11 Form of entry.**

(a) *Entry.* The documentation required by §142.3 of this chapter shall be filed at the time of entry. If the entry summary, Customs Form 7501, or its electronic equivalent is filed at the time of entry for merchandise to be entered for warehouse, it shall serve as both the entry and the entry summary, and Customs Form 3461 or 7533, or their electronic equivalents, shall not be required. If the entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by §142.12 of this chapter. If merchandise is released before the filing of the entry summary, the importer shall have a bond on file, as prescribed by §142.4 of this chapter.

(b) *Customs Form 7501, or its electronic equivalent.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on Customs Form 7501, or its electronic equivalent appropriately modified, and shall include all of the statistical information required by §141.61(e) of this chapter. The port director may require an extra copy or copies of Customs Form 7501, or its electronic equivalent, annotated "PERMIT" for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the entry summary, Customs Form 7501, or its electronic equivalent the bonded warehouse in which he desires his merchandise deposited.

(d) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary.

[T.D. 79–221, 44 FR 46828, Aug. 9, 1979, as amended by T.D. 84–129, 49 FR 23168, June 5, 1984; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015]

**§ 144.12 Contents of entry summary; estimated duties.**

The entry summary, Customs Form 7501, or its electronic equivalent shall show the value, classification, and rate of duty as approved by the Center director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

[T.D. 79–221, 44 FR 46828, Aug. 9, 1979, as amended by T.D. 84–129, 49 FR 23168, June 5, 1984; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 144.13 Bond requirements.**

A bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter shall be filed in the amount required by the Center director to support the entry documentation.

[T.D. 84–213, 49 FR 41185, Oct. 19, 1984; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 144.14 Removal to warehouse.**

When the entry summary, Customs Form 7501, or its electronic equivalent and the bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate withdrawal is filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

[T.D. 79–221, 44 FR 46828, Aug. 9, 1979, as amended by T.D. 84–129, 49 FR 23168, June 5, 1984; T.D. 84–213, 49 FR 41185, Oct. 19, 1984; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015]

**§ 144.15 Entry and withdrawal from Customs bonded warehouses of distilled spirits.**

(a) *Distilled spirits entered in warehouse under section 5066(a), Internal Revenue Code—(1) General rule.* Except as otherwise provided in this section, distilled spirits entered into Customs bonded warehouse in accordance with section 5066(a), Internal Revenue Code, as amended (26 U.S.C. 5066(a)), shall be treated in the same manner as any other merchandise entered for warehouse.

(2) *Withdrawal from warehouse for domestic consumption.* Distilled spirits entered in warehouse under this paragraph may be withdrawn from warehouse for domestic consumption under section 5066(c), Internal Revenue Code, as amended (26 U.S.C. 5066(c)). In this case, the distilled spirits shall be subject to duty as American goods exported and returned under subheading 9801.00.80, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Distilled spirits transferred from a manufacturing warehouse to a storage warehouse under section 311, Tariff Act of 1930—(1) Prohibition on withdrawal from warehouse for domestic consumption.* Domestic distilled spirits which have been transferred from a Customs bonded manufacturing warehouse, Class 6, to a Customs bonded storage warehouse, Class 2 or 3, in accordance with section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311), may not be withdrawn under section 5066(c) of the Internal Revenue Code, as amended (26 U.S.C. 5066(c)), for domestic consumption.

(2) *Procedure governing transfer of distilled spirits from manufacturing warehouse to storage warehouse.* For procedure concerning the transfer of such distilled spirits from

**PART 145—MAIL IMPORTATIONS**

Sec.

145.0 Scope.

**Subpart A—General Provisions**

- 145.1 Definitions.
- 145.2 Mail subject to Customs examination.
- 145.3 Opening of letter class mail; reading of correspondence prohibited.
- 145.4 Dutiable merchandise without declaration or invoice, prohibited merchandise, and merchandise imported contrary to law.
- 145.5 Undeliverable packages.

**Subpart B—Requirements and Procedures**

- 145.11 Declarations of value and invoices.
- 145.12 Entry of merchandise.
- 145.13 Internal revenue tax on mail entries.
- 145.14 Marking requirements.

**Subpart C—Administrative Review of Mail Entries**

- 145.21 Administrative review.
- 145.22 Procedures for obtaining administrative review.
- 145.23 Time limits.
- 145.24 Amendment of entry.
- 145.25 Entry correct.
- 145.26 Rates of duty not binding.

**Subpart D—Special Classes of Merchandise**

- 145.31 Importations not over \$800 in value.
- 145.32 Bona-fide gifts.
- 145.34 Personal and household effects and tools of trade.
- 145.35 United States products returned.
- 145.36 Articles for institutions.
- 145.37 Articles for the U.S. Government.
- 145.38 Diplomatic pouches.
- 145.39 Articles for diplomatic officers, representatives of international organizations, and foreign military personnel.
- 145.40 Plant material imported for immediate exportation.
- 145.41 Other conditionally and unconditionally free merchandise.
- 145.42 Proof for conditionally free merchandise.
- 145.43 Unaccompanied tourist shipments

**Subpart E—Restricted and Prohibited Merchandise**

- 145.51 Articles prohibited by section 305, Tariff Act of 1930.
- 145.52 Literature concerning devices for unlawful abortion.
- 145.53 Firearms and munitions of war.
- 145.54 Alcoholic beverages.
- 145.55 Trademarks, trade names, and copyrights.
- 145.56 Foreign Assets Control.
- 145.57 Regulations of other agencies.
- 145.58 Other restricted and prohibited merchandise.
- 145.59 Seizures.

**Subpart F—Exportation by Mail**

- 145.71 Exportation from continuous Government custody.
- 145.72 Delivery to Customs custody for exportation.

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**Subpart G—Mandatory Advance Electronic Data for Mail Shipments**

- 145.73 Definitions.
- 145.74 Mandatory advance electronic data (AED).
- 145.75 Liability for civil penalties.

**Policy Statement to Part 145—Examination of Sealed Letter Class Mail Appendix to Part 145**

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i)), Harmonized Tariff Schedule of the United States, 1624.

Section 145.4 also issued under 18 U.S.C. 545, 19 U.S.C. 1618; Section 145.11 also issued under 19 U.S.C. 1481, 1485, 1498; Section 145.12 also issued under 19 U.S.C. 1315, 1484, 1498; Sections 145.22 through 145.23 also issued under 19 U.S.C. 1501, 1514; Section 145.31 also issued under 19 U.S.C. 1321; Section 145.32 also issued under 19 U.S.C. 1321, 1498; Sections 145.35 through 145.38, 145.41, also issued under 19 U.S.C. 1498; Section 145.51 also issued under 19 U.S.C. 1305; Section 145.54 also issued under 19 U.S.C. 1618. Subpart G also issued under 19 U.S.C. 1415, 1436.

**Source:** T.D. 73–135, 38 FR 13369, May 21, 1973, unless otherwise noted.

**§ 145.0 Scope.**

(a) The provisions of this part apply only to mail subject to Customs examination as set forth in § 145.2. This part contains regulations pertaining specifically to the importation of merchandise through the mail but does not contain all the regulations applicable to mail importations. Importations by mail are subject to the same requirements and restrictions as importations by any other means, except where more specific procedures for mail importations are set forth in this part. The fee applicable to each item of dutiable mail (other than Inbound Express Mail Service (EMS) items) for which Customs prepares documentation, and the fee applicable to all EMS items, is set forth in § 24.22 of this chapter.

(b) This part also contains regulations requiring the United States Postal Service (USPS) to transmit certain advance electronic data (AED) to U.S. Customs and Border Protection (CBP) for certain inbound international mail shipments as set forth in subpart G of this part.

[T.D. 73–135, 38 FR 13369, May 21, 1973, as amended by T.D. 78–102, 43 FR 14454, Apr. 6, 1978; T.D. 93–85, 58 FR 54286, Oct. 21, 1993; CBP Dec. 21–04, 86 FR 14245, March 15, 2021]

**Subpart A—General Provisions**

**§ 145.1 Definitions.**

(a) *Mail article.* “Mail article” means any posted parcel, packet, package, envelope, letter, aerogramme, box, card, or similar article or container, or any contents thereof, which is transmitted in mail subject to customs examination.

(b) *Letter class mail.* “Letter class mail” means any mail article, including packages, post cards, and aerogrammes, mailed at the letter rate or equivalent class or category of postage.

(c) *Sealed letter class mail.* “Sealed letter class mail” means letter class mail sealed against postal inspection by the sender.

[T.D. 78–102, 43 FR 14454, Apr. 6, 1978]

**§ 145.2 Mail subject to Customs examination.**

(a) *Restrictions.* Customs examination of mail as provided in paragraph (b) of this section is subject to the restrictions and safeguards relating to the opening of letter class mail set forth in §145.3.

(b) *Generally.* All mail arriving from outside the Customs territory of the United States which is to be delivered within the Customs territory of the United States and all mail arriving from outside the U.S. Virgin Islands which is to be delivered within the U.S. Virgin Islands, is subject to Customs examination, except:

(1) Mail known or believed to contain only official documents addressed to officials of the U.S. Government;

(2) Mail addressed to Ambassadors and Ministers (Chiefs of Diplomatic Missions) of foreign countries; and

(3) Letter class mail known or believed to contain only correspondence or documents addressed to diplomatic missions, consular posts, or the officers thereof, or to international organizations designated by the President as public international organizations pursuant to the International Organizations Act (see §148.87(b) of this chapter). Mail, other than letter class mail, addressed to the designated international organizations is subject to Customs examination except where the organization certifies under its official seal that the mail contains no dutiable or prohibited articles. Any Customs examination made shall, upon request of the addressee international organization, take place in the presence of an appropriate representative of that organization.

[T.D. 78–102, 43 FR 14454, Apr. 6, 1978]

**§ 145.3 Opening of letter class mail; reading of correspondence prohibited.**

(a) *Matter in addition to correspondence.* Except as provided in paragraph (e), Customs officers and employees may open and examine sealed letter class mail subject to Customs examination which appears to contain matter in addition to, or other than, correspondence, provided they have reasonable cause to suspect the presence of merchandise or contraband.

(b) *Only correspondence.* No Customs officer or employee shall open sealed letter class mail which appears to contain only correspondence unless prior to the opening:

(1) A search warrant authorizing that action has been obtained from an appropriate judge of United States magistrate, or

(2) The sender or the addressee has given written authorization for the opening.

(c) *Reading of correspondence.* No Customs officer or employee shall read, or authorize or allow any other person to read, any correspondence contained in any letter class mail, whether or not sealed, unless prior to the reading:

(1) A search warrant authorizing that action has been obtained from an appropriate judge or United States magistrate, or

(2) The sender or the addressee has given written authorization for the reading.

(d) *Other types of correspondence.* The provisions of paragraph (c) shall also apply to correspondence between school children and correspondence of the blind which are authorized to be mailed at other than the letter rate of postage in international mail.

(e) *Certain Virgin Islands mail.* First class mail originating in the Customs territory of the United States and arriving in the U.S. Virgin Islands, which is to be delivered within the U.S. Virgin Islands, shall not be opened unless:

(1) A search warrant authorizing that action has been obtained from an appropriate judge or United States magistrate, or

(2) The sender or the addressee has been given written authorization for the opening.

[T.D. 78–102, 43 FR 14454, Apr. 6, 1978]

**§ 145.4 Dutiable merchandise without declaration or invoice, prohibited merchandise, and merchandise imported contrary to law.**

(a) *Subject to seizure and forfeiture.* When, upon CBP examination, a mail article is found to contain merchandise subject to duty or tax, and the mail article is not accompanied by an appropriate customs declaration and invoice or statement of value required by §145.11, or is found to contain material prohibited importation or imported contrary to law, the merchandise is subject to seizure and forfeiture.

(b) *Mitigation of forfeiture.* Any claimant incurring a forfeiture of merchandise for violation of this section may file a petition for relief pursuant to part 171 of this chapter. Mitigation of that forfeiture may occur consistent with mitigation guidelines.

(c) *Collection of mitigated forfeiture.* When the shipment does not exceed \$2,500 in value, CBP Form 3419 or 3419A or CBP Form 368 or 368A (serially numbered) or CBP Form 7501, or its electronic equivalent, must be used for the entry of the merchandise, and the duty, any tax, and the amount of the mitigated forfeiture must be entered as separate items thereon. If a mail article for which a mail fine entry has been issued in accordance with this paragraph is undeliverable, it will be returned to the director of the port where the entry was issued, for disposition in accordance with §145.59 relating to articles subject to seizure.

(d) *Petition for relief.* The addressee or sender may file a petition with the Fines, Penalties, and Forfeitures Officer having jurisdiction over the port where the mail fine entry was issued in accordance with part 171 of this chapter for relief from the forfeiture incurred and for release of the seized merchandise, or for additional relief from a mitigated forfeiture.

[T.D. 73–135, 38 FR 13369, May 21, 1973, as amended by T.D. 78–102, 43 FR 14454, Apr. 6, 1978; T.D. 86–118, 51 FR 22516, June 20, 1986; T.D. 87–75, 52 FR 26142, July 13, 1987; T.D. 91–73, 56 FR 42527, Aug. 28, 1991; T.D. 92–56, 57 FR 24944, June 12, 1992; T.D. 98–28, 63 FR 16417, Apr. 3, 1998; T.D. 99–27, 64 FR 13675, Mar. 22, 1999; T.D. 00–57, 65 FR 53575, Sept. 5, 2000; CBP Dec. 12–19, 77 FR 72715, Dec. 6, 2012; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015]

**§ 145.5 Undeliverable packages.**

Mail articles which are refused or undeliverable, except mail articles for which a mail fine entry has been issued in accordance with §145.4(c), will be marked by the postmaster to show why delivery was not made, and will be forwarded to the proper exchange post office for return to the country of origin. Mail entries will be removed from the mail articles and returned to Customs for cancellation. If, for any reason, an undeliverable mail article known or supposed to be dutiable is not returned to the country of origin or forwarded to another country in accordance with the Postal regulations, it will be delivered to Customs for disposition under the Customs laws and regulations governing seized or unclaimed merchandise.

**PART 146—FOREIGN TRADE ZONES**

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146.0 Scope.

**Subpart A—General Provisions**

- 146.1 Definitions.
- 146.2 Port director as Board representative.
- 146.3 Customs supervision.
- 146.4 Operator responsibility and supervision.
- 146.5 [Reserved]
- 146.6 Procedure for activation.
- 146.7 Zone changes.
- 146.8 Seals, authority of operator to break and affix.
- 146.9 Permission of operator.
- 146.10 Authority to examine merchandise.
- 146.11 Transportation of merchandise to a zone.
- 146.12 Use of zone by carrier.
- 146.13 Customs forms and procedures.
- 146.14 Retail trade within a zone.

**Subpart B—Inventory Control and Recordkeeping System**

- 146.21 General requirements.
- 146.22 Admission of merchandise to a zone.
- 146.23 Accountability for merchandise in a zone.
- 146.24 Transfer of merchandise from a zone.
- 146.25 Annual reconciliation.
- 146.26 System review.

**Subpart C—Admission of Merchandise to a Zone**

- 146.31 Admissibility of merchandise into a zone.
- 146.32 Application and permit for admission of merchandise.
- 146.33 Temporary deposit for manipulation.
- 146.34 Merchandise transiting a zone.
- 146.35 Temporary deposit in a zone; incomplete documentation.
- 146.36 Examination of merchandise.
- 146.37 Operator admission responsibilities.
- 146.38 Certificate of arrival of merchandise.
- 146.39 Direct delivery procedures.
- 146.40 Operator responsibilities for direct delivery.

**Subpart D—Status of Merchandise in a Zone**

- 146.41 Privileged foreign status.
- 146.42 Nonprivileged foreign status.
- 146.43 Domestic status.
- 146.44 Zone-restricted status.

**Subpart E—Handling of Merchandise in a Zone**

- 146.51 Customs control of merchandise.
- 146.52 Manipulation, manufacture, exhibition or destruction; Customs Form 216.
- 146.53 Shortages and overages.

**Subpart F—Transfer of Merchandise From a Zone**

- 146.61 Constructive transfer to Customs territory.
- 146.62 Entry.
- 146.63 Entry for consumption.
- 146.64 Entry for warehouse.
- 146.65 Classification, valuation, and liquidation.
- 146.66 Transfer of merchandise from one zone to another.
- 146.67 Transfer of merchandise for exportation.

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- 146.68 Transfer for transportation or exportation; estimated production.
- 146.69 Supplies, equipment, and repair material for vessels or aircraft.
- 146.70 Transfer of zone-restricted merchandise into Customs territory.
- 146.71 Release and removal of merchandise from zone.

**Subpart G—Penalties; Suspension; Revocation**

- 146.81 Penalties.
- 146.82 Suspension.
- 146.83 Revocation of zone grant.

**Subpart H—Petroleum Refineries in Foreign-Trade Subzones**

- 146.91 Applicability.
- 146.92 Definitions.
- 146.93 Inventory control and recordkeeping system.
- 146.94 Records concerning establishment of manufacturing period.
- 146.95 Methods of attribution.
- 146.96 Approval of other recordkeeping systems.

**Appendix to Part 146—Guidelines for Determining Producibility and Relative Values for Oil Refinery Zones**

**Authority:** 19 U.S.C. 66, 81a-81u, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624.

**Source:** T.D. 86-16, 51 FR 5049, Feb. 11, 1986, unless otherwise noted.

**§ 146.0 Scope.**

Foreign trade zones are established under the Foreign Trade Zones Act and the general regulations and rules of procedure of the Foreign Trade Zones Board contained in 15 CFR part 400. This part 146 of the Customs Regulations governs the admission of merchandise into a foreign trade zone, manipulation, manufacture, or exhibition in a zone; exportation of the merchandise from a zone; and transfer of merchandise from a zone into Customs territory.

**Subpart A—General Provisions**

**§ 146.1 Definitions.**

(a) The following words, defined in section 1 of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a), are given the same meaning when used in this part, unless otherwise stated: "Board", "Grantee", and "Zones".

(b) The following are general definitions for the purpose of this part:

**Act.** "Act" means the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998-1003; 19 U.S.C. 81a-u).

**Activation.** "Activation" means approval by the grantee and port director for operations and for the admission and handling of merchandise in zone status.

**Admit.** "Admit" means to bring merchandise into a zone with zone status.

**Alteration.** "Alteration" means a change in the boundaries of an activated zone or subzone; activation of a separate site of an already-activated zone or subzone with the same operator at the same port; or the relocation of an already-activated site with the same operator.

**Conditionally admissible merchandise.** "Conditionally admissible merchandise" is merchandise which may be imported into the U.S. under certain conditions. Merchandise which is subject to permits or licenses, or which may be

reconditioned to bring it into compliance with the laws administered by various Federal agencies, is an example of conditionally admissible merchandise.

*Constructive transfer.* "Constructive transfer" is a legal fiction which permits acceptance of a Customs entry for merchandise in a zone before its physical transfer to the Customs territory.

*Customs territory.* "Customs territory" is the territory of the U.S. in which the general tariff laws of the U.S. apply. "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico. (General Note 2, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)).

*Deactivation.* "Deactivation" means voluntary discontinuation of the activation of an entire zone or subzone by the grantee or operator. Discontinuance of the activated status of only a part of a zone site is an alteration.

*Default.* "Default" means an action or omission that will result in a claim for duties, taxes, charges, or liquidated damages under the Foreign Trade Zone Operator Bond.

*Domestic merchandise.* "Domestic merchandise" is merchandise which has been (i) produced in the U.S. and not exported therefrom, or (ii) previously imported into Customs territory and properly released from Customs custody.

*Foreign merchandise.* "Foreign merchandise" is imported merchandise which has not been properly released from Customs custody in Customs territory.

*Fungible merchandise.* "Fungible merchandise" means merchandise which for commercial purposes is identical and interchangeable in all situations.

*Merchandise.* "Merchandise" includes goods, wares and chattels of every description, except prohibited merchandise. Building materials, production equipment, and supplies for use in operation of a zone are not "merchandise" for the purpose of this part.

*Operator.* "Operator" is a corporation, partnership, or person that operates a zone or subzone under the terms of an agreement with the zone grantee. Where used in this part, the term "operator" also applies to a "grantee" that operates its own zone.

*Port Director.* For those foreign trade zones located within the geographical limits of a port of entry, the term "port director" means the director of that port of entry. For those foreign trade zones located outside the geographical limits of a port of entry, the term "port director" means the director of the port of entry geographically nearest to where the foreign trade zone is located.

*Prohibited merchandise.* "Prohibited merchandise" is merchandise the importation of which is prohibited by law on grounds of public policy or morals, or any merchandise which is excluded from a zone by order of the Board. Books urging treason or insurrection against the U.S., obscene pictures, and lottery tickets are examples of prohibited merchandise.

*Reactivation.* "Reactivation" means a resumption of the activated status of an entire area that was previously deactivated without any change in the operator or the area boundaries. If the boundaries are different, the action is an alteration. If the operator is different, it is an activation.

*Subzone.* "Subzone" is a special-purpose zone established as part of a zone project for a limited purpose, that cannot be accommodated within an existing zone. The term "zone" also applies to a subzone, unless specified otherwise.

*Transfer.* "Transfer" means to take merchandise with zone status from a zone for consumption, transportation, exportation, warehousing, cartage or lighterage, vessel supplies and equipment, admission to another zone, and like purposes.

*Unique identifier.* "Unique identifier" means the numbers, letters, or combination of numbers and letters that identify merchandise admitted to a zone with zone status.

*User.* "User" means a person or firm using a zone or subzone for storage, handling, or processing of merchandise.

*Zone lot.* "Zone lot" means a collection of merchandise maintained under an inventory control method based on specific identification of merchandise admitted to a zone by lot.

*Zone site.* "Zone site" means the physical location of a zone or subzone.

*Zone status.* "Zone status" means the status of merchandise admitted to a zone, *i.e.*, nonprivileged foreign, privileged foreign, zone restricted, or domestic.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 99-27, 64 FR 13674, Mar. 22, 1999]

### § 146.2 Port director as Board representative.

The appropriate port director shall be in charge of the zone as the representative of the Board.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

### § 146.3 Customs supervision.

(a) *Assignment of Customs officers.* Customs officers will be assigned or detailed to a zone as necessary to maintain appropriate Customs supervision of merchandise and records pertaining thereto in the zone, and to protect the revenue.

(b) *Supervision.* Customs supervision over any zone or transaction provided for in this part will be in accordance with §101.2(c) of this chapter. The port director may direct a Customs officer to supervise any transaction or procedure at a zone. Supervision may be performed through a periodic audit of the operator's records, quantity count of goods in a zone inventory, spot check of selected transactions or procedures, or review of recordkeeping, security, or conditions of storage in a zone.

[T.D. 86-16, 51 FR 5049, Feb. 11, 1986, as amended by T.D. 98-22, 63 FR 11826, Mar. 11, 1998]

### § 146.4 Operator responsibility and supervision.

(a) *Supervision.* The operator shall supervise all admissions, transfers, removals, recordkeeping, manipulations, manufacturing, destruction, exhibition, physical and procedural security, and conditions of storage in the zone as required by law and regulations. Supervision by the operator shall be that which a prudent manager of a storage, manipulation, or manufacturing facility would be expected to exercise, and may take into account the degree of supervision exercised by the zone user having physical possession of zone merchandise.

(b) *Customs access.* The operator shall permit any Customs officer access to a zone.

(c) *Safekeeping of merchandise and records.* The operator is responsible for safekeeping of merchandise and records concerning merchandise admitted to a zone. The operator, at its liability, may allow the zone importer or owner of the goods to store, safeguard, and otherwise maintain or handle the goods and the inventory records pertaining to them.

(d) *Records maintenance.* The operator shall (1) maintain the inventory control and recordkeeping system in accordance with the provisions of subpart B, (2) retain all records required in this part and defined in §162.1(a) of this chapter,

## PART 147—TRADE FAIRS

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**Authority:** 19 U.S.C. 66, 1623, 1624, 1751–1756, unless otherwise noted.

**Source:** T.D. 70–134, 35 FR 9268, June 13, 1970, unless otherwise noted.

#### § 147.0 Scope.

This part governs the entry of merchandise intended for exhibition or for use in constructing, installing, or maintaining foreign exhibits at trade fairs which have been so designated by the Secretary of Commerce. It also contains provisions concerning Customs supervision of the merchandise, and the disposition of the merchandise after the fair has closed. The entry of articles which may be admitted free of duty under other provisions of this chapter may be governed by those provisions rather than the regulations in this part.

### Subpart A—General Provisions

#### § 147.1 Definitions.

The following are general definitions for the purposes of part 147:

(a) *The Act*. “The Act” means the Trade Fair Act of 1959. (Secs. 2–7, 73 Stat. 18, 19; 19 U.S.C. 1751–1756.)

(b) *Fair*. “Fair” means a fair, exhibition, or exposition designated by the Secretary of Commerce pursuant to the Trade Fair Act.

(c) *Fair operator*. “Fair operator” means the party named by the Secretary of Commerce as the operator of the fair.

(d) *Port*. “Port” means the port at which the fair is to be held, or if the fair is not to be held within the limits of a port, the port nearest to the location of the fair.

(e) *Closing date*. “Closing date” means the date designated by the Secretary of Commerce as the date when the fair will close, including any extension granted by the Secretary of Commerce, or, if the fair closes earlier, the date on which the fair actually closes.

(f) *Articles for a fair*. “Articles for a fair” includes, but is not limited to:

(1) Actual exhibit items;

(2) Pamphlets, brochures, and explanatory material in reasonable quantities relating to foreign exhibits at a fair;

(3) Material for use in constructing, installing, or maintaining foreign exhibits at a fair.

[T.D. 70–134, 35 FR 9268, June 13, 1970, as amended by T.D. 82–145, 47 FR 35478, Aug. 16, 1982]

#### § 147.2 Articles which may be entered for a fair.

(a) *General*. Any article imported or brought into the United States may be entered under bond under the regulations of this part for the purpose of exhibition at a fair, or for use in constructing, installing, or maintaining foreign exhibits at a fair, if no duty or internal revenue tax has been paid, and the article is:

(1) In a foreign-trade zone; or

(2) Imported for exhibition under Chapter 98, Subchapter XII, Harmonized Tariff Schedule of the United States; or

(3) In continuous Customs custody, including but not limited to articles:

(i) Imported or brought into the United States for the purpose of direct entry at a particular fair;

(ii) In Customs bonded warehouses;

(iii) Unentered under the Customs laws and held in general order pending entry or exportation;

(iv) On exhibition at another fair designated by the Secretary of Commerce.

(b) *Exception*. Articles which have been entered under Chapter 98, Subchapter XIII, HTSUS, may not be entered under the regulations of this part.

[T.D. 70–134, 35 FR 9268, June 13, 1970, as amended by T.D. 84–213, 49 FR 41186, Oct. 19, 1984; T.D. 89–1, 53 FR 51263, Dec. 21, 1988]

#### § 147.3 Bond required.

The fair operator shall file a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter in such amount as the port director requires. Liquidated damages shall be assessed by the port director under the bond if payments required by §§147.33, 147.41 or 147.43 are not paid upon demand.

[T.D. 84–213, 49 FR 41186, Oct. 19, 1984]

### Subpart B—Procedure for Importation

#### § 147.11 Entry.

(a) *Made in name of fair operator*. All entries of articles for a fair shall be made at the port in the name of the fair operator which shall be deemed for Customs purposes the sole consignee of the merchandise entered under the Act and responsible to the Government for all duties and charges due the United States on account of such entries.

(b) *Merchandise arriving at port other than port of the fair*. Articles to be entered under this subpart which arrive at ports other than the port of the fair shall be entered for immediate

transportation without appraisalment to the latter port in the manner prescribed in part 18 of this chapter.

(c) *Form of entry.* Articles shall be entered upon arrival at the port of the fair on a special form of entry to read substantially as follows:

Entry for Exhibition  
Entry No. \_\_\_\_\_

Entry at the port of \_\_\_\_\_ of articles consigned or transferred to \_\_\_\_\_ (Fair operator) under \_\_\_\_\_ I.T. No. \_\_\_\_\_ ex S.S. \_\_\_\_\_ from \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for exhibition purposes under the Trade Fair Act of 1959.

Mark	Number	Package and contents	Quality	Invoice value
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

\_\_\_\_\_  
(Fair operator)  
By \_\_\_\_\_

(d) *Supersedes previous entry.* When entry for a fair is made under this part, such entry shall supersede any previous entry.

**§ 147.12 Invoices.**

Articles intended for a fair under the provisions of the Act are subject to the invoice requirements of subpart F, part 141 of this chapter.

(R.S. 251, as amended, secs. 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 66, 1481, 1484, 1624))  
[T.D. 85-39, 50 FR 9612, Mar. 11, 1985]

**§ 147.13 Transfer to fair building.**

(a) *Immediate delivery.* The provisions governing immediate delivery in part 142 of this chapter are applicable to articles for a fair.

(b) *After entry.* Upon the entry being made, a permit may be issued by the port director for the transfer of the articles covered thereby to the buildings in which they are to be exhibited or used, or, in his discretion, to the public stores for examination and subsequent delivery to the buildings in which they are to be exhibited or used.

[T.D. 70-134, 35 FR 9268, June 13, 1970, as amended by T.D. 73-175, 38 FR 17470, July 2, 1973]

**§ 147.14 Articles not to be immediately entered and delivered to a fair.**

(a) *Placed in bonded warehouses.* If for any reason articles imported for a fair are not to be entered and delivered to a fair upon their arrival, the fair operator should request the port director, in writing, to cause such articles to be placed in a bonded warehouse under a "general order permit" at the risk and expense of the fair operator. If no request is made and the articles remain unentered after 5 days from the date of arrival, they will be placed in general order.

(b) *Entry within 1 year.* At any time within 1 year from the date such articles are imported or brought in, they may be entered under this part for a fair or entered under the general tariff law, or for exportation.

(c) *Abandonment.* If not entered within such period, they will be regarded as abandoned to the Government.

**§ 147.15 Tentative appraisalment.**

All articles entered for a fair shall be tentatively appraised prior to exhibition or use.

**Subpart C—Requirements of Other Laws**

**§ 147.21 Marking under the Tariff Act of 1930.**

The marking requirements of the Tariff Act of 1930, as amended, and the regulations thereunder will not apply to articles for a fair, except, when such articles are entered for consumption. When entered for consumption, such articles shall be released from Customs custody only upon a full compliance with these marking requirements.

**§ 147.22 Compliance with the internal revenue laws and Federal Alcohol Administration Act.**

The packaging, marking, and labeling requirements of the internal-revenue laws, and the Federal Alcohol Administration Act (27 U.S.C. 201 to 212), will not apply to articles entered under this part, but any article failing to comply with such requirements shall be conspicuously marked prior to exhibition "Not labeled or packaged as required by law—not for sale." When any such article is withdrawn for consumption, it shall be released from Customs custody only upon a full compliance with such packaging, marking, and labeling requirements.

**§ 147.23 Compliance with Plant Quarantine Act and Federal Food, Drug, and Cosmetic Act.**

(a) *Plant Quarantine Act.* The entry of plant material subject to restriction under the Plant Quarantine Act of 1912, as amended (7 U.S.C. 151 through 164a, 167), shall not be permitted except under permits issued by the Plant Quarantine Division of the Agricultural Research Service, Department of Agriculture, and in accordance with the plant quarantine regulations.

(b) *Federal Food, Drug, and Cosmetic Act.* The entry of food products shall conform to the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301 *et seq.*), and the regulations issued thereunder.

**§ 147.24 Merchandise subject to licensing.**

Merchandise, the importation of which is subject to the licensing regulations of any agency of the U.S. Government, may be entered for a fair only upon the presentation of the required license, or a waiver of such license.

**Subpart D—Customs Supervision**

**§ 147.31 Articles to be kept separate.**

Articles for exhibit at a fair shall be segregated from domestic articles and from imported articles entered under the provisions of the general Customs laws and released from Customs custody.

**§ 147.32 Detail of officers to protect the revenue.**

The Center director shall detail an officer to act as his representative at the fair and shall station inside the buildings as many additional Custom officers and employees as may be necessary to properly protect the revenue.

[CBP Dec. 16-26, 81 FR 92978, Dec. 20, 2016]

**§ 147.33 Reimbursement by fair operator.**

All actual and necessary charges for labor, services, and other expenses in connection with the entry, examination,



**PART 148—PERSONAL DECLARATIONS  
AND EXEMPTIONS**

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148.0 Scope.

**Subpart A—General Provisions**

- 148.1 Registration of effects to be taken abroad.
- 148.2 Residence status of arriving persons.
- 148.3 Customs treatment after transiting the Panama Canal.
- 148.4 Accompanying articles.
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- 148.11 Declaration required.
- 148.12 Oral declarations.
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Duties and Taxes**

- 148.21 Opening of baggage, compartments, or vehicles.
- 148.22 Examination of air travelers' baggage in foreign territory.
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- 148.24 Determination of dutiable value.
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- 148.31 Effects taken abroad.
- 148.32 Vehicles, aircraft, boats, teams and saddle horses taken abroad.
- 148.33 Articles acquired abroad.
- 148.34 Family grouping of exemptions for articles acquired abroad.
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- 148.36 Frequency of allowance of exemption for articles acquired abroad.
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- 148.41 Articles carried through the United States.
- 148.42 Personal effects.
- 148.43 Tobacco products and alcoholic beverages.
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- 148.45 Vehicles and other conveyances.
- 148.46 Sale of exempted articles.

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**Subpart F—Other Exemptions**

- 148.51 Special exemption for personal or household articles.
- 148.52 Exemption for household effects used abroad.
- 148.53 Exemption for tools of trade.
- 148.54 Exemption for effects of citizens dying abroad.
- 148.55 Exemption for articles bearing American trademark.

**Subpart G—Crewmember Declarations  
and Exemptions**

- 148.61 Status as crewmembers.
- 148.62 Declaration and entry of articles by crewmembers.
- 148.63 Articles for use while on temporary leave.
- 148.64 Administrative exemption.
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**Subpart H—Military and Civilian Employees of the  
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- 148.71 Status of persons in service of United States as returning residents.
- 148.72 [Reserved]
- 148.73 Baggage on carriers operated by the Department of Defense.
- 148.74 Exemption on termination of assignment to extended duty or on evacuation.
- 148.75 Persons ineligible for exemption on termination of assignment.
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**Subpart I—Personnel of Foreign Governments and  
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- 148.81 General provisions.
- 148.82 Diplomatic, consular, and other privileged personnel.
- 148.83 Diplomatic and consular bags.
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- 148.86 Articles for official use of representatives of foreign governments and public international organizations.
- 148.87 Officers and employees of, and representatives to public international organizations.
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- 148.101 Applicability.
- 148.102 Flat rate of duty.
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148.105 Procedure for excluding articles from flat rate of duty.

148.106 Excluded articles of merchandise.

**Subpart K—Unaccompanied Shipments From American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States**

148.110 Applicability.

148.111 Written declaration for unaccompanied articles.

148.112 Evidence of purchase.

148.113 Declaration, entry, and collection of duty.

148.114 Shipment of unaccompanied articles.

148.115 Release of shipment.

148.116 Claim for refund.

**Authority:** 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States);

Section 148.21 also issued under 19 U.S.C. 1461, 1462.

Section 148.22 also issued under 19 U.S.C. 1629;

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

Section 148.87 also issued under 22 U.S.C. 288.

**Source:** T.D. 73-27, 38 FR 2449, Jan. 26, 1973, unless otherwise noted.

### § 148.0 Scope.

This part contains the regulations governing the allowance of exemptions for residents and nonresidents arriving in the United States, for crewmembers of carriers engaged in international traffic, for military and civilian employees of the United States, for certain evacuees, and for certain personnel of foreign governments and international organizations. Procedures and requirements are also set forth pertaining to registration of articles to be taken abroad, declaration and entry, and examination of baggage, and collection of duties and taxes.

## Subpart A—General Provisions

### § 148.1 Registration of effects to be taken abroad.

(a) *Persons who may use procedure.* Any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take effects of foreign origin abroad may register such articles before departure from the United States in order to facilitate their identification on return to the United States. Only articles of foreign origin having serial numbers or other distinctive, permanently affixed unique markings can be registered.

(b) *Procedures for registration.* Applicants for registration of articles of foreign origin shall present the articles, together with a completed, but unsigned, Customs Form 4457, or its electronic equivalent, which may be obtained in advance of departure, to a Customs officer. After the Customs officer has examined the articles and verified their description, he shall have the applicant sign the form. The Customs officer shall then sign the form and return it to the applicant for presentation on return of the articles. Customs form 4455, or its electronic equivalent, may be required in any case in which Customs form 4457, or its electronic equivalent, will not adequately serve the purpose of registration.

(c) *Presentation on return and reuse.* The form shall be presented to the Customs officer when the registered articles

are returned to the United States. The form shall be valid for reuse as long as the document is legible to identify the registered articles.

[T.D. 82-102, 47 FR 24119, June 3, 1982, as amended by T.D. 91-35, 56 FR 19260, Apr. 26, 1991; CBP Dec. 15-14, 80 FR 61278, Oct. 13, 2015]

### § 148.2 Residence status of arriving persons.

(a) *General.* Persons arriving from foreign countries will be divided into two classes for Customs purposes:

(1) Residents of the United States returning from abroad, and

(2) All other persons, hereinafter referred to as nonresidents.

(b) *Status as returning resident.* Citizens of the United States, or persons who have formerly resided in the United States, (including American citizens who are residents of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) will be deemed residents of the United States returning from abroad within the meaning of "residents" as used in Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), in the absence of satisfactory evidence that they have established a home elsewhere. The residence of a minor child will be presumed to be the residence of the child's parents.

(c) *Status as nonresident.* Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad, will be treated for the purpose of these regulations as a nonresident.

(d) *Optional claim of nonresident status.* Any person arriving in the United States who would otherwise be considered a returning resident, may claim at his option the status of a nonresident if he intends to remain in the United States for only a short period of time before returning abroad. If the status as a nonresident claimed by an arriving person is allowed, the procedures in §148.8 will be followed.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 97-75, 62 FR 46441, Sept. 3, 1997; CBP Dec. 13-19, 78 FR 76529, Dec. 18, 2013]

### § 148.3 Customs treatment after transiting the Panama Canal.

Passengers' baggage and effects and purchases of officers and crewmembers landed in the United States from vessels which have transited the Panama Canal are subject to Customs examination and treatment in the same manner as arrivals from any other foreign country.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 79-276, 44 FR 61957, Oct. 29, 1979]

### § 148.4 Accompanying articles.

(a) *Generally.* Articles shall be considered as accompanying a passenger or brought in by him if the articles arrive on the same vessel, vehicle, or aircraft on the same date as that of his arrival in the United States.

(b) *Baggage shipped as freight.* Articles in baggage shipped as freight on a bill of lading or airway bill shall be considered as accompanying a passenger when the baggage arrives on the conveyance on which he arrives in the United States.

(c) *Pre-cleared articles.* Articles in baggage, or in baggage shipped as freight, shall be considered as accompanying a

## PART 149—IMPORTER SECURITY FILING

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- 149.1 Definitions.
- 149.2 Importer security filing—requirement, time of transmission, verification of information, update, withdrawal, compliance date.
- 149.3 Data elements.
- 149.4 Bulk and break bulk cargo.
- 149.5 Eligibility to file an Importer Security Filing, authorized agents.
- 149.6 Entry and entry summary documentation and Importer Security Filing submitted via a single electronic transmission.

**Authority:** 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1415, 1624, 2071 note.

### § 149.1 Definitions.

(a) *Importer Security Filing Importer.* For purposes of this part, Importer Security Filing (ISF) Importer means the party causing goods to arrive within the limits of a port in the United States by vessel. For shipments other than foreign cargo remaining on board (FROB), the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. For immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a Foreign Trade Zone (FTZ), the ISF Importer may also be the party filing the IE, T&E, or FTZ documentation. For FROB cargo, the ISF Importer will be the carrier or the non-vessel operating common carrier. For the purposes of this part the United States Postal Service is not an ISF Importer. Regulations related to the transmittal of advance electronic information for inbound international mail shipments are set forth in § 145.74 of this chapter.

(b) *Importation.* For purposes of this part, "importation" means the point at which cargo arrives within the limits of a port in the United States.

(c) *Bulk cargo.* For purposes of this part, "bulk cargo" is defined as homogeneous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either:

(1) Free flowing articles such as oil, grain, coal, ore, and the like, which can be pumped or run through a chute or handled by dumping; or

(2) Articles that require mechanical handling such as bricks, pig iron, lumber, steel beams, and the like.

(d) *Break bulk cargo.* For purposes of this part, "break bulk cargo" is defined as cargo that is not containerized, but which is otherwise packaged or bundled.

[CBP Dec. 08–46, 73 FR 71782, Nov. 25, 2008, as amended by CBP Dec. 18–04, 83 FR 15736, Apr. 12, 2018; CBP Dec. 21–04, 86 FR 14245, March 15, 2021]

### § 149.2 Importer security filing—requirement, time of transmission, verification of information, update, withdrawal, compliance date.

(a) *Importer security filing required.* For cargo arriving by vessel, with the exception of any bulk cargo pursuant to § 149.4(a) of this part, the ISF Importer, as defined in § 149.1 of this part, or authorized agent ( see § 149.5 of this part) must submit in English the Importer Security Filing elements prescribed in § 149.3 of this part within the time specified in paragraph (b) of this section via a CBP-approved electronic interchange system.

(b) *Time of transmission.* With the exception of any break bulk cargo pursuant to § 149.4(b) of this part, ISF Importers must submit:

(1) Seller, buyer, importer of record number / foreign trade zone applicant identification number, and consignee number(s) (as defined in § 149.3(a)(1) through (4) of this part) no later than 24 hours before the cargo is laden aboard the vessel at the foreign port.

(2) Manufacturer (or supplier), ship to party, country of origin, and commodity HTSUS number (as defined in § 149.3(a)(5) through (8) of this part) no later than 24 hours before the cargo is laden aboard the vessel at the foreign port.

(3) Container stuffing location and consolidator (stuffer) (as defined in § 149.3(a)(9) and (10) of this part) as early as possible, in no event later than 24 hours prior to arrival in a United States port (or upon lading at a foreign port that is less than a 24 hour voyage to the closest United States port).

(4) The data elements required under § 149.3(b) of this part for FROB, prior to lading aboard the vessel at the foreign port.

(5) The data elements required under § 149.3(b) of this part for shipments intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E), no later than 24 hours before cargo is laden aboard the vessel at the foreign port.

(c) *Verification of information.* Where the party electronically presenting to CBP the Importer Security Filing required in paragraph (a) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to verify such information, CBP will permit the party to electronically present the information on the basis of what the party reasonably believes to be true.

(d) *Update of Importer Security Filing.* The party who submitted the Importer Security Filing pursuant to paragraph (a) of this section must update the filing if, after the filing is submitted and before the goods enter the limits of a port in the United States, any of the information submitted changes or more accurate information becomes available.

(e) *Withdrawal of Importer Security Filing.* If, after an Importer Security Filing is submitted pursuant to paragraph (a) of this section, the goods associated with the Importer Security Filing are no longer intended to be imported to the United States, the party who submitted the Importer Security Filing must withdraw the Importer Security Filing and transmit to CBP the reason for such withdrawal.

(f) *Flexible Requirements.* For each of the four data elements required under paragraph (b)(2) of this section ISF Importers will be permitted to submit an initial response or responses based on the best available data available at the time that, in accordance with paragraph (d) of this section, ISF Importers will be required to update as soon as more precise or more accurate information is available, in no event less than 24 hours prior to arrival at a U.S. port (or upon lading at a foreign port that is less than a 24 hour voyage to the closest U.S. port).

(g) *Compliance date of this section.* (1) *General.* Subject to paragraph (g)(2) of this section, ISF Importers must comply with the requirements of this section on and after January 26, 2010.

(2) *Delay in compliance date of section.* CBP may, at its sole discretion, delay the general compliance date set forth in paragraph (g)(1) of this section in the event that any neces-

sary modifications to the approved electronic data interchange system are not yet in place or for any other reason. Notice of any such delay will be provided in the **Federal Register**.

### § 149.3 Data elements.

(a) *Shipments intended to be entered into the United States and shipments intended to be delivered to a foreign trade zone.* Except as otherwise provided for in paragraph (b) of this section, the following elements must be provided for each good listed at the six-digit HTSUS number at the lowest bill of lading level (i.e., at the house bill of lading level, if applicable). The manufacturer (or supplier), country of origin, and commodity HTSUS number must be linked to one another at the line item level.

(1) *Seller.* Name and address of the last known entity by whom the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(2) *Buyer.* Name and address of the last known entity to whom the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(3) *Importer of record number/Foreign trade zone applicant identification number.* Internal Revenue Service (IRS) number, Employer Identification Number (EIN), Social Security Number (SSN), or CBP assigned number of the entity liable for payment of all duties and responsible for meeting all statutory and regulatory requirements incurred as a result of importation. For goods intended to be delivered to a foreign trade zone (FTZ), the IRS number, EIN, SSN, or CBP assigned number of the party filing the FTZ documentation with CBP must be provided.

(4) *Consignee number(s).* Internal Revenue Service (IRS) number, Employer Identification Number (EIN), Social Security Number (SSN), or CBP assigned number of the individual(s) or firm(s) in the United States on whose account the merchandise is shipped.

(5) *Manufacturer (or supplier).* Name and address of the entity that last manufactures, assembles, produces, or grows the commodity or name and address of the party supplying the finished goods in the country from which the goods are leaving. In the alternative the name and address of the manufacturer (or supplier) that is currently required by the import laws, rules and regulations of the United States (i.e., entry procedures) may be provided (this is the information that is used to create the existing manufacturer identification (MID) number for entry purposes). A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(6) *Ship to party.* Name and address of the first deliver-to party scheduled to physically receive the goods after the goods have been released from customs custody. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(7) *Country of origin.* Country of manufacture, production, or growth of the article, based upon the import laws, rules and regulations of the United States.

(8) *Commodity HTSUS number.* Duty/statistical reporting number under which the article is classified in the Harmonized Tariff Schedule of the United States (HTSUS). The

HTSUS number must be provided to the six-digit level. The HTSUS number may be provided up to the 10-digit level. This element can only be used for entry purposes if it is provided at the 10-digit level or greater by the importer of record or its licensed customs broker.

(9) *Container stuffing location.* Name and address(es) of the physical location(s) where the goods were stuffed into the container. For break bulk shipments, as defined in §149.1 of this part, the name and address(es) of the physical location(s) where the goods were made "ship ready" must be provided. A widely recognized commercially accepted identification number for this element may be provided in lieu of the name and address.

(10) *Consolidator (stuffer).* Name and address of the party who stuffed the container or arranged for the stuffing of the container. For break bulk shipments, as defined in §149.1 of this part, the name and address of the party who made the goods "ship ready" or the party who arranged for the goods to be made "ship ready" must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(b) *FROB, IE shipments, and T&E shipments.* For shipments consisting entirely of foreign cargo remaining on board (FROB) and shipments intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E), the following elements must be provided for each good listed at the six-digit HTSUS number at the lowest bill of lading level (i.e., at the house bill of lading level, if applicable).

(1) *Booking party.* Name and address of the party who initiates the reservation of the cargo space for the shipment. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(2) *Foreign port of unloading.* Port code for the foreign port of unloading at the intended final destination.

(3) *Place of delivery.* City code for the place of delivery.

(4) *Ship to party.* Name and address of the first deliver-to party scheduled to physically receive the goods after the goods have been released from customs custody. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(5) *Commodity HTSUS number.* Duty/statistical reporting number under which the article is classified in the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS number must be provided to the six-digit level. The HTSUS number may be provided to the 10-digit level.

### § 149.4 Bulk and break bulk cargo.

(a) *Bulk cargo exempted from filing requirement.* For bulk cargo that is exempt from the requirement set forth in §4.7(b)(2) of this chapter that a cargo declaration be filed with Customs and Border Protection (CBP) 24 hours before such cargo is laden aboard the vessel at the foreign port, ISF Importers, as defined in §149.1 of this part, of bulk cargo are also exempt from filing an Importer Security Filing with respect to that cargo.

(b) *Break bulk cargo exempted from time requirement.* For break bulk cargo that is exempt from the requirement set forth in §4.7(b)(2) of this chapter for carriers to file a cargo declaration with Customs and Border Protection (CBP) 24 hours before such cargo is laden aboard the vessel at the foreign port, ISF Importers, as defined in §149.1 of this part, of break bulk cargo are also exempt with respect to that cargo from the requirement set forth in §149.2 of this part to file an Importer Security Filing with CBP 24 hours before such cargo is laden aboard the vessel at the foreign port. Any importers

**PART 151—EXAMINATION, SAMPLING, AND  
TESTING OF MERCHANDISE**

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- 151.61 Definitions.
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- 151.66 Duty on samples.
- 151.67 Sampling by importer.
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- 151.69 Transfer or exportation of part of sampling unit.
- 151.70 Method of sampling by Customs.
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- 151.81 Definition of staple length.
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**Subpart G—Fruit Juices**

- 151.91 Brix values of unconcentrated natural fruit juices.

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**Subpart I—Cigars, Cigarillos, and Tobacco**

- 151.111 Cigars, cigarillos, and tobacco of Cuban origin.

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i) and (j), Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

Section 151.11 also issued under 21 U.S.C. 381;

Section 151.21 also issued under the provisions of Chapters 17 and 18, HTSUS;

Section 151.42 also issued under 19 U.S.C. 1460, 1584, 1592;

Section 151.43 also issued under 19 U.S.C. 1592;

Section 151.46 also issued under 19 U.S.C. 1507;

Section 151.62 also issued under 19 U.S.C. 1481;

Section 151.63 also issued under 19 U.S.C. 1484;

Section 151.66 also issued under 19 U.S.C. 1562;

Section 151.68 also issued under 19 U.S.C. 1311, 1562;

Section 151.69 also issued under 19 U.S.C. 1557, 1562;

Section 151.82 also issued under 19 U.S.C. 1481;

Section 151.91 also issued under the Additional U.S. Notes to Chapter 20, HTSUS.

**Source:** T.D. 73–175, 38 FR 17470, July 2, 1973, unless otherwise noted.

**§ 151.0 Scope.**

This part sets forth general provisions governing the examination and sampling of imported merchandise, as well as specific provisions governing the examination, sampling, and testing of certain particular types of merchandise.

**Subpart A—General**

**§ 151.1 Merchandise to be examined.**

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 and any other laws enforced by the Customs Service.

[T.D. 81–240, 46 FR 45130, Sept. 10, 1981]

**§ 151.2 Quantities to be examined.**

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. Port directors are specially authorized

to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

(i) Imported in packages the contents and values of which are uniform, or

(ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the port director is authorized to release, without examination, merchandise of a character which the port director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the Customs laws and any other laws enforced by the Customs Service.

[T.D. 81–240, 46 FR 45130, Sept. 10, 1981]

### § 151.3 Disclosure of examination packages.

Information as to the particular packages which will be examined shall not be made available to the importer, his agent, or any person other than Customs officers necessarily concerned, until the merchandise has arrived within the limits of the port of entry.

### § 151.4 Time of examination.

Imported merchandise shall not be opened, examined, or inspected until it has been entered under some form of entry for consumption or warehouse, except in the following cases:

(a) *Official Government examination and sampling.* Authorized employees of the Customs Service, Food and Drug Administration, Animal and Plant Health Inspection Service, Public Health Service, or other Government agency may for official purposes examine or take samples of merchandise for which entry has not been filed, including merchandise being released under a special permit for immediate delivery.

(b) *Perishable merchandise, benzenoid chemicals, and merchandise received without an invoice.* An application by the importer to examine merchandise, whether or not covered by an entry for transportation in bond or for exportation, may be granted by the port director, under the conditions listed in §151.5, in the following cases:

(1) Examination of perishable merchandise is desired solely to determine its condition. This is not limited to a single examination, and there is no objection to incidental display to prospective buyers during the examination.

(2) [Reserved]

(3) The importer has been unable to obtain the required documents or information to make the necessary entry, and examination of the merchandise is required to obtain information for the preparation of a pro forma invoice to be used in making entry.

(c) *Examination of merchandise entered for transportation under bond or for exportation—(1) Examination, sampling, weighing or emergency operation.* As a bona fide incident to exportation or further transportation, the importer of merchandise entered or withdrawn for transportation under bond or for exportation may, upon written application to the port director supported by a valid business reason for the request, be permitted to examine, sample, weigh, or subject his merchandise to an operation required by reason of an emergency, provided that any operation performed on the merchandise does not constitute a manufacture, and that §151.5 is complied with. For conditions governing transshipment and emergency access to the shipment by the carrier, see §18.3 of this chapter.

(2) *Nonemergency operation.* In cases not involving an emergency, an operation not constituting a manufacture may be permitted under the conditions listed in paragraph (c)(1) of this section if neither the protection of the revenue nor the proper conduct of Customs business requires that the operation be done in a Customs bonded warehouse, provided that the importer's written application for such operation is approved by the port director.

[T.D. 73–175, 38 FR 17470, July 2, 1973, as amended by T.D. 95–99, 60 FR 62733, Dec. 7, 1995; T.D. 97–82, 62 FR 51771, Oct. 3, 1997]

### § 151.5 Conditions for examination prior to entry.

Examination, sampling, weighing, or operation upon merchandise at the importer's request prior to entry for consumption or warehouse, as provided for in §151.4 (b) and (c), shall be subject to the following conditions:

(a) The operation permitted shall be executed under Customs supervision;

(b) If the merchandise is in possession or joint possession of a carrier or container station operator, the concurrence of such carrier or operator shall be obtained; and

(c) The Government shall be reimbursed for the compensation, computed in accordance with §24.17(d) of this chapter, and other expenses of the Customs officer or employee supervising the action permitted.

[T.D. 73–175, 38 FR 17470, July 2, 1973, as amended by T.D. 95–99, 60 FR 62733, Dec. 7, 1995]

### § 151.6 Place of examination.

All merchandise will be examined at the place of arrival, unless examination at another place is required or authorized by the port director in accordance with §151.7 or §151.15 of this part. Except where the merchandise is required by the port director to be examined at the public stores, the importer shall bear any expense involved in preparing the merchandise for Customs examination and in the closing of packages.

[T.D. 84–152, 49 FR 29374, July 20, 1984, as amended by T.D. 93–6, 58 FR 5606, Jan. 22, 1993]

### § 151.7 Examination elsewhere than at place of arrival or public stores.

The port director may require or authorize examination at a place other than the place of arrival or the public stores, such as at the importer's premises or at a centralized examination station under §151.15 of this part. If examination at a place other than at the place of arrival or the public stores is authorized it will be subject to the following conditions:

(a) *Sealing of packages.* If examination is to be made at the importer's premises or other place not under the control of Customs, the port director may require the packages to be corded and sealed by a Customs officer before the packages are removed from the place of arrival. The packages shall be opened only in the presence of the Customs officer authorized to examine their contents.

(b) *Preparation for Customs examination and closing of packages.* Except when merchandise is required by the port director to be examined at the public stores, the importer shall arrange and bear any expense for preparation of the merchandise for Customs examination and closing of packages.

(c) *Reimbursement of expenses outside port limits.* If the place of examination is not located within the limits of a port of entry or at a Customs station at which Customs is permanently located, whether or not that location is the place of

## PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

Sec.

152.0 Scope.

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- 152.1 Definitions.
- 152.2 Notification to importer of increased duties.
- 152.3 Merchandise found not to correspond with invoice description.

### Subpart B—Classification

- 152.11 Harmonized Tariff Schedule of the United States.
- 152.12 Applicable rates of duty.
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- 152.20–152.22 [Reserved]
- 152.23 Merchandise imported from intermediate countries.
- 152.24 [Reserved]
- 152.25 Conversion of foreign currency.
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### Subpart D [Reserved]

### Subpart E—Valuation of Merchandise

- 152.100 Interpretative notes.
- 152.101 Basis of appraisalment.
- 152.102 Definitions.
- 152.103 Transaction value.
- 152.104 Transaction value of identical merchandise and similar merchandise.
- 152.105 Deductive value.
- 152.106 Computed value.
- 152.107 Value if other values cannot be determined or used.
- 152.108 Unacceptable bases of appraisalment.

**Authority:** 19 U.S.C. 66, 1401a, 1500, 1502, 1624.

Subpart B also issued under 19 U.S.C. 1315;

Subpart C also issued under 19 U.S.C. 1503;

Section 152.3 also issued under 19 U.S.C. 1499;

Section 152.13 also issued under 19 U.S.C. 1202 (General Note 3(f), Harmonized Tariff Schedule of the United States (HTSUS)).

**Source:** T.D. 73–175, 38 FR 17477, July 2, 1973, unless otherwise noted.

#### § 152.0 Scope.

This part contains regulations pertaining to the tariff classification and appraisalment of imported merchandise. Other applicable provisions are contained elsewhere in this chapter, such as in part 10 for articles conditionally free or subject to a reduced rate of duty, and in part 159 for relief from duties on articles lost, damaged, etc.

### Subpart A—General Provisions

#### § 152.1 Definitions.

The following are general definitions for the purposes of part 152:

(a)–(b) [Reserved]

(c) *Date of exportation.* “Date of exportation,” or the “time of exportation” referred to in section 402, Tariff Act of 1930, as

amended (19 U.S.C. 1401a), means the actual date the merchandise finally leaves the country of exportation for the United States. If no positive evidence is at hand as to the actual date of exportation, the Center director shall ascertain or estimate the date of exportation by all reasonable ways and means in his power, and in so doing may consider dates on bills of lading, invoices, and other information available to him.

(d) *Fair retail value.* “Fair retail value” or “fair market value” as used in Section XXII, Harmonized Tariff Schedule of the United States, and part 148 of this chapter means the price actually paid or payable for all imported merchandise, or if not purchased, the value as otherwise ascertained under 19 CFR 152.100 *et seq.*

[T.D. 73–175, 38 FR 17477, July 2, 1973, as amended by T.D. 87–89, 52 FR 24446, July 1, 1987; T.D. 89–1, 53 FR 51269, Dec. 21, 1988; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

#### § 152.2 Notification to importer of increased duties.

If the Center director believes that the entered rate or value of any merchandise is too low, or if he finds that the quantity imported exceeds the entered quantity, and the estimated aggregate of the increase in duties on that entry exceeds \$15, he shall promptly notify the importer on Customs Form 29, or its electronic equivalent specifying the nature of the difference on the notice. Liquidation shall be made promptly and shall not be withheld for a period of more than 20 days from the date of mailing of such notice unless in the judgment of the Center director there are compelling reasons that would warrant such action.

[T.D. 73–175, 38 FR 17477, July 2, 1973, as amended by T.D. 82–224, 47 FR 53728, Nov. 29, 1982; T.D. 93–66, 58 FR 44131, Aug. 19, 1993; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

#### § 152.3 Merchandise found not to correspond with invoice description.

When any merchandise not corresponding with the description given in the invoice is found by the examining officer, duties shall be assessed on the merchandise actually found. If the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

### Subpart B—Classification

#### § 152.11 Harmonized Tariff Schedule of the United States.

Merchandise shall be classified in accordance with the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) as interpreted by administrative and judicial rulings.

[T.D. 73–175, 38 FR 17477, July 2, 1973, as amended by T.D. 89–1, 53 FR 51269, Dec. 21, 1988]

#### § 152.12 Applicable rates of duty.

Rates of duty shall be based on the detailed instructions in §141.69 of this chapter, which provides in general that the

rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

### § 152.13 Commingling of merchandise.

(a) *Notice to importer.* The Center director shall give written notice to the importer as promptly as possible after any commingling is discovered.

(b) *Highest rate applicable.* Commingled merchandise shall be assessed with duty at the highest rate or rates applicable to any one kind of merchandise included in the commingling, unless:

(1) The quantity and value of each of the kinds so included can be readily ascertained by the usual method of CBP examination or by one or more of the methods specified in General Note 3(f), Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), or

(2) The conditions specified in General Note 3(f), HTSUS, are satisfied.

(c) *Time limit.* To obtain the benefit of General Note 3(f), HTSUS, the importer shall, within 30 days after the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, take appropriate action as follows:

(1) File with the Center director evidence showing performance of the commercial settlement tests specified in General Note 3(f), HTSUS; or

(2) Perform the segregation under CBP supervision as specified in General Note 3(f), HTSUS; or

(3) File with the Center director documentary proof which will satisfy him that the merchandise is entitled to the lower rate of duty under General Note 3(f), HTSUS.

(d) *Extension of time limit.* The 30-day limit for filing the evidence specified in General Note 3(f) or for performing the segregation specified in General Note 3(f), Harmonized Tariff Schedule of the United States, may be extended by the Center director for additional periods of 30 days each, but not beyond 6 months from the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, if the importer makes written application to the Center director for each extension and gives satisfactory reasons for its allowance.

[T.D. 73–175, 38 FR 17477, July 2, 1973, as amended by T.D. 89–1, 53 FR 51270, Dec. 21, 1988; T.D. 95–29, 60 FR 18349, Apr. 11, 1995; T.D. 00–81, 65 FR 68887, Nov. 15, 2000; T.D. 02–14, 67 FR 15099, Mar. 29, 2002; CBP Dec. 05–31, 70 FR 53062, Sept. 7, 2005; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

### § 152.16 Judicial changes in classification.

The following procedures apply to changes in classification made by decision of either the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit, except to the extent otherwise provided in a ruling published in the Customs Bulletin pursuant to §177.10(a) of this chapter:

(a) *Identical merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to all merchandise identical with that passed on by the court which is covered by unliquidated entries, whether for consumption or warehouse.

(b) *Similar merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to merchandise, though not

identical with the merchandise the subject of the court's decision, if its classification is affected by such principles, provided that it has been entered or withdrawn for consumption after 30 days from the date of publication of the court's decision in the Customs Bulletin.

(c) *Higher rate.* If a court decision overruling a protest contains a definite statement that a higher rate than that assessed by the port director or Center director before January 19, 2017, or the Center director on or after January 19, 2017, was properly chargeable, such higher rate shall be applied to all merchandise, whether identical or similar to that passed on by the court, which is affected by the principles of the court's decision and which is entered or withdrawn for consumption after 30 days from the date of the publication of the court's decision in the Customs Bulletin.

(d) *American manufacturer's petition upheld.* If the court upholds a petition made by an American manufacturer, producer, or wholesaler under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), the principles of the court's decision shall be applicable to all merchandise of that character which is entered or withdrawn for consumption after the date of publication of the court's decision in the Customs Bulletin. The liquidation of entries covering merchandise of that character made after publication of the court's decision shall be suspended in accordance with §159.57 of this chapter pending any rehearing or review, then liquidated, or, if necessary, reliquidated in accordance with the final judicial decision.

(e) *Other decisions adverse to Government.* Unless the Commissioner of Customs otherwise directs, the principles of any court decision adverse to the Government (except for a decision upholding an American manufacturer's petition as covered in paragraph (d) of this section) shall be applied to unliquidated entries and protested entries which have not been denied in whole or in part and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made. See §176.31 of this chapter for the treatment of entries which are the subject of a court decision.

[T.D. 73–175, 38 FR 17477, July 2, 1973, as amended by T.D. 75–186, 40 FR 31928, July 30, 1975; T.D. 85–90, 50 FR 21430, May 24, 1985; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

### § 152.17 Changes in classification by Congress or by Presidential Proclamation.

When a rate of Customs duty or internal revenue tax imposed upon or by reason of importation is changed by an act of Congress or by a proclamation of the President, the new rate shall be applied in accordance with the detailed instructions in §141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

## Subpart C—Appraisalment

### § 152.20–152.22

### § 152.23 Merchandise imported from intermediate countries.

Merchandise imported from one country, being the growth, production, or manufacture of another country, shall for value



**PART 158—RELIEF FROM DUTIES ON  
MERCHANDISE LOST, DAMAGED,  
ABANDONED, OR EXPORTED**

Sec.

158.0 Scope.

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158.4 Liability of carrier for lost or missing packages.

158.5 Deficiencies in contents of packages—general.

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packages.

158.7 Allowance for reduction or loss of merchandise  
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158.11 Merchandise completely worthless at time of  
importation.

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importation.

158.13 Allowance for moisture and impurities.

158.14 Perishable merchandise condemned.

**Subpart C—Casualty, Loss, or Theft  
While in Customs Custody**

158.21 Allowance in duties for casualty, loss, or theft  
while in Customs custody.

158.21a Time period.

158.22 Not applicable when allowances made under  
other provisions.

158.23 Filing of application and evidence by importer.

158.24 Place of filing.

158.25 Partial destruction or injury.

158.26 Loss or theft in public stores.

158.27 Accidental fire or other casualty.

158.28 Waiver of evidence.

158.29 Decision by port director.

158.30 Review of port director’s decision.

**Subpart D—Destroyed, Abandoned, or  
Exported Merchandise**

158.41 Destruction of prohibited merchandise.

158.42 Abandonment by importer within 30 days after  
entry.

158.43 Abandonment or destruction of merchandise in  
bond.

158.44 Disposition of abandoned merchandise.

158.45 Exportation of merchandise.

**Authority:** 19 U.S.C. 66, 1624, unless otherwise noted. Subpart  
C also issued under 19 U.S.C. 1563.

**Source:** T.D. 72–258, 37 FR 20171, Sept. 27, 1972, unless  
otherwise noted.

**§ 158.0 Scope.**

This part sets forth general rules for granting relief from  
duties on merchandise which is lost, damaged, abandoned,  
or exported.

**Subpart A—Lost or Missing Packages  
and Deficiencies in Contents of  
Packages**

**§ 158.1 Definition of “permitted” merchandise.**

For the purpose of this subpart, merchandise is “permitted”  
when Customs authorizes the carrier bringing the shipment  
to the port to make delivery to the consignee or the next  
carrier and:

(a) These parties in interest, or their agents, make a joint  
determination of the quantities being delivered, or,

(b) The carrier bringing the shipment to the port, at its  
option, independently declares the quantities available for  
delivery by filing with the port director, no later than the close  
of business on the next working day after a determination of  
quantities is made, a signed statement that:

(1) An independent determination of quantities of mer-  
chandise available for delivery has been made, with the date  
of the determination shown;

(2) At least 4 days have elapsed since the consignee or his  
agent was notified that Customs has authorized delivery; and,

(3) The merchandise was and is available for delivery.

**§ 158.2 Shortages in packages released under im-  
mediate delivery or entry.**

An importer may file an entry summary for consumption or  
an entry summary for warehouse for less than the invoiced  
and manifested number of packages in a shipment “permit-  
ted” and delivered to him or deposited in a bonded ware-  
house under the immediate delivery procedure in §142.21 of  
this chapter, or under the entry documentation in §142.3(a), if  
he files with the entry summary a Customs Form 5931 in  
triplicate. The Customs Form 5931 shall be completed by the  
importer with attached copies of the dock receipt or other  
documents evidencing nonreceipt of the lost or missing pack-  
ages.

[T.D. 85–159, 50 FR 38520, Sept. 23, 1985]

**§ 158.3 Allowance for lost or missing packages  
included in an entry summary.**

Allowance shall be made in the assessment of duties for  
lost or missing packages of merchandise included in an entry  
summary whenever it is established to the satisfaction of the  
Center director before the liquidation of the entry summary  
becomes final that the merchandise claimed to be lost or  
missing was not “permitted.” A claim for such allowance shall  
be made on Customs Form 5931, in triplicate, executed by  
the importer and the importing carrier or bonded carrier, as  
appropriate. When the importing or bonded carrier refuses to  
execute the Customs Form 5931, a claim may be allowed if  
the importer properly executes the Customs Form 5931 and  
attaches copies of the dock receipt or other document evi-  
dencing nonreceipt of the lost or missing packages.

[T.D. 72–258, 37 FR 20171, Sept. 27, 1972, as amended by  
T.D. 79–221, 44 FR 46829, Aug. 9, 1979; CBP Dec. 16–26,  
81 FR 92978, Dec. 20, 2016]

**§ 158.4 Liability of carrier for lost or missing pack-  
ages.**

Upon a joint determination or independent determination  
of quantity as set forth in §158.1 (a) or (b) resulting in the

merchandise being "permitted," the carrier shall be responsible only for any discrepancy between the manifested quantity and the "permitted" quantity. In the case of an importing carrier, when there is a difference between the quantity shown on the inward foreign manifest and the quantity "permitted," liquidated damages or duties shall be assessed under the provisions of the carrier's bond or under the provisions of section 448, Tariff Act of 1930, as amended (19 U.S.C. 1448), unless the carrier corrects his manifest (see §4.12 of this chapter). In the case of a bonded carrier, liquidated damages for lost or missing merchandise shall be assessed in accordance with §18.8 of this chapter.

#### § 158.5 Deficiencies in contents of packages—general.

An allowance shall be made in the assessment of duties for deficiencies in the contents of packages when, before the liquidation of the entry becomes final, the importer files:

(a) In the case of a concealed shortage, a Customs Form 5931, in triplicate, executed by the importer alone, and the Center director is satisfied as to the validity of the claim; or,

(b) In the case of an unconcealed shortage, a Customs Form 5931, in triplicate, executed by both the importer and the importing or bonded carrier, as appropriate.

[CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

#### § 158.6 Deficiencies in contents of examination packages.

Allowance for deficiency in the contents of any examination package reported to the port director by a Customs officer shall be made in the liquidation of the entry. No Customs officer except one making an examination contemplated by section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), shall report a supposed deficiency to the port director unless it is established to the satisfaction of the reporting officer that the merchandise was not imported.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

#### § 158.7 Allowance for reduction or loss of merchandise by a natural force or by leakage.

Merchandise subject to ad valorem, specific, or compound rates of duty found at the time of importation to be reduced or diminished by a natural force, such as evaporation, or by leakage, shall be appraised in its condition as imported, with an allowance made in the value, weight, quantity, or measure to the extent of the reduction or loss, except when forbidden by law or regulation.

(R.S. 251, as amended, sec. 499, sec. 624, 46 Stat. 728, as amended, 759 (19 U.S.C. 66, 1499, 1624))

[T.D. 78–448, 43 FR 53713, Nov. 17, 1978]

### Subpart B—Damaged or Defective Merchandise

#### § 158.11 Merchandise completely worthless at time of importation.

(a) *Nonperishable merchandise.* When a shipment of nonperishable merchandise, or any portion thereof which shall have been segregated from the remainder of the shipment under Customs supervision at the expense of the importer, is found by the port director to be entirely without commercial value at the time of importation by reason of damage or deterioration, an allowance in duties on such merchandise on the ground of nonimportation shall be made in the liquidation of the entry.

(b) *Perishable merchandise.* In the case of perishable merchandise, an allowance in duties may be made under the following conditions:

(1) An application for such allowance shall be filed with the port director on Customs Form 4315, or its electronic equivalent, in duplicate, within 96 hours after the unloading of the merchandise and before any of the shipment involved has been removed from the pier (or other area permitted under §142.2(b)(2) of this chapter) pursuant to the entry permit.

(2) Should an application filed in accordance with paragraph (b)(1) of this section be withdrawn, the merchandise involved shall thereafter be released upon presentation of an appropriate permit.

(3) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is found by the port director to be entirely without commercial value by reason of damage or deterioration.

(Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

[T.D. 72–258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 76–220, 41 FR 33248, Aug. 9, 1976; CBP Dec. 15–14, 80 FR 61278, Oct. 13, 2015]

#### § 158.12 Merchandise partially damaged at time of importation.

(a) *Allowance in value.* Merchandise which is subject to ad valorem or compound duties and found by the port director to be partially damaged at the time of importation shall be appraised in its condition as imported, with an allowance made in the value to the extent of the damage. However, no allowance shall be made when forbidden by law or regulation; for example, Chapter 72, Additional U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), provides that no allowance or reduction of duties for partial damage or loss in consequence of discoloration or rust occurring before importation shall be made upon iron or steel or upon any article of iron or steel.

(b) *No allowance in specific duties.* In the case of merchandise subject to specific or compound duties and found to be partially damaged at the time of importation, no allowance may be made in the specific duties or in the weight, quantity, or measure (except that an allowance for any excessive moisture or other impurities may be made in accordance with §158.13). However, any part of the shipment which is totally worthless and can be segregated from the rest of the shipment may be treated as a nonimportation in accordance with §158.11.

(Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

[T.D. 72–258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 89–1, 53 FR 51270, Dec. 21, 1988]

#### § 158.13 Allowance for moisture and impurities.

(a) *Application by importer—(1) Petroleum and petroleum products.* An application for an allowance in duties under section 507, Tariff Act of 1930, as amended (19 U.S.C. 1507), for all detectable moisture and impurities present in or upon imported petroleum or petroleum products shall be made by the importer on Customs Form 4315, or its electronic equivalent. The application shall be filed with the port director within 10 days of the port director's receipt of the gauging report or within 10 days of Customs acceptance of the entry's invoice gauge.

(2) *Other products.* An application for an allowance in duties under 19 U.S.C. 1507 for products other than petroleum or petroleum products for excessive moisture or other impurities not usually found in or upon such or similar mer-

**PART 159—LIQUIDATION OF DUTIES**

Sec.

159.0 Scope.

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- 159.3 Rounding of fractions.
- 159.4 Alcoholic beverages.
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- 159.61 General.
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**Authority:** 19 U.S.C. 66, 1500, 1504, 1624.

Subpart C also issued under 31 U.S.C. 5151.

Subpart F also issued under 19 U.S.C. 1675c.

Sections 159.4, 159.5, and 159.21 also issued under 19 U.S.C. 1315;

Section 159.6 also issued under 19 U.S.C. 1321, 1505;

Section 159.7 also issued under 19 U.S.C. 1557;

Section 159.22 also issued under 19 U.S.C. 1507;

Section 159.44 also issued under 15 U.S.C. 73, 74;

Section 159.46 also issued under 19 U.S.C. 1304;

Section 159.55 also issued under 19 U.S.C. 1558;

Section 159.57 also issued under 19 U.S.C. 1516.

**Source:** T.D. 73–175, 38 FR 17482, July 2, 1973, unless otherwise noted.

**§ 159.0 Scope.**

This part sets forth general rules for the liquidation of entries. Certain specific procedures affecting liquidation appear in other parts of this chapter; e.g., part 158 of this chapter covers allowance for lost or damaged merchandise.

**Subpart A—General Provisions**

**§ 159.1 Definition of liquidation.**

*Liquidation* means the final computation or ascertainment of the duties on entries for consumption or drawback entries.

[T.D. 01–24, 66 FR 16400, Mar. 26, 2001; CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011]

**§ 159.2 Liquidation required.**

All entries covering imported merchandise, except temporary importation bond entries and those for transportation in bond or for immediate exportation, shall be liquidated. Vessel repair entries are not subject to liquidation under this part (see §4.14(i)(3) of this chapter).

[T.D. 73–175, 38 FR 17482, July 2, 1973, as amended by T.D. 01–24, 66 FR 16400, Mar. 26, 2001]

**§ 159.3 Rounding of fractions.**

(a) *Value.* In the computation of duty on entries, ad valorem rates shall be applied to the values in even dollars, fractional parts of a dollar less than 50 cents being disregarded and 50 cents or more being considered as \$1, with all merchandise in the same invoice subject to the same rate of duty to be treated as a unit. However, the total dutiable value of the invoice shall not be increased or decreased by more than the rounding of the total dutiable value to an even dollar. When necessary, fractional parts of a dollar, whether more or less than 50 cents, shall be dropped or taken up as whole dollars in order to avoid such an increase or decrease. If in such cases it is necessary to drop fractional parts of a dollar amounting to 50 cents or more, the lower fractions shall be dropped, and if it is necessary to take up as whole dollars fractional parts less than 50 cents, the larger fractions shall be taken. In the case of two equal fractions, the one subject to the lower rate of duty shall be dropped or taken up, as the case may be. In determining a rate of duty dependent upon value, fractional parts of a dollar shall be considered.

(b) *Quantities subject to specific duty.* Except in the case of alcoholic beverages treated under §159.4, if a rate of duty is specific and \$1 or less per unit, fractional quantities, if less than one-half, shall be disregarded, and if one-half or more shall be treated as a whole unit. Subject to the same exception, if a specific rate is more than \$1 per unit, duty shall be

assessed upon the exact quantity with any fractional part expressed in the form of a decimal extended to two places.

#### § 159.4 Alcoholic beverages.

(a) *Quantities subject to duties.* Customs duties and internal revenue taxes on alcoholic beverages provided for in headings 2207 and 2208, Harmonized Tariff Schedule of the United States (HTSUS), (19 U.S.C. 1202), and subject to internal revenue taxes shall be collected only on the number of proof gallons and fractional parts thereof, entered or withdrawn for consumption. No internal revenue tax shall be collected on distilled spirits in bulk which have been transferred to Internal Revenue bonded premises in accordance with §141.102(b) of this chapter. Customs duties and internal revenue taxes on alcoholic beverages other than subheadings 2206.00.30 and 2206.00.90, HTSUS, and distilled spirits provided for in headings 2207 and 2208, shall be collected only on the number of wine gallons and fractional parts thereof, entered or withdrawn for consumption.

(b) *Computation of duties.* In the computation of Customs duties on alcoholic beverages provided for in headings 2207 and 2208 (19 U.S.C. 1202), which are also subject to internal revenue taxes, the methods prescribed for the computation of internal revenue taxes on such beverages shall be followed. The following methods apply to the specific beverages shown:

(1) *Distilled spirits.* The quantity of distilled spirits imported in barrels, kegs, or similar containers shall be ascertained in accordance with the regulations of the Bureau of Alcohol, Tobacco and Firearms. Where distilled spirits are imported in bottles, jugs, or similar containers, Customs duties and taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried out to three decimal places utilizing the proof gallon method of computation.

(2) *Wine.* Customs duties and taxes on wines shall be on the basis of a wine gallon of liquid measure equivalent to 231 cubic inches and shall be paid proportionally on all fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon.

(3) *Beer and similar fermented beverages.* Customs duties and taxes on beer, ale, porter, stout, and other similar fermented beverages, including sake, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, shall be collected in accordance with section 5051(a), Internal Revenue Code of 1954 (26 U.S.C. 5051(a)).

[T.D. 73–175, 38 FR 17482, July 2, 1973, as amended by T.D. 78–329, 43 FR 43455, Sept. 26, 1978; T.D. 80–271, 45 FR 75641, Nov. 17, 1980; T.D. 89–1, 53 FR 51270, Dec. 21, 1988]

#### § 159.5 Cigars, cigarettes, and cigarette papers and tubes.

The internal revenue taxes imposed on cigars, cigarettes, and cigarette papers and tubes under section 5701 or 7652, Internal Revenue Code of 1954 (26 U.S.C. 5701 or 7652), are determined in accordance with section 5703 of that Code (26 U.S.C. 5703) at the time of removal; that is, on the quantity removed from Customs custody under the entry or withdrawal for consumption. The Customs duties, unlike those on alcoholic beverages, do not necessarily apply only to such quantities.

#### § 159.6 Difference between liquidated duties and estimated duties.

(a) *Difference under \$20 in original liquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, taxes, and interest assessed in the liquidation of any entry (other than an informal, mail, or baggage entry) and the total amount of estimated duties, fees, and taxes deposited, including any supplemental deposit, the difference will be disregarded and the entry endorsed "as entered." In the case of an informal, mail, or baggage entry, the amount of duties, fees, and taxes computed by a CBP officer when the entry is prepared by, or filed with, him will be considered the liquidated assessment.

(b) *Difference under \$20 in reliquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, taxes, and interest found due in the reliquidation of any entry and the total amount of duties, fees, taxes, and interest assessed in the prior liquidation of the entry, the difference will be disregarded except in the following cases:

(1) *Reliquidation at importer's request.* When reliquidation of any entry is made at the importer's request, such as reliquidation following the allowance of a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), or, for entries made before December 18, 2004, a request for correction under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), any refund determined to be due will be refunded even if less than \$20.

(2) *Court decision.* Any refund or increase determined to be due as the result of the reliquidation of an entry in accordance with a court decision and judgment order will be refunded or collected as the case may be.

(c) *Difference of \$20 or more collected or refunded.* If there is a difference of \$20 or more between the duties, fees, taxes, and interest assessed in the liquidation of an entry and the total estimated duties, fees, and taxes deposited, or between the total duties, fees, taxes, and interest assessed in the reliquidation of an entry and those assessed in the prior liquidation, the entry will be endorsed to show the difference and bills or refund checks will be issued.

(d) *Customs duties and fees and internal revenue taxes and interest netted for \$20 limit.* The assessments of customs duties and fees and internal revenue taxes and interest will be separately stated on the entry at the time of liquidation, but the amounts of any differences will be netted when applying the \$20 minimum for issuance of a bill or refund check.

[T.D. 73–175, 38 FR 17482, July 2, 1973, as amended by T.D. 78–394, 43 FR 49791, Oct. 25, 1978; T.D. 94–51, 59 FR 30296, June 13, 1994; 64 FR 56440, Oct. 20, 1999; CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011]

#### § 159.7 Rewarehouse entries.

The liquidation of the original warehouse entry shall be followed in determining the liability for duties on a rewarehouse entry, except in the following cases:

(a) *Merchandise excluded from liquidation of original warehouse entry.* When any of the following types of merchandise are withdrawn from warehouse for transportation to another port, they will be excluded from the liquidation of the original warehouse entry, and the liability for duties will be determined by a liquidation of the rewarehouse entry made at the port where the merchandise is withdrawn for consumption or for exportation:

**PART 161—GENERAL ENFORCEMENT  
PROVISIONS**

Sec.

161.0 Scope.

**Subpart A—General Provisions**

161.2 Enforcement for other agencies.

161.5 Compromise of Government claims.

**Subpart B—Compensation of Informant**

161.12 Eligibility for compensation.

161.14 Advising informant of entitlement.

161.15 Confidentiality for informant.

161.16 Filing a claim for informant compensation.

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1600, 1619, 1624.

Section 161.2 also issued under 12 U.S.C. 95a; 18 U.S.C. 545; 19 U.S.C. 1595(a); 22 U.S.C. 401, 1934, 2349aa8-9; 42 U.S.C. 1804, 1807; 50 U.S.C. 1641 *et seq.*, 1701 *et seq.*; 50 U.S.C. App. 1-44, 2411.

Section 161.15 also issued under 5 U.S.C. 552.

**Source:** T.D. 72-211, 37 FR 16487, Aug. 15, 1972, unless otherwise noted.

**§ 161.0 Scope.**

This part provides general information concerning Customs enforcement of certain import and export laws administered by other federal agencies, the filing of offers in compromise of government claims, the eligibility of individuals for informant compensation, and the filing of claims for informant compensation.

[T.D. 98-22, 63 FR 11826, Mar. 11, 1998]

**Subpart A—General Provisions**

**§ 161.2 Enforcement for other agencies.**

(a) *Laws enforced by Customs Service for administering agencies.* Some of the laws enforced in whole or in part by the Customs Service for administering agencies are:

(1) Importations and exportations of arms, ammunition, implements of war, helium gas, and other munitions of war are governed by laws administered by the Bureau of Alcohol, Tobacco and Firearms and Department of State;

(2) Importations and exportations of controlled substances are governed by laws administered by the Drug Enforcement Administration of the Department of Justice;

(3) Importations, exportations, and transactions involving identified goods, services, and technology with any of those countries designated as subject to economic sanctions under the laws and regulations administered by the Office of Foreign Assets Control of the Department of the Treasury.

(4) Importations and exportations of atomic energy source material, fissionable material, and equipment and devices for utilizing or producing fissionable material are subject to laws administered by the Nuclear Regulatory Commission; and

(5) The exportation of articles, other than those previously mentioned herein, are subject to requirements of laws administered by the Department of Commerce.

(b) *Seizure for violation of law.* When articles are imported or are intended to be, are being, or have been exported from the United States in violation of law, such articles and any vessel, vehicle, or aircraft knowingly used in their transportation shall be seized and proceeded against.

[T.D. 72-211, 37 FR 16487, Aug. 15, 1972, as amended by T.D. 76-21, 41 FR 2383, Jan. 16, 1976; T.D. 78-329, 43 FR 43456, Sept. 26, 1978; T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 96-42, 61 FR 24889, May 17, 1996]

**§ 161.5 Compromise of Government claims.**

(a) *Offer.* An offer made pursuant to section 617, Tariff Act of 1930, as amended (19 U.S.C. 1617), in compromise of a Government claim arising under the Customs laws and the terms upon which it is made shall be stated in writing addressed to the Commissioner of Customs. The offer shall be limited to the civil liability of the proponent in the matter which is the subject of the Government's claim.

(b) *Deposit of specific sum tendered.* No offer in which a specific sum of money is tendered in compromise of a Government claim under the Customs laws will be considered by the Commissioner of Customs until due notice is received that such sum has been properly deposited in the name of the person submitting the offer with the Treasurer of the United States or a Federal Reserve bank. A proponent at a distance from a Federal Reserve bank may perfect his offer by tendering a bank draft for the amount of the offer payable to the Secretary of the Treasury for collection and deposit. If the offer is rejected, the money will be returned to the proponent.

(Sec. 617, 46 Stat. 757, as amended; 19 U.S.C. 1617)

**Subpart B—Compensation of Informant**

**Source:** T.D. 91-14, 56 FR 5349, Feb. 11, 1991, unless otherwise noted.

**§ 161.12 Eligibility for compensation.**

In accordance with section 619, Tariff Act of 1930, as amended (19 U.S.C. 1619), any person not an employee or officer of the United States who either furnishes original information concerning any fraud upon the customs revenue or any violation, perpetrated or contemplated, of the customs or navigation laws or any other laws administered or enforced by Customs, or detects and seizes any item subject to seizure and forfeiture under the customs or navigation laws or other laws enforced by Customs and reports the same to a Customs officer, may file a claim for compensation, provided there is a net amount recovered from such detection and seizure or such information, unless other laws specify different procedures. Any employee or officer of the United States who receives, accepts, or contracts for any portion of such compensation, either directly or indirectly, is subject to criminal prosecution and civil liability as provided by 19 U.S.C. 1620.

[T.D. 98-22, 63 FR 11826, Mar. 11, 1998]

**§ 161.14 Advising informant of entitlement.**

Any Customs officer who receives information shall advise the informant that, in the event of a recovery, he may be entitled to compensation. He shall also advise the informant that, if the informant has executed a stipulation to that effect, any amount received by the informant in the form of purchase of evidence or purchase of information will be deducted from any compensation which may be awarded.

**§ 161.15 Confidentiality for informant.**

The name and address of the informant must be kept confidential. No files or information will be revealed which might aid in the unauthorized identification of an informant. Pursuant to 5 U.S.C. 552(b)(7)(D), specific informant records that are exempt from disclosure are those that could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled

by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source. Informant records maintained by CBP under an informant's name or personal identifier that are requested by a third party according to the informant's name or personal identifier are not subject to the disclosure requirements of 5 U.S.C. 552(a), unless the informant's status as an informant has been officially confirmed.

**[CBP Dec. 15–16, 80 FR 71690, Nov. 17, 2015]**

**§ 161.16 Filing a claim for informant compensation.**

(a) *Limitations on claims.* Pursuant to 19 U.S.C. 1619, an informant may be paid up to 25 percent of the net recovery to the government from duties withheld; from any fine (civil or criminal), forfeited bail bond, penalty, or forfeiture incurred; or, if the forfeiture is remitted, from the monetary penalty

recovered for remission of the forfeiture. The amount of the award paid to informants shall not exceed \$250,000 for any one case, regardless of the number of recoveries that result from the information furnished; however, no claim of less than \$100 will be paid.

(b) *Filing of claim.* A claim shall be filed, in duplicate, on Customs Form 4623 with the Special Agent in Charge, who shall make a recommendation on the form as to approval and the amount of the award. The Special Agent in Charge shall forward the form to the Center director, who shall make a recommendation on the form as to approval and the amount of the award. The Center director shall forward the form to Customs Headquarters for action. If for any reason a claim has not been transmitted by the Center director, the claimant may apply directly to Customs Headquarters.

**[T.D. 98–22, 63 FR 11826, Mar. 11, 1998; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]**

**PART 162—INSPECTION, SEARCH,  
AND SEIZURE**

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as amended (19 U.S.C. 1595a(c)).

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162.45 Summary forfeiture: Property other than  
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substances. Notice of seizure and sale.

162.45a Summary forfeiture of Schedule I and Schedule  
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162.46 Summary forfeiture: Disposition of goods.

162.47 Claim for property subject to summary forfeiture.

162.48 Disposition of perishable and other seized  
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162.51 Disposition of proceeds of sale of property  
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162.52 Disposition of proceeds of sale of property  
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162.61 Importing and exporting controlled substances.

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162.63 Arrests and seizures.

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162.71 Definitions.

162.72 Penalties and forfeitures under sections 466 and  
584(a)(1), Tariff Act of 1930, as amended.

162.73 Penalties under section 592, Tariff Act of 1930,  
as amended.

162.73a Penalties under section 593A, Tariff Act of 1930,  
as amended.

162.74 Prior disclosure.

162.75 Seizures limited under section 592, Tariff Act of  
1930, as amended.

162.76 Prepenalty notice for violations of sections 466 or  
584(a)(1), Tariff Act of 1930, as amended.

162.77 Prepenalty notice for violations of section 592,  
Tariff Act of 1930, as amended.

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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.

Section 162.3 also issued under 19 U.S.C. 1581;

Section 162.4 also issued under 39 U.S.C. 604, 605;

Section 162.5 also issued under 19 U.S.C. 1581, 49 U.S.C. 1509;

Section 162.6 also issued under 19 U.S.C. 1461, 1467, 1496;

Section 162.7 also issued under 19 U.S.C. 482;

Section 162.8 also issued under 9 U.S.C. 1629;

Section 162.21 also issued under 19 U.S.C. 482, 1581, 1582,  
1602;

Section 162.22 also issued under 18 U.S.C. 546; 19 U.S.C. 1459,  
1460, 1594, 1595a, 1701, 1703–1708.

Section 162.23 also issued under 19 U.S.C. 1595a(c).

Section 162.32 also issued under 19 U.S.C. 1603, 1610;

Section 162.32 also issued under 19 U.S.C. 1603, 1610;

Section 162.43 also issued under 19 U.S.C. 1606, 1608;

Section 162.44 also issued under 19 U.S.C. 1614;

Section 162.45 also issued under 19 U.S.C. 1607, 1608;

Section 162.45a also issued under 21 U.S.C. 881;

Section 162.46 also issued under 19 U.S.C. 1609, 1611;

Section 162.47 also issued under 19 U.S.C. 1608;

Section 162.48 also issued under 19 U.S.C. 1606, 1607, 1608,  
1612, 1613b, 1618;

Section 162.49 also issued under 26 U.S.C. 5688;

Section 162.50 also issued under 19 U.S.C. 1611, 1705;

Section 162.61 also issued under 21 U.S.C. 952, 953, 957;

Section 162.62 also issued under 21 U.S.C. 952, 956;

Sections 162.63, 162.64 also issued under 21 U.S.C. 881, 966;

Section 162.65 also issued under 19 U.S.C. 1584, 21 U.S.C. 960,  
961.

Sections 162.65 and 162.72 also issued under 19 U.S.C. 1431(b)  
and 19 U.S.C. 1644.

Sections 162.91 through 162.96 also issued under 18 U.S.C. 983.

**Source:** T.D. 72–211, 37 FR 16488, Aug. 15, 1972, unless other-  
wise noted.

**§ 162.0 Scope.**

This part contains provisions for the inspection, examination, and search of persons, vessels, aircraft, vehicles, and merchandise involved in importation, for the seizure of property, and for the forfeiture and sale of seized property. It also contains provisions for Customs enforcement of the controlled substances laws. Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, the Dominican Republic-Central America-U.S. Free Trade Agreement, the U.S.-Australia Free Trade Agreement, the U.S.-Morocco Free Trade Agreement, the U.S.-Peru Trade Promotion Agreement, the U.S.-Korea Free Trade Agreement, the U.S.-Panama Trade Promotion Agreement, and the U.S.-Colombia Trade Promotion Agreement are contained in Part 10, Subparts H, I, J, L, M, Q, R, S and T of this chapter, respectively.

[T.D. 98-56, 63 FR 32945, June 16, 1998, as amended by CBP Dec. 05-07, 70 FR 10884, Mar. 7, 2005; CBP Dec. 07-81, 72 FR 58522, Oct. 16, 2007; CBP Dec. 08-22, 73 FR 33691, June 13, 2008; CBP Dec. 11-01, 76 FR 708, Jan. 6, 2011; CBP Dec. 11-22, 76 FR 68067, Nov. 3, 2011; CBP Dec. 12-03, 77 FR 15959, March. 19, 2012; CBP Dec. 12-16, 77 FR 59064, Sept. 26, 2012; CBP Dec. 13-17, 78 FR 63052, Oct. 23, 2013; CBP Dec. 15-03, 80 FR 7303, Feb. 10, 2015]

### Subpart A—Inspection, Examination, and Search

**Source:** T.D. 79-159, 44 FR 31970, June 4, 1979, unless otherwise noted.

**§§ 162.1–162.2 [Reserved]****§ 162.3 Boarding and search of vessels.**

(a) *General authority.* A Customs officer, for the purpose of examining the manifest and other documents and papers and examining, inspecting and searching the vessel, may at any time go on board:

- (1) Any vessel at any place in the United States or within the Customs waters of the United States;
- (2) Any American vessel on the high seas;
- (3) Any vessel within a Customs-enforcement area designated such under the provisions of the Anti-Smuggling Act (Act of August 5, 1935, as amended, 49 Stat. 517; 19 U.S.C. 1701, 1703 through 1711), but Customs officers shall not board a foreign vessel upon the high seas in contravention of any treaty with a foreign government, or in the absence of a special arrangement with the foreign government concerned.

(b) *Search of army or navy vessel.* If the port director or special agent in charge believes that sufficient grounds exist to justify a search of any army or navy vessel, the facts shall be reported to the commanding officer or master of the vessel with a request that he cause a full search to be made, and advise the port director or special agent in charge of the result of such search. If, after the cargo has been discharged, passengers and their baggage landed, and the baggage of officers and crewmembers examined and passed, the port director or special agent in charge believes that sufficient grounds exist to justify the continuance of Customs supervision of the vessel, the commanding officer or master of the vessel shall be advised accordingly.

(c) *Assistance of other agencies.* Customs officers are authorized to assist any other agency in the enforcement of United States laws on any vessel.

[T.D. 84-18, 48 FR 52899, Nov. 23, 1983]

**§ 162.4 Search for letters.**

A Customs officer may search vessels for letters which may be on board or may have been conveyed contrary to law on board any vessel or on any post route, and shall seize such letters and deliver them to the nearest post office or detain them subject to the orders of the postal authorities.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972]

**§ 162.5 Search of arriving vehicles and aircraft.**

A customs officer may stop any vehicle and board any aircraft arriving in the United States from a foreign country for the purpose of examining the manifest and other documents and papers and examining, inspecting, and searching the vehicle or aircraft.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990]

**§ 162.6 Search of persons, baggage, and merchandise.**

All persons, baggage, and merchandise arriving in the Customs territory of the United States from places outside thereof are liable to inspection and search by a Customs officer. Port directors and special agents in charge are authorized to cause inspection, examination, and search to be made under section 467, Tariff Act of 1930, as amended (19 U.S.C. 1467), of persons, baggage, or merchandise, even though such persons, baggage, or merchandise were inspected, examined, searched, or taken on board the vessel at another port or place in the United States or the Virgin Islands, if such action is deemed necessary or appropriate.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972]

**§ 162.7 Search of vehicles, persons, or beasts.**

A Customs officer may stop, search, and examine any vehicle, person, or beast, or search any trunk or envelope wherever found, in accordance with section 3061 of the Revised Statutes (19 U.S.C. 482).

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 90-34, 55 FR 17597, Apr. 26, 1990]

**§ 162.8 Preclearance inspections and examinations.**

In connection with inspections and examinations conducted in accordance with §148.22(a) of this chapter, United States Customs officers stationed in a foreign country may exercise such functions and perform such duties (including inspections, examinations, searches, seizures, and arrests), as may be permitted by treaty, agreement, or law of the country in which they are stationed.

[T.D. 89-22, 54 FR 5077, Feb. 1, 1989]

### Subpart B—Search Warrants

**§ 162.11 Authority to procure warrants.**

Customs officers are authorized to procure search warrants under the provisions of section 595, Tariff Act of 1930, as amended (19 U.S.C. 1595). However, a Customs officer who is lawfully on any premises and is able to identify merchandise which has been imported contrary to law may



## PART 163—RECORDKEEPING

Sec.

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- 163.2 Persons required to maintain records.
- 163.3 Entry records.
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- 163.6 Production and examination of entry and other records and witnesses; penalties.
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- 163.11 Compliance assessment and other audit procedures.
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### Appendix to Part 163—Interim (a)(1)(A) List

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

Section 163.2 also issued under 19 U.S.C. 3904, 3907.

**Source:** T.D. 98–56, 63 FR 32946, June 16, 1998, unless otherwise noted.

### § 163.0 Scope.

This part sets forth the recordkeeping requirements and procedures governing the maintenance, production, inspection, and examination of records. It also sets forth the procedures governing the examination of persons in connection with any investigation audit or other inquiry conducted for the purposes of ascertaining the correctness of any entry, for determining the liability of any person for duties, fees and taxes due or that may be due, for determining liability for fines, penalties and forfeitures, or for ensuring compliance with the laws and regulations administered or enforced by Customs. Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters, and producers under the United States-Canada Free Trade Agreement and the North American Free Trade Agreement and the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) are contained in parts 10 and 181 and 182 of this chapter, respectively.

[T.D. 98–56, 63 FR 32946, June 16, 1998, as amended by CBP Dec. 11–20, 76 FR 65953, Oct. 25, 2011; CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

### § 163.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Records* —(1) *In general.* The term "records" means any information made or normally kept in the ordinary course of business that pertains to any activity listed in paragraph (a)(2) of this section. The term includes any information required for the entry of merchandise (the (a)(1)(A) list) and other information pertaining to, or from which is derived, any information element set forth in a collection of information required by the Tariff Act of 1930, as amended, in connection with any activity listed in paragraph (a)(2) of this section. The term includes, but is not limited to, the following: Statements; declarations; documents; electronically generated or ma-

chine readable data; electronically stored or transmitted information or data; books; papers; correspondence; accounts; financial accounting data; technical data; computer programs necessary to retrieve information in a usable form; and entry records (contained in the (a)(1)(A) list).

(2) *Activities.* The following are activities for purposes of paragraph (a)(1) of this section:

- (i) Any importation, declaration or entry;
- (ii) The transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;
- (iii) The filing of a drawback claim;
- (iv) The completion and signature of a NAFTA Certificate of Origin pursuant to §181.11(b) of this chapter;
- (v) The collection, or payment to Customs, of duties, fees and taxes; or
- (vi) The completion and signature of a Chile FTA certification of origin and any other supporting documentation pursuant to the United States-Chile Free Trade Agreement.
- (vii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Singapore Free Trade Agreement (SFTA), including a SFTA importer's supporting statement if previously required by the port director or Center director before January 19, 2017, or the Center director on or after January 19, 2017.

(viii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Jordan Free Trade Agreement (US-JFTA), including a US-JFTA declaration.

(ix) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Australia Free Trade Agreement (AFTA), including an AFTA importer's supporting statement.

(x) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Morocco Free Trade Agreement (MFTA), including a MFTA importer's declaration.

(xi) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR), including a CAFTA-DR importer's certification.

(xii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Bahrain Free Trade Agreement (BFTA), including a BFTA importer's declaration.

(xiii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Oman Free Trade Agreement (OFTA), including an OFTA importer's declaration.

(xiv) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Peru Trade Promotion Agreement (PTPA), including a PTPA importer's certification.

(xv) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Korea Trade Agreement (UKFTA), including a UKFTA importer's certification.

(xvi) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff treatment under the United States-Colombia Trade Promotion Agreement (CTPA), including a CTPA importer's certification.

(xvii) The maintenance of any documentation that the importer may have in support of a claim for preferential tariff

treatment under the United States-Panama Trade Promotion Agreement (PANTPA), including a PANTPA importer's certification.

(xviii) Any other activity required to be undertaken pursuant to the laws or regulations administered by Customs.

(b) (a)(1)(A) *list*. See the definition of "entry records".

(c) *Audit*. "Audit" means an evaluation by CBP under 19 U.S.C. 1509 of records required to be maintained and/or produced by persons listed in §163.2, or pursuant to other applicable laws or regulations administered by CBP, for the purpose of furthering any investigation or review conducted to: ascertain the correctness of any entry; determine the liability of any person for duties, taxes, and fees due, or revenue due, or which may be due the United States; determine liability for fines, penalties, and forfeitures; ensure compliance with the laws of the United States administered by CBP; or determine that information submitted or required is accurate, complete, and in accordance with any laws and regulations administered or enforced by CBP. An audit does not include a quantity verification for a customs bonded warehouse or general purpose foreign trade zone. An audit may be as extensive or simple as CBP determines is warranted to achieve the audit's purpose under applicable laws and regulations.

(d) *Certified recordkeeper*. A "certified recordkeeper" is a person who is required to keep records under this chapter and who is a participant in the Recordkeeping Compliance Program provided for in §163.12.

(e) *Entry records/(a)(1)(A) list*. The terms "entry records" and "(a)(1)(A) list" refer to records required by law or regulation for the entry of merchandise (whether or not Customs required their presentation at the time of entry). The (a)(1)(A) list is contained in the Appendix to this part.

(f) *Inquiry*. An "inquiry" is any formal or informal procedure, other than an investigation, through which a request for information is made by a Customs officer.

(g) *Original*. The term "original", when used in the context of maintenance of records, has reference to records that are in the condition in which they were made or received by the person responsible for maintaining the records pursuant to 19 U.S.C. 1508 and the provisions of this chapter, including records consisting of the following:

(1) Electronic information which was used to develop other electronic records or paper documents;

(2) Electronic information which is in a readable format such as a facsimile paper format or an electronic or hardcopy spreadsheet;

(3) In the case of a paper record that is part of a multi-part form where all parts of the form are made by the same impression, one of the carbon-copy parts or a facsimile copy or photocopy of one of the parts; and

(4) A copy of a record that was provided to another government agency which retained it, provided that, if required by Customs, a signed statement accompanies the copy certifying it to be a true copy of the record provided to the other government agency.

(h) *Party/person*. The terms "party" and "person" refer to a natural person, corporation, partnership, association, or other entity or group.

(i) *Summons*. "Summons" means any summons issued under this part that requires the production of records or the giving of testimony, or both.

(j) *Technical data*. "Technical data" are records which include diagrams and other data with regard to a business or an engineering or exploration operation, whether conducted inside or outside the United States, and whether on paper,

cards, photographs, blueprints, tapes, microfiche, film, or other media or in electronic or magnetic storage.

(k) *Third-party recordkeeper*. "Third-party recordkeeper" means any attorney, any accountant or any customs broker other than a customs broker who is the importer of record on an entry.

[T.D. 98-56, 63 FR 32946, June 16, 1998, as amended by CBP Dec. 05-07, 70 FR 10884, Mar. 7, 2005; CBP Dec. 07-28, 72 FR 32003, June 11, 2007; CBP Dec. 07-50, 72 FR 35160, June 27, 2007; CBP Dec. 07-51, 72 FR 35658, June 29, 2007; CBP Dec. 07-81, 72 FR 58522, Oct. 16, 2007; CBP Dec. 08-22, 73 FR 33691, June 13, 2008; CBP Dec. 10-26, 75 FR 50700, Aug. 17, 2010; CBP Dec. 11-01, 76 FR 708, Jan. 6, 2011; CBP Dec. 11-22, 76 FR 68067, Nov. 3, 2011; CBP Dec. 12-03, 77 FR 15943, Mar. 19, 2012; CBP Dec. 12-16, 77 FR 59064, Sept. 26, 2012; CBP Dec. 13-17, 78 FR 63052, Oct. 23, 2013; CBP Dec. 15-03, 80 FR 7303, Feb. 10, 2015; CBP Dec. 16-26, 81 FR 92978, Dec. 20, 2016]

### § 163.2 Persons required to maintain records.

(a) *General*. Except as otherwise provided in paragraph (b) or (e) of this section, the following persons shall maintain records and shall render such records for examination and inspection by Customs:

(1) An owner, importer, consignee, importer of record, entry filer, or other person who:

(i) Imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or

(ii) Knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States;

(2) An agent of any person described in paragraph (a)(1) of this section; or

(3) A person whose activities require the filing of a declaration or entry, or both.

(b) *Domestic transactions*. For purposes of paragraph (a)(1)(ii) of this section, a person who orders merchandise from an importer in a domestic transaction knowingly causes merchandise to be imported only if:

(1) The terms and conditions of the importation are controlled by the person placing the order with the importer (for example, the importer is not an independent contractor but rather is the agent of the person placing the order; Whereas a consumer who purchases an imported automobile from a domestic dealer would not be required to maintain records, a transit authority that prepared detailed specifications from which imported subway cars or busses were manufactured would be required to maintain records); or

(2) Technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of the imported merchandise.

(c) *Recordkeeping required for certain exporters and producers*—(1) *NAFTA*. Any person who exports goods to Canada or Mexico for which a Certificate of Origin was completed and signed pursuant to the North American Free Trade Agreement must also maintain records in accordance with part 181 of this chapter.

(2) *USMCA*. Any exporter or producer who completes a certification of origin or a producer who provides a written representation for a good exported from the United States to Canada or Mexico pursuant to the Agreement Between the

**PART 165—INVESTIGATION OF CLAIMS OF  
EVASION OF ANTIDUMPING AND  
COUNTERVAILING DUTIES**

Sec.

165.0 Scope.

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- 165.2 Entries subject to this part.
- 165.3 Power of attorney.
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- 165.11 Allegations by interested parties.
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- 165.21 Administrative record.
- 165.22 Time for investigations.
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**Subpart D—Administrative Review of Determinations**

- 165.41 Filing a request for review of the initial determination.
- 165.42 Responses to requests for administrative review.
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- 165.44 Additional information.
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- 165.47 Potential penalties and other actions.

**Authority:** 19 U.S.C. 66, 1481, 1484, 1508, 1517 (as added by Pub. L. 114–125, 130 Stat. 122, 155 (19 U.S.C. 4301 note)), 1623, 1624, 1671, 1673.

**§ 165.0 Scope.**

This part relates to allegations by the public and requests from Federal agencies for an investigation regarding the evasion of antidumping (AD) and countervailing duty (CVD) orders and the procedures by which CBP investigates such claims consistent with the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), which contains Title IV—Prevention of Evasion of Antidumping and Countervailing Duty Orders (short title “Enforce and Protect Act of 2015” or “EAPA”) (Pub. L. 114–125, 130 Stat. 122, 155, Feb. 24, 2016) (19 U.S.C. 4301 note). This part includes the requirements for the filing of allegations and requests for investigations, the investigation procedures, and administrative review of determinations as to evasion of AD/CVD orders under the EAPA. The procedures under this part are not the exclusive manner by which CBP may receive allegations or requests for an investigation from Federal agencies or investigate such alle-

gations or requests with respect to the evasion of AD/CVD orders. An investigation as described in this part, if initiated by CBP, does not preclude CBP or any other government entity from initiating any other investigation or proceeding pursuant to any other provision of law, including proceedings initiated under 19 U.S.C. 1592.

**Subpart A—General Provisions**

**§ 165.1 Definitions.**

As used in this part, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this part:

*Allegation.* The term “allegation” refers to a filing with CBP under §165.11 by an interested party that alleges an act of evasion by an importer of AD/CVD orders.

*AD.* The term “AD” refers to antidumping duty, consistent with section 736, Tariff Act of 1930, as amended (19 U.S.C. 1673e).

*AD/CVD.* The term “AD/CVD” refers to antidumping/ countervailing duty, as these terms are defined in this section.

*Covered merchandise.* The term “covered merchandise” means merchandise that is subject to a CVD order issued under section 706, Tariff Act of 1930, as amended (19 U.S.C. 1671e), and/or an AD order issued under section 736, Tariff Act of 1930, as amended (19 U.S.C. 1673e).

*CVD.* The term “CVD” refers to countervailing duty, consistent with section 706, Tariff Act of 1930, as amended (19 U.S.C. 1671e).

*Enter or entry.* The terms “enter” and “entry” refer to the entry for consumption, or withdrawal from warehouse for consumption, of merchandise in the customs territory of the United States, see §101.1 of this chapter, or to the filing with CBP of the necessary documentation to withdraw merchandise from a duty-deferral program in the United States for exportation to Canada or Mexico or for entry into a duty-deferral program in Canada or Mexico, see §§141.0a(f) and 181.53 of this chapter.

*Evade or evasion.* The terms “evade” and “evasion” refer to the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.

*Interested party.* The term “interested party” in this part refers only to the following:

(1) A foreign manufacturer, producer, or exporter, or any importer (not limited to importers of record and including the party against whom the allegation is brought), of covered merchandise or a trade or business association a majority of the members of which are producers, exporters, or importers of such merchandise;

(2) A manufacturer, producer, or wholesaler in the United States of a domestic like product;

(3) A certified union or recognized union or group of workers that is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a domestic like product;

(4) A trade or business association a majority of the members of which manufacture, produce, or wholesale a domestic like product in the United States;

(5) An association a majority of the members of which is composed of interested parties described in paragraphs (2), (3), and (4) of this definition with respect to a domestic like product; or,

(6) If the covered merchandise is a processed agricultural product, as defined in 19 U.S.C. 1677(4)(E), a coalition or trade association that is representative of any of the following: processors; processors and producers; or processors and growers.

*Investigation.* The term “investigation” refers to the CBP administrative process described in subpart C of this part, and is a formal investigation within the meaning of section 592(c)(4), Tariff Act of 1930, as amended (19 U.S.C. 1592(c)(4)).

*Parties to the investigation.* The phrase “parties to the investigation” means the interested party (or interested parties, in the case of consolidation pursuant to §165.13) who filed the allegation of evasion and the importer (or importers, in the case of consolidation pursuant to §165.13) who allegedly engaged in evasion. In the case of investigations initiated based upon a request from a Federal agency, parties to the investigation only refers to the importer or importers who allegedly engaged in evasion, and not the Federal agency.

*Regulations and Rulings.* The term “Regulations and Rulings” means the Executive Director, Regulations and Rulings, Office of Trade, or his or her designee.

*TRLED.* The term “TRLED” refers to the Trade Remedy Law Enforcement Directorate, Office of Trade, that conducts the investigation of alleged evasion under this part, and that was established as required by section 411 of the EAPA.

[CBP Dec. 16–11, 81 FR 56477, Aug. 22, 2016]

### § 165.2 Entries subject to this part.

Entries that may be the subject of an allegation made under §165.11 or a request for an investigation under §165.14 are those entries of allegedly covered merchandise made within one year before the receipt of an allegation under §165.11 or of a request for an investigation under §165.14. In addition, at its discretion, CBP may investigate other entries of such covered merchandise.

### § 165.3 Power of attorney.

(a) *When required.* Any submission made under this part other than by a principal or its employees may be filed by a person acting as agent or attorney in fact for the principal; a power of attorney must specifically authorize such person to make, sign, and file the submission or grant unlimited authority to such person.

(b) *Exception.* No power of attorney is required for an attorney at law to act as agent or attorney for the principal. The signing of a submission as agent or attorney for the principal by the attorney at law will be considered a declaration by the attorney that the attorney is currently an active member in good standing of the highest court of a state, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the submission for the principal.

(c) *Execution—(1) Corporation.* A corporate power of attorney to file the submissions described in paragraph (a) of this section must be signed by a duly authorized officer or employee of the corporation.

(2) *Partnership.* A partnership power of attorney to file the submissions described in paragraph (a) of this section must be signed by at least one member in the name of the

partnership or by at least one duly authorized employee of the partnership, provided the power recites the name(s) of all of the members.

(3) *Other persons.* A power of attorney filed by a person other than a corporation or partnership must be signed by that person or an employee of that person who has the legal authority to act on that person’s behalf when filing the submissions described in paragraph (a) of this section.

(d) *Revocation.* Any power of attorney will be subject to revocation at any time by written notice given to and received by CBP, Office of Trade.

(e) *Proof.* CBP will require proof of execution of a power of attorney, where applicable, the first time that an agent makes a submission on behalf of any interested party during an investigation or administrative review of a determination as to evasion. CBP may require proof of authority to execute a power of attorney pursuant to paragraph (c) of this section, at any point during the proceedings described in this part.

### § 165.4 Release of information provided by interested parties.

(a) *Claim for business confidential treatment.* Any interested party that makes a submission to CBP in connection with an investigation under this part, including for its initiation and administrative review, may request that CBP treat any part of the submission as business confidential information except for the information specified in paragraph (c) of this section. Business confidential treatment will be granted if the requirements of this section are satisfied and the information for which protection is sought consists of trade secrets and commercial or financial information obtained from any person, which is privileged or confidential in accordance with 5 U.S.C. 552(b)(4).

(1) *Identification of business confidential information.* An interested party submitting information must identify the information for which business confidential treatment is claimed by enclosing the claimed confidential information within single brackets. The first page of any submission containing business confidential information must clearly state that the submission contains business confidential information. The submitting interested party must also provide with the claimed business confidential information an explanation of why each item of bracketed information is entitled to business confidential treatment.

(2) *Public version.* An interested party filing a submission containing claimed business confidential information must also file a public version of the submission. The public version must be filed on the same date as the business confidential version and contain a summary of the bracketed information in sufficient detail to permit a reasonable understanding of the substance of the information. If the submitting interested party claims that summarization is not possible, the claim must be accompanied by a full explanation of the reasons supporting that claim. The public version must be clearly marked as a public version on the first page.

(b) *Nonconforming submissions.* CBP will reject a submission that includes a request for business confidential treatment but does not meet the requirements of paragraph (a) of this section.

(1) *Notice of rejection.* If CBP determines that the claim of confidentiality is nonconforming, it will treat the relevant portion of the submission as business confidential information until the appropriate corrective action is taken or the submission is rejected.

(2) *Corrective action.* The submitting interested party may take any of the following actions within two business days after receiving CBP’s notice of rejection:

**PART 171—FINES, PENALTIES,  
AND FORFEITURES**

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- 171.0 Scope.
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- Subpart C—Disposition of Petitions**
- 171.21 Written decisions.
- 171.22 Decisions effective for limited time.
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- 171.24 Remission of forfeitures and payment of fees, costs or interest.
- Subpart D—Offers in Compromise**
- 171.31 Form of offers.
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- Subpart E—Restoration of Proceeds of Sale**
- 171.41 Application of provisions for petitions for relief.
- 171.42 Time limit for filing petition for restoration.
- 171.43 Evidence required.
- 171.44 Forfeited property authorized for official use.
- Subpart F—Expedited Petitioning Procedures**
- 171.51 Application and definitions.
- 171.52 Petition for expedited procedures in an administrative forfeiture proceeding.
- 171.53 Ruling on petition for expedited procedures.
- 171.54 Substitute res in an administrative forfeiture action.
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- 171.61 Time and place of filing.
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- 171.64 Waiver of statute of limitations.

**Appendix A to Part 171—Guidelines for Disposition of  
Violations of 19 U.S.C. 1497**

**Appendix B to Part 171—Customs Regulations,  
Guidelines for the Imposition and Mitigation of  
Penalties for Violations of 19 U.S.C. 1592**

**Appendix C to Part 171—Customs Regulations  
Guidelines for the Imposition and Mitigation of  
Penalties for Violations of 19 U.S.C. 1641**

**Appendix D to Part 171—Guidelines for the Imposition  
and Mitigation of Penalties for Violations of 19 U.S.C.  
1593a**

**Authority:** 18 U.S.C. 983; 19 U.S.C. 66, 1592, 1593a, 1618, 1624; 22 U.S.C. 401; 31 U.S.C. 5321.

Subpart F also issued under 19 U.S.C. 1595a, 1605, 1614.

**Source:** T.D. 70–249, 35 FR 18265, Dec. 1, 1970, unless otherwise noted.

**§ 171.0 Scope.**

This part contains provisions relating to petitions for relief from fines, forfeitures, and certain penalties incurred, and petitions for the restoration of proceeds from sale of seized and forfeited property. This part does not relate to petitions on claims for liquidated damages or penalties which are guaranteed by the conditions of the International Carrier Bond (see §113.64 of this Chapter).

[T.D. 00–57, 65 FR 53576, Sept. 5, 2000]

**Subpart A—Application for Relief**

**Source:** T.D. 00–57, 65 FR 53576, Sept. 5, 2000, unless otherwise noted.

**§ 171.1 Petition for relief.**

(a) *To whom addressed.* Petitions for the remission or mitigation of a fine, penalty, or forfeiture incurred under any law administered by Customs must be addressed to the Fines, Penalties, and Forfeitures Officer designated in the notice of claim.

(b) *Signature.* For commercial violations, the petition for remission or mitigation must be signed by the petitioner, his attorney-at-law or a Customs broker. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory official of the corporation, or a responsible employee representative of the corporation. Electronic signatures are acceptable. In non-commercial violations, a non-English speaking petitioner or petitioner who has a disability which may impede his ability to file a petition may enlist a family member or other representative to file a petition on his behalf. The deciding Customs officer may, in his or her discretion, require proof of representation before consideration of any petition.

(c) *Form.* The petition for remission or mitigation need not be in any particular form. Customs can require that the petition and any documents submitted in support of the petition be in English or be accompanied by an English translation. The petition must set forth the following:

(1) A description of the property involved (if a seizure);

(2) The date and place of the violation or seizure;

(3) The facts and circumstances relied upon by the petitioner to justify remission or mitigation; and

(4) If a seizure case, proof of a petitionable interest in the seized property.

(d) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

**§ 171.2 Filing a petition.**

(a) *Where filed.* A petition for relief must be filed with the Fines, Penalties, and Forfeitures office whose address is given in the notice.

(b) *When filed*—(1) *Seizures.* Petitions for relief from seizures must be filed within 30 days from the date of mailing of the notice of seizure.

(2) *Penalties.* Petitions for relief from penalties must be filed within 60 days of the mailing of the notice of penalty incurred.

(c) *Extensions.* The Fines, Penalties, and Forfeitures Officer is empowered to grant extensions of time to file petitions when the circumstances so warrant.

(d) *Number of copies.* The petition must be filed in duplicate unless filed electronically.

(e) *Exception for certain cases.* If a penalty is assessed or a seizure is made and less than 180 days remain before the

statute of limitations may be asserted as a defense, the Fines, Penalties, and Forfeitures Officer may specify in the seizure or penalty notice a reasonable period of time, but not less than 7 working days, for the filing of a petition for relief. If a petition is not filed within the time specified, the matter will be transmitted promptly to the appropriate Office of the Chief Counsel for referral to the Department of Justice.

### § 171.3 Oral presentations seeking relief.

(a) *For violation of section 592 or section 593A.* If the penalty incurred is for a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), or section 593A, Tariff Act of 1930, as added (19 U.S.C. 1593a), the person named in the notice, in addition to filing a petition, may make an oral presentation seeking relief in accordance with this paragraph.

(b) *Other oral presentations.* Oral presentations other than those provided in paragraph (a) of this section may be allowed in the discretion of any official of the Customs Service or Department of the Treasury authorized to act on a petition or supplemental petition.

## Subpart B—Action on Petitions

**Source:** T.D. 00–57, 65 FR 53576, Sept. 5, 2000, unless otherwise noted.

### § 171.11 Petitions acted on by Fines, Penalties, and Forfeitures Officer.

(a) *Remission or mitigation authority.* Upon receipt of a petition for relief submitted pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), or section 5321(c) of title 31, United States Code (31 U.S.C. 5321(c)) the Fines, Penalties, and Forfeitures Officer is empowered to remit or mitigate on such terms and conditions as, under law and in view of the circumstances, he or she deems appropriate in accordance with appropriate delegations of authority.

(b) *When violation did not occur.* Notwithstanding any other delegation of authority, the Fines, Penalties, and Forfeitures Officer is always empowered to cancel any claim when he or she definitely determines that the act or omission forming the basis of any claim of penalty or forfeiture did not occur.

(c) *When violation is result of vessel in distress.* The Fines, Penalties, and Forfeitures Officer may remit without payment any penalty which arises for violation of the coastwise laws if he or she is satisfied that the violation occurred as a direct result of an arrival of the transporting vessel in distress.

**[T.D. 00–57, 65 FR 53576, Sept. 5, 2000, as amended by CBP Dec. 12–07, 77 FR 19533, Apr. 2, 2012]**

### § 171.12 Petitions acted on at CBP Headquarters.

Upon receipt of a petition for relief filed pursuant to the provisions of section 618 of the Tariff Act of 1930, as amended (19 U.S.C. 1618), or section 5321(c) of title 31, United States Code (31 U.S.C. 5321(c)), involving fines, penalties, and forfeitures which are outside of his or her delegated authority, the Fines, Penalties, and Forfeitures Officer will refer that petition to the Chief, Penalties Branch, Regulations and Rulings, Office of International Trade, CBP Headquarters, who is empowered to remit or mitigate on such terms and conditions as, under law and in view of the circumstances, he or she deems appropriate.

**[T.D. 00–57, 65 FR 53576, Sept. 5, 2000, as amended by CBP Dec. 12–07, 77 FR 19533, Apr. 2, 2012]**

### § 171.13 Limitations on consideration of petitions.

(a) *Cases referred for institution of legal proceedings.* No action will be taken on any petition after the case has been referred to the Department of Justice for institution of legal proceedings. The petition will be forwarded to the Department of Justice.

(b) *Conveyance awarded for official use.* No petition for remission of forfeiture of a seized conveyance which has been forfeited and retained for official use will be considered unless it is filed before final disposition of the property is made. This does not affect petitions for restoration of proceeds of sale filed pursuant to the provisions of section 613 of the Tariff Act of 1930, as amended (19 U.S.C. 1613).

### § 171.14 Headquarters advice.

The advice of the Director, Border Security and Trade Compliance Division, Regulations and Rulings, Office of International Trade, CBP Headquarters, or his designee may be sought in any case (except as provided in this section), without regard to delegated authority to act on a petition or offer, when a novel or complex issue concerning a ruling, policy, or procedure is presented concerning a CBP action(s) or potential CBP action(s) relating to seizures and forfeitures, penalties, or mitigating or remitting any claim. This section does not apply to actual duty loss tenders determined by CBP pursuant to §162.74(c) of this Chapter relating to prior disclosure and to actual duty loss demands made under §162.79b of this Chapter. The request for advice may be initiated by the alleged violator or any CBP officer, but must be submitted to the Fines, Penalties, and Forfeitures Officer. The Fines, Penalties, and Forfeitures Officer retains the authority to refuse to forward any request that fails to raise a qualifying issue and to seek legal advice from the appropriate Associate or Assistant Chief Counsel in any case.

## Subpart C—Disposition of Petitions

**Source:** T.D. 00–57, 65 FR 53577, Sept. 5, 2000, unless otherwise noted.

### § 171.21 Written decisions.

If a petition for relief relates to a violation of sections 592, 593A or 641, Tariff Act of 1930, as amended (19 U.S.C. 1592, 19 U.S.C. 1593a, or 19 U.S.C. 1641), the petitioner will be provided with a written statement setting forth the decision on the matter and the findings of fact and conclusions of law upon which the decision is based.

### § 171.22 Decisions effective for limited time.

A decision to mitigate a penalty or to remit a forfeiture upon condition that a stated amount is paid will be effective for not more than 60 days from the date of notice to the petitioner of such decision unless the decision itself prescribes a different effective period. If payment of the stated amount or arrangements for such payment are not made, or a supplemental petition is not filed in accordance with regulation, the full penalty or claim for forfeiture will be deemed applicable and will be enforced by promptly referring the matter, after required collection action, if appropriate, to the appropriate Office of the Chief Counsel for preparation for referral to the Department of Justice unless other action has been directed by the Commissioner of Customs.

### § 171.23 Decisions not protestable.

(a) *Mitigation decision not subject to protest.* Any decision to remit a forfeiture or mitigate a penalty is not a protestable decision as defined under the provisions of 19 U.S.C. 1514.

**PART 172—CLAIMS FOR LIQUIDATED  
DAMAGES; PENALTIES SECURED  
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172.0 Scope.

**Subpart A—Notice of Claim and Application for Relief**

172.1 Notice of liquidated damages or penalty incurred and right to petition for relief.

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172.11 Petitions acted on by Fines, Penalties, and Forfeitures Officer.

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**Subpart C—Disposition of Petitions**

172.21 Decisions effective for limited time.

172.22 Decisions not protestable.

**Subpart D—Offers in Compromise**

172.31 Form of offers.

172.32 Authority to accept offers.

172.33 Acceptance of offers in compromise.

**Subpart E—Supplemental Petitions for Relief**

172.41 Time and place of filing.

172.42 Supplemental petition decision authority.

172.43 Waiver of statute of limitations.

**Authority:** 19 U.S.C. 66, 1618, 1623, 1624.

**Source:** T.D. 00–57, 65 FR 53578, Sept. 5, 2000, unless otherwise noted.

**§ 172.0 Scope.**

This part contains provisions relating to petitions for relief from claims for liquidated damages arising under any Customs bond and penalties incurred which are secured by the conditions of the International Carrier Bond (see §113.64 of this Chapter). This part does not relate to petitions on unsecured fines or penalties or seizures and forfeitures, nor does it relate to petitions for the restoration of proceeds of sale pursuant to 19 U.S.C. 1613.

**Subpart A—Notice of Claim and  
Application for Relief**

**§ 172.1 Notice of liquidated damages or penalty  
incurred and right to petition for relief.**

(a) *Notice of liquidated damages or penalty incurred.* When there is a failure to meet the conditions of any bond posted with Customs or when a violation occurs which results in assessment of a penalty which is secured by a Customs bond, the principal will be notified in writing of any liability for liquidated damages or penalty incurred and a demand will be made for payment. The sureties on such bond will also be notified in writing of any such liability at the same time.

(b) *Notice of right to petition for relief.* The notice will inform the principal that application may be made for relief from payment of liquidated damages or penalty.

**§ 172.2 Petition for relief.**

(a) *To whom addressed.* Petitions for the cancellation of any claim for liquidated damages or remission or mitigation of a fine or penalty secured by a Customs bond incurred under any law or regulation administered by Customs must be addressed to the Fines, Penalties, and Forfeitures Officer designated in the notice of claim.

(b) *Signature.* The petition for remission or mitigation must be signed by the petitioner, his attorney-at-law or a Customs broker. If the petitioner is a corporation, the petition may be signed by an officer or responsible supervisory official of the corporation, or responsible employee representative of the corporation. Electronic signatures are acceptable. The deciding Customs officer may, in his or her discretion and with articulable cause, require proof of representation before consideration of any petition.

(c) *Form.* The petition for cancellation, remission or mitigation need not be in any particular form. Customs can require that the petition and any documents submitted in support of the petition be in English or be accompanied by an English translation. The petition must set forth the following:

(1) The date and place of the violation; and

(2) The facts and circumstances relied upon by the petitioner to justify cancellation, remission or mitigation.

(d) *False statement in petition.* A false statement contained in a petition may subject the petitioner to prosecution under the provisions of 18 U.S.C. 1001.

**§ 172.3 Filing a petition.**

(a) *Where filed.* A petition for relief must be filed by the bond principal with the Fines, Penalties, and Forfeitures office whose address is given in the notice.

(b) *When filed.* Petitions for relief must be filed within 60 days from the date of mailing to the bond principal the notice of claim for liquidated damages or penalty secured by a bond.

(c) *Extensions.* The Fines, Penalties, and Forfeitures Officer is empowered to grant extensions of time to file petitions when the circumstances so warrant.

(d) *Number of copies.* The petition must be filed in duplicate unless filed electronically.

(e) *Exception for certain cases.* If a penalty or claim for liquidated damages is assessed and fewer than 180 days remain from the date of penalty or liquidated damages notice before the statute of limitations may be asserted as a defense, the Fines, Penalties, and Forfeitures Officer may specify in the notice a reasonable period of time, but not less than 7 working days, for the filing of a petition for relief. If a petition is not filed within the time specified, the matter will be transmitted promptly to the appropriate Office of the Chief Counsel for referral to the Department of Justice.

**§ 172.4 Demand on surety.**

If the principal fails to file a petition for relief or fails to comply in the prescribed time with a decision to mitigate a penalty or cancel a claim for liquidated damages issued with regard to a petition for relief, Customs will make a demand for payment on surety. The surety will then have 60 days from the date of the demand to file a petition for relief.

**Subpart B—Action on Petitions**

**§ 172.11 Petitions acted on by Fines, Penalties,  
and Forfeitures Officer.**

(a) *Mitigation or cancellation authority.* Upon receipt of a petition for relief submitted pursuant to the provisions of section 618 or 623 of the Tariff Act of 1930, as amended (19

U.S.C. 1618 or 19 U.S.C. 1623) the Fines, Penalties, and Forfeitures Officer, notwithstanding any other law or regulation, is empowered to mitigate any penalty or cancel any claim for liquidated damages on such terms and conditions as, under law and in view of the circumstances, he or she will deem appropriate in accordance with appropriate delegations of authority.

(b) *When violation did not occur.* Notwithstanding any other delegation of authority, the Fines, Penalties, and Forfeitures Officer is always empowered to cancel any case without payment of a mitigated or cancellation amount when he or she definitely determines that the act or omission forming the basis of any claim of penalty or claim for liquidated damages did not occur.

[T.D. 00–57, 65 FR 53576, Sept. 5, 2000, as amended by CBP Dec. 12–07, 77 FR 19533, Apr. 2, 2012]

### § 172.12 Petitions acted on at Customs Headquarters.

Upon receipt of a petition for relief filed pursuant to the provisions of section 618 or 623 of the Tariff Act of 1930, as amended (19 U.S.C. 1618 or 19 U.S.C. 1623) involving fines, penalties, and claims for liquidated damages which are outside of his or her delegated authority the Fines, Penalties, and Forfeitures Officer will refer that petition to the Chief, Penalties Branch, Office of International Trade, Regulations and Rulings, CBP Headquarters, who is empowered, notwithstanding any other law or regulation, to mitigate penalties or cancel bond claims on such terms and conditions as, under law and in view of the circumstances, he or she deems appropriate.

[T.D. 00–57, 65 FR 53576, Sept. 5, 2000, as amended by CBP Dec. 12–07, 77 FR 19533, Apr. 2, 2012]

### § 172.13 Limitations on consideration of petitions.

(a) *Cases referred for institution of legal proceedings.* No action will be taken on any petition if the civil liability has been referred to the Department of Justice for institution of legal proceedings. The petition will be forwarded to the Department of Justice.

(b) *Delinquent sureties.* No action will be taken on any petition from a principal or surety if received after the issuance to surety of a notice to show cause pursuant to the provisions of §113.38(c)(3) of this chapter.

### § 172.14 Headquarters advice.

The advice of the Director, Border Security and Trade Compliance Division, Regulations and Rulings, Office of International Trade, CBP Headquarters, may be sought in any case (except as provided in this section), without regard to delegated authority to act on a petition or offer, when a novel or complex issue concerning a ruling, policy, or procedure is presented concerning a CBP action(s) or potential CBP action(s) relating to penalties secured by bonds (including penalty-based determinations of duty except as provided in this section), claims for liquidated damages or mitigating any claim. This section does not apply to actual duty loss tenders determined by CBP pursuant to §162.74(c) of this chapter relating to prior disclosure. The request for advice may be initiated by the bond principal, surety or any CBP officer, but must be submitted to the Fines, Penalties, and Forfeitures Officer. The Fines, Penalties, and Forfeitures Officer retains the authority to refuse to forward any request that fails to raise a qualifying issue and to seek legal advice from the appropriate Associate or Assistant Chief Counsel in any case.

## Subpart C—Disposition of Petitions

### § 172.21 Decisions effective for limited time.

A decision to mitigate a penalty or to cancel a claim for liquidated damages upon condition that a stated amount is paid will be effective for not more than 60 days from the date of notice to the petitioner of such decision unless the decision itself prescribes a different effective period. If payment of the stated amount is not made or a petition or a supplemental petition is not filed in accordance with regulation, the full penalty or claim for liquidated damages will be deemed applicable and will be enforced by promptly transmitting the matter, after required collection action, if appropriate, to the appropriate office of the Chief Counsel for preparation for referral to the Department of Justice unless other action has been directed by the Commissioner of Customs. Any such case may also be the basis for a sanction action commenced in accordance with regulations in this chapter.

### § 172.22 Decisions not protestable.

(a) *Mitigation decision not subject to protest.* Any decision to remit or mitigate a penalty or cancel a claim for liquidated damages upon payment of a lesser amount is not a protestable decision as defined under the provisions of 19 U.S.C. 1514. Any payment made in compliance with any decision to remit or mitigate a penalty or cancel a claim for liquidated damages upon payment of a lesser amount is not a charge or exaction and therefore is not a protestable action as defined under the provisions of 19 U.S.C. 1514.

(b) *Payment of mitigated or cancellation amount as accord and satisfaction.* Payment of a mitigated or cancellation amount in compliance with an administrative decision on a petition or supplemental petition for relief will be considered an election of administrative proceedings and full disposition of the case. Payment of a mitigated or cancellation amount will act as an accord and satisfaction of the Government claim. Payment of a mitigated or cancellation amount will never serve as a bar to filing a supplemental petition for relief.

## Subpart D—Offers in Compromise

### § 172.31 Form of offers.

Offers in compromise submitted pursuant to the provisions of section 617 of the Tariff Act of 1930, as amended (19 U.S.C. 1617), must expressly state that they are being submitted in accordance with the provisions of that section. The amount of the offer must be deposited with Customs in accordance with the provisions of §161.5 of this chapter.

### § 172.32 Authority to accept offers.

The authority to accept offers in compromise, subject to the recommendation of the General Counsel of the Treasury or his delegee, resides with the official having authority to decide a petition for relief, except that authority to accept offers in compromise submitted with regard to penalties secured by a bond or claims for liquidated damages which are the subject of a letter to show cause issued to a surety in anticipation of possible action involving nonacceptance of bonds authorized under the provisions of part 113 of this chapter will reside with the designated Headquarters official who issued the show cause letter.

### § 172.33 Acceptance of offers in compromise.

An offer in compromise will be considered accepted only when the offeror is so notified in writing. As a condition to accepting an offer in compromise, the offeror may be re-



**PART 173—ADMINISTRATIVE REVIEW IN  
GENERAL**

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- 173.4 Correction of clerical error, mistake of fact, or inadvertence.
- 173.4a Correction of clerical error prior to liquidation.
- 173.5 Review of entry covering household or personal effects.

**Authority:** 19 U.S.C. 66, 1501, 1520, 1624.

**Source:** T.D. 70–181, 35 FR 13429, Aug. 22, 1970, unless otherwise noted.

**§ 173.0 Scope.**

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520(c)(1), Tariff Act of 1930, as amended, for entries made before December 18, 2004 and the authority to review an entry of household or personal effects.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011]

**§ 173.1 Authority to review for error.**

Center directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 79–221, 44 FR 46830, Aug. 9, 1979; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 173.2 Transactions which may be reviewed and corrected.**

The Center director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisalment where appropriate, at the time of:

- (a) Liquidation of an entry;
- (b) Voluntary reliquidation completed within 90 days after liquidation;
- (c) Voluntary correction of an exaction within 90 days after the exaction was made;
- (d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or
- (e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

[CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 173.3 Voluntary reliquidation.**

(a) *Authority to reliquidate.* Within 90 days from the date notice of deemed liquidation or notice of the original liquidation is given to the importer, consignee, or agent, the Center director may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisalment, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the Center director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation will be given in accordance with the requirements for giving notice of the original liquidation.

[CBP Dec. 07–62, 72 FR 40737, July 25, 2007; CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.**

(a) *Authority to review and correct entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004.* Even though a valid protest was not filed, the Center director, upon timely application and for entries of merchandise made, or withdrawn from warehouse for consumption, before December 18, 2004, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended, a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section, by reliquidation or other appropriate action.

(1) *Transactions that may be corrected.* Correction may be made to any entry, liquidation, or other customs transaction made before December 18, 2004, if the clerical error, mistake of fact, or other inadvertence:

- (i) Does not amount to an error in the construction of a law;
- (ii) Is adverse to the importer; and
- (iii) Is manifest from the record or established by documentary evidence.

(2) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (a)(1) of this section must be brought to the attention of Center director or other appropriate CBP officer within 1 year after the date of liquidation or exaction. The party requesting reliquidation under this section must state, to the best of his or her knowledge, whether the entry for which correction is requested is the subject of a drawback claim, or whether the entry has been referenced on a certificate of delivery or certificate of manufacture and delivery so as to enable a party to make such entry the subject of drawback ( see §§181.50(b) and 191.81(b) of this chapter).

(b) *Entries of merchandise made, or withdrawn from warehouse for consumption, on or after December 18, 2004.* For merchandise entered, or withdrawn from warehouse for consumption, on or after December 18, 2004, CBP does not have the authority, in situations where a valid protest has not been filed, to reliquidate an entry to correct a clerical error, mistake of fact, or other inadvertence. For merchandise entered or withdrawn from warehouse for consumption on or after December 18, 2004, and except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the Tariff Act of 1930, as amended, a CBP decision involving any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation, may be corrected by protest only. See 19 CFR 174.11.

(c) *“Liquidation” includes reliquidation.* “Liquidation,” as used in this section, includes reliquidation of an entry.

[CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 173.4a Correction of clerical error prior to liquidation.**

Pursuant to section 520(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1520(a)(4)), whenever an importer of record declares or it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid, the Center director may, prior to liquidation of an entry or reconciliation, take appropriate action to refund the deposit or payment of excess duties, fees, charges, or exactions.

[T.D. 85–123, 50 FR 29957, July 23, 1985; CBP Dec. 16–25, 81 FR 89375, Dec. 12, 2016; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 173.5 Review of entry covering household or personal effects.**

An error in the liquidation of an entry covering household or personal effects may be corrected by the port director even though a timely protest was not filed if entry was made before December 18, 2004 and an application for refund is filed with the port director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the port director has authority to grant. Where the port director has no authority to grant the waiver, the application will be referred to the Commissioner of CBP.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011]

## PART 174—PROTESTS

Sec.

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**Authority:** 19 U.S.C. 66, 1514, 1515, 1624.

Section 174.21 also issued under 19 U.S.C. 1499.

**Source:** T.D. 70–181, 35 FR 13429, Aug. 22, 1970, unless otherwise noted.

### § 174.0 Scope.

This part deals with the administrative review of decisions of the port director and Center director, including the requirements for the filing of protests against such decisions, amendment of protests, review and accelerated disposition, and provisions dealing with further administrative review. Provisions applicable to Canadian and Mexican exporters and producers regarding administrative review and appeal of adverse marking decisions under the North American Free Trade Agreement are contained in part 181 of this chapter.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 94–1, 58 FR 69472, Dec. 30, 1993; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

### Subpart A—General Provisions

#### § 174.1 Definitions.

When used in this part, the following term shall have the meaning indicated:

**Further review.** “Further review” means review of the decision which is the subject of the protest by Customs officers on a level higher than the district, and in Region II by Customs officers who did not participate directly in the decision which is the subject of the protest.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 95–77, 60 FR 50020, Sept. 27, 1995]

#### § 174.2 Applicability of provisions.

(a) *In general.* The provisions of this part shall be applicable to protests against decisions involving:

(1) Articles excluded from entry or entered or withdrawn from warehouse for consumption on or after October 1, 1970;

(2) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which appraisement has not become final by October 1, 1970;

(3) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which the appraisement has become final but with respect to which the entry has not been liquidated prior to October 1, 1970;

(4) Articles entered or withdrawn from warehouse for consumption with respect to which the entry has been liquidated prior to October 1, 1970, if

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970; or

(5) Articles excluded from entry before October 1, 1970, with respect to which

(i) The time for filing a protest has not expired and a protest has not been filed prior to October 1, 1970; or

(ii) A protest has been filed and has not been disallowed in whole or in part before October 1, 1970.

(b) *Limitation—(1) Appraisement not final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, is not final by October 1, 1970, because an appeal for reappraisal was timely filed prior to such date, the provisions of this part relating to protests shall be applicable to a protest filed after the court's decision on the appeal to reappraisal has become final. Such protest shall not include issues which were raised or could have been raised on the appeal for reappraisal.

(2) *Appraisement final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, has become final prior to October 1, 1970, but the entry has not been liquidated by such date, a protest filed in accordance with the provisions of this part after such liquidation shall not include issues which were raised or could have been raised on an appeal to reappraisal before the appraisement became final.

(3) *Protest not disallowed.* When a protest filed prior to October 1, 1970, has not been disallowed in whole or in part before such date, the provisions of this part shall be applicable to such protests. The time within which any action must be taken under the provisions of this part with respect to such a protest shall commence on the date the protest was in fact filed.

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 71–60, 36 FR 3116, Feb. 18, 1971]

#### § 174.3 Power of attorney to file protest.

(a) *When required.* When a protest is filed by a person acting as agent or attorney in fact for the principal, other than an attorney at law or a customs broker or his authorized employee acting in his behalf, there shall have been filed or shall be filed with the protest a power of attorney which either specifically authorizes such agent to make, sign, and file the protest or grants unlimited authority to such agent. No power of attorney to file a protest shall be required in the following cases:

(1) *Attorney at law.* When the protest is filed by an attorney at law as agent or attorney for the principal, the signing of the protest as agent or attorney for the principal by the attorney at law shall be considered a declaration by him that he is

currently a member in good standing of the highest court of a State, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the protest for the principal.

(2) *Customhouse broker or his employee.* When a protest is filed by a customhouse broker, or an authorized employee acting in his behalf, as agent or attorney in fact for the principal, the signing of the protest by the customhouse broker or an authorized employee in his behalf shall be considered a declaration by the broker that he or the employee signing in his behalf, is authorized to sign and file the protest for the principal. The customhouse broker shall have, however, a general power of attorney to transact Customs business for the principal on Customs Form 5291.

(b) *Execution of power of attorney—(1) Corporation.* A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation. If the Center director is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of §141.37 of this chapter may be waived with respect to such power.

(2) *Partnership.* A partnership power of attorney to file protests may be signed by one member in the name of the partnership, provided the power recites the name of all the members.

(c) *Duration.* Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the Center director. All other powers of attorney may be granted for an unlimited period.

(d) *Revocation.* Any power of attorney shall be subject to revocation at any time by written notice given to and received by CBP, either at the port of entry or electronically.

(Secs. 514, 515, 46 Stat. 734, as amended; 19 U.S.C. 1514, 1515)

[T.D. 70–181, 35 FR 13429, Aug. 22, 1970, as amended by T.D. 70–224, 35 FR 16243, Oct. 16, 1970; T.D. 73–175, 38 FR 17487, July 2, 1973; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

## Subpart B—Protests

### § 174.11 Matters subject to protest.

The following decisions of CBP, including the legality of all orders and findings entering into those decisions, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) *Clerical errors, mistakes of fact, and other inadvertences.* Except as provided for in sections 501 (relating to voluntary reliquidations), 516 (relating to petitions by domestic interested parties), and 520 (related to refunds) of the Tariff Act of 1930, as amended, any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic submission, that is adverse to the importer in any entry, liquidation or reliquidation is subject to protest. In addition, any entry, liquidation, or other CBP transaction that occurred prior to December 18, 2004, also may be the subject of a reliquidation request made pursuant to the terms set forth in §173.4 (19 CFR 173.4).

(b) *Administrative decisions.* CBP administrative decisions involving the following subject matters are subject to protest:

- (1) The appraised value of merchandise;
- (2) The classification and rate and amount of duties chargeable;
- (3) All charges or exactions of whatever character, including the accrual of interest, within the jurisdiction of the Secretary of Homeland Security or the Secretary of the Treasury;

(4) The exclusion of merchandise from entry, delivery, or a demand for redelivery to CBP custody under any provision of the customs laws except a determination that may be appealed under 19 U.S.C. 1337;

(5) The liquidation or reliquidation of an entry, or any modification of an entry;

(6) The refusal to pay a claim for drawback;

(7) The refusal to reliquidate an entry made before December 18, 2004, under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)); or

(8) The refusal to reliquidate an entry under section 520(d), Tariff Act of 1930, as amended (19 U.S.C. 1520(d)).

[CBP Dec. 11–02, 76 FR 2573, Jan. 14, 2011]

### § 174.12 Filing of protests.

(a) *By whom filed.* Protests may be filed by:

(1) The importer or consignee shown on the entry papers, or their sureties;

(2) Any person paying or receiving a refund of any charge or exaction;

(3) Any person seeking entry or delivery;

(4) Any person filing a claim for drawback;

(5) With respect to a determination of origin under subpart G of part 181 of this chapter, any exporter or producer of the merchandise subject to that determination, if the exporter or producer completed and signed a Certificate of Origin covering the merchandise as provided for in §181.11(a) of this chapter; or

(6) Any authorized agent of any of the persons described in paragraphs (a) (1) through (5) of this section, subject to the provisions of §174.3.

(b) *Form and number of copies.* A written protest against a decision of CBP must be filed in quadruplicate on CBP Form 19 or a form of the same size clearly labeled "Protest" and setting forth the same content in its entirety, in the same order, addressed to CBP. All schedules or other attachments to a protest (other than samples or similar exhibits) must also be filed in quadruplicate. A protest against a decision of CBP may also be transmitted electronically pursuant to any electronic data interchange system authorized by CBP for that purpose. Electronic submissions are not required to be filed in quadruplicate.

(c) *Identity of filer.* The identity of the person filing the protest or his agent, or attorney shall be noted on the protest. This may be accomplished through a signature which is handwritten in ink, stamped, typed, facsimile, telefax, or by electronic certification in CBP Automated Commercial Environment (ACE) or any other CBP-authorized electronic data interchange system. If the person filing the protest is not the importer of record or consignee, the filer shall include his address and importer number, if any.

(d) *Place of filing.* Protests shall be filed with CBP, either at the port of entry or electronically.

(e) *Time of filing.* Protests must be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days of a decision relating to an entry made before December 18, 2004, or within 180 days of a decision relating to an entry made on or after December 18, 2004, after any of the following:

(1) The date of notice of liquidation or reliquidation, or the date of liquidation or reliquidation, as determined under §§159.9 or 159.10 of this chapter;

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (for example: The date of an exaction; the date of written notice excluding merchandise from entry, delivery or demanding

## PART 175—PETITIONS BY DOMESTIC INTERESTED PARTIES

Sec.

175.0 Scope.

### Subpart A—Request for Classification, Appraised Value and Rate of Duty

175.1 Submission of request.

175.2 Contents of request.

175.3 Domestic interested party.

### Subpart B—Petitions

175.11 Filing of petitions.

175.12 Contents of petition.

### Subpart C—Procedure Following Petition

175.21 Notice of filing of petition, inspection of petition,  
and inspection of documents and papers.

175.22 Publication of decisions following petition.

175.23 Notice of desire to contest decision.

175.24 Publication following notice of desire to contest.

175.25 Procedure at port of entry designated by  
petitioner.

### Subpart D—Procedure Following Court Decision

175.31 Publication of notice of court decision.

**Authority:** R.S. 251, as amended, secs. 516, 624, 46 Stat. 735,  
as amended, 759; 19 U.S.C. 66, 1516, 1624, unless otherwise  
noted.

Section 175.21 also issued under 5 U.S.C. 552.

**Source:** T.D. 70-181, 35 FR 13432, Aug. 22, 1970, unless other-  
wise noted.

### § 175.0 Scope.

This part sets forth the procedures applicable to requests by domestic interested parties for the classification and rate of duty applicable to designated imported merchandise, and to petitions alleging that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed upon designated imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced, or wholesaled by the petitioner.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by  
T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

### Subpart A—Request for Classification, Appraised Value and Rate of Duty

#### § 175.1 Submission of request.

Written requests pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), for information as to the classification, appraised value and rate of duty imposed upon designated imported merchandise shall be submitted in triplicate to the Commissioner of Customs.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by  
T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

#### § 175.2 Contents of request.

The request for information shall contain the following information:

(a) The name of the person making the request, his principal place of business, and the fact that he is a domestic interested party;

(b) A designation of the imported merchandise for which the classification, appraised value and rate is requested; and

(c) A showing of the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by  
T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

#### § 175.3 Domestic interested party.

"Domestic interested party", when used in this part, means:

(a) A manufacturer, producer, or wholesaler in the United States of a like product.

(b) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product, or

(c) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

[T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

### Subpart B—Petitions

#### § 175.11 Filing of petitions.

(a) *Number of copies and where filed.* All petitions pursuant to section 516 Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be submitted to the Commissioner of Customs in triplicate.

(b) *By whom filed.* Petitions may be filed by the domestic interested parties themselves, or by duly authorized attorneys or agents on their behalf. A petition filed by a corporation shall be signed by an officer thereof, and petition filed by a partnership shall be signed by a member thereof.

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by  
T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

#### § 175.12 Contents of petition.

The petition shall be itemized as to each class or kind of merchandise involved, and shall contain the following:

(a) The name of the petitioner, his principal place of business, and the fact that he is a domestic interested party;

(b) A statement showing the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner of Customs to establish the similarity between the domestic and foreign merchandise; and

(c) A presentation, in detail, of the information required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

[T.D. 70-181, 35 FR 13432, Aug. 22, 1970, as amended by  
T.D. 80-271, 45 FR 75642, Nov. 17, 1980]

### Subpart C—Procedure Following Petition

#### § 175.21 Notice of filing of petition, inspection of petition, and inspection of documents and pa- pers.

(a) *Notice of filing of petition.* Upon the filing of a petition, a notice shall be published in the Federal Register setting forth that a petition has been filed by a domestic interested party, identifying the merchandise which is the subject of the petition, and its present and claimed appraised value or classification or rate of duty. The notice shall invite interested

persons to make such written submissions as they desire within such time as is specified in the notice.

(b) *Inspection of petition; inspection of documents and papers.* The petition filed by a domestic interested party will be made available for inspection by interested parties in accordance with the provisions of 5 U.S.C. 552(a). However, neither a petitioner nor other interested parties will in any case be permitted to inspect documents or papers of the importer of record which are exempted from disclosure by 5 U.S.C. 552(b)(4). Identifying data is not to be deleted from petitions filed by American manufacturers, producers, and wholesalers pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

**(R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 5 U.S.C. 552, 19 U.S.C. 66, 1516, 1624)**

**[T.D. 74–236, 39 FR 33207, Sept. 16, 1974, as amended by T.D. 80–271, 45 FR 75642, Nov. 17, 1980; T.D. 81–168, 46 FR 32574, June 24, 1981; CBP Dec. 15–16, 80 FR 71690, Nov. 17, 2015]**

### § 175.22 Publication of decisions following petition.

(a) *Incorrect appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon imported merchandise of the character which is the subject of a petition is found to be incorrect, the Commissioner of Customs shall so inform the petitioner, and shall cause the proper value, classification, or rate of duty to be published in the Federal Register and the weekly Customs Bulletin. Such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date of publication of such notice to the petitioner in the Customs Bulletin shall be appraised, classified, or assessed as to rate of duty in accordance with the published decision.

(b) *Correct appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon the imported merchandise which is the subject of the petition is found to be correct, the Commissioner of Customs shall so notify the petitioner, but the decision shall not be published.

### § 175.23 Notice of desire to contest decision.

If the petitioner is dissatisfied with the decision of the Commissioner that the appraised value, classification, or rate of duty is correct for the merchandise which was the subject of the petition, in accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) he may file with the Commissioner of Customs not later than 30 days after the date of the decision a notice that he desires to contest the appraised value of, classification of, or rate of duty assessed upon the imported merchandise. Such notice shall designate the port or ports at which such merchandise is being imported into the United States, and at which the petitioner desires to protest.

### § 175.24 Publication following notice of desire to contest.

Upon receipt of a properly filed petitioner's notice that he desires to contest the decision as to the appraised value of, classification of, or rate of duty assessed upon the imported merchandise, the Commissioner of Customs shall cause to be published in the Federal Register and the weekly Customs Bulletin a notice of his decision as to the proper appraised value of, classification of, or rate of duty assessed upon the imported merchandise, and of petitioner's desire to contest the decision.

### § 175.25 Procedure at port of entry designated by petitioner.

(a) *Information as to character and description of merchandise.* All information secured by the director of the port designated by the petitioner in his notice of desire to contest as to the character and description of merchandise of the kind covered by the petition and entered after publication by the Commissioner of Customs of his decision as to the proper appraised value, classification and rate of duty, and samples of such merchandise, shall be made available to the petitioner upon application by him to the port director.

(b) *Notice of liquidation.* Notice of liquidation of the first of the entries to be liquidated which would enable the petitioner to present the issue desired shall be given to the petitioner by the director of the designated port as required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

(c) *Further notice when issue not presented.* If, upon examination of the information and inspection of any sample supplied by the port director, the petitioner believes and the port director agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the petition, the port director shall then give the petitioner notice of the first liquidation thereafter which will permit the framing of the issue covered by the petition. The port director shall, under the same conditions, continue to give notice for so long as he is of the opinion that the petitioner affirmatively intends to contest. When the port director concludes that the petitioner does not intend to contest the decision of the Commissioner of Customs, he shall refer the matter to the Commissioner of Customs for his decision before issuing any further notice of liquidation.

**[T.D. 70–181, 35 FR 13432, Aug. 22, 1970, as amended by T.D. 99–27, 64 FR 13677, Mar. 22, 1999]**

## Subpart D—Procedure Following Court Decision

### § 175.31 Publication of notice of court decision.

Notice of a decision of the Court of International Trade or of the Court of Appeals for the Federal Circuit which sustains, in whole or in part, a cause of action before the court under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be published by the Commissioner of Customs in the Federal Register within 10 days from the date of issuance of the court decision.

**[T.D. 80–271, 45 FR 75642, Nov. 17, 1980, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985]**

**PART 176—PROCEEDINGS IN THE COURT  
OF INTERNATIONAL TRADE**

Sec.

176.0 Scope.

**Subpart A—Service**

176.1 Service of summons.

176.2 Service of notice of appeal.

**Subpart B—Transmission of Records**

176.11 Transmission of records to Court of International Trade.

**Subpart C—Statement of Agreed Facts**

176.21 Referral of statement of agreed facts for certification.

176.22 Deletion of protest or entry number.

**Subpart D—Procedure Following Court Decision**

176.31 Reliquidation following decision of court.

**Authority:** R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624, unless otherwise noted.

**§ 176.0 Scope.**

This part deals with service of summons and notice of appeal in actions before the Court of International Trade, the transmission of records to the court, statements of agreed facts, and Customs procedures following a decision by the court.

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985]

**Subpart A—Service**

**§ 176.1 Service of summons.**

When an action is initiated in the Court of International Trade a copy of the summons will be served in the manner prescribed by the Court of International Trade upon the CBP official(s) who denied the protest(s), and an additional copy will be served upon the Assistant Chief Counsel for Court of International Trade Litigation, United States Customs and Border Protection, 26 Federal Plaza, New York, N.Y. 10007.

(28 U.S.C. 2632, as amended)

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985; CBP Dec. 16–26, 81 FR 92978, Dec. 20, 2016]

**§ 176.2 Service of notice of appeal.**

When the United States is an appellee in an appeal taken to the Court of Appeals for the Federal Circuit, a copy of the notice of appeal shall be served upon the Assistant Chief Counsel for Court of International Trade Litigation.

(28 U.S.C. 2601, as amended)

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985]

**Subpart B—Transmission of Records**

**§ 176.11 Transmission of records to Court of International Trade.**

Upon receipt of service of a summons in an action initiated in the Court of International Trade the following items shall be immediately transmitted to the Court of International Trade as part of the official record by the Customs officer concerned:

- (a) Consumption or other entry;
- (b) Commercial invoice;
- (c) Special Customs invoice;
- (d) Copy of protest and any amendments thereto;
- (e) Copy of denial or protest in whole or in part;
- (f) Importer's exhibits;
- (g) Official samples;
- (h) Any official laboratory reports;
- (i) The summary sheet;
- (j) In any case in which one or more of the items listed in paragraphs (a) through (i) of this section do not exist, the Customs officer shall include a statement to that effect, identifying the items which do not exist.

(28 U.S.C. 2632, as amended)

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985]

**Subpart C—Statement of Agreed Facts**

**§ 176.21 Referral of statement of agreed facts for certification.**

Statements of agreed facts (also referred to as stipulations) to be used by the Department of Justice in submitting cases to the Court of International Trade may be referred for certification to Customs officials by the office of the Assistant Attorney General, International Trade Field Office, Civil Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10278.

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85–90, 50 FR 21430, May 24, 1985; T.D. 88–47, 53 FR 30984, Aug. 17, 1988]

**§ 176.22 Deletion of protest or entry number.**

If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a statement of agreed facts, a line shall be drawn through the number and the change shall be initialed by the authorized official making and approving the deletion.

[T.D. 70–181, 35 FR 13433, Aug. 22, 1970]

**Subpart D—Procedure Following Court Decision**

**§ 176.31 Reliquidation following decision of court.**

(a) *Decision of U.S. Court of International Trade.* Except as provided in paragraph (c) of this section, an entry which is the subject of a decision of the U.S. Court of International Trade shall be reliquidated in accordance with the judgment order thereon at the expiration of 60 days from the date of the decision, unless an appeal or motion for a rehearing is filed. However, entries which are the subject of decisions of the court following a decision of the Court of Appeals for the Federal Circuit which involve the same issue, or which are based on submission of an agreed statement of fact, may be reliquidated immediately upon receipt of the judgment orders from the U.S. Court of International Trade.

(b) *Decision of the Court of Appeals for the Federal Circuit.* Except as provided in paragraph (c) of this section, an entry covering merchandise which is the subject of a decision of the Court of Appeals for the Federal Circuit shall be reliquidated at the expiration of 90 days from the date of entry of decision by that court and only upon receipt of the judgment order from the U.S. Court of International Trade. However, no such entry shall be reliquidated pursuant to such order if a petition for certiorari is taken to the Supreme Court.

(c) *Waiver of right of appeal.* Upon receipt of a letter from the Assistant Attorney General, Civil Division, Department of Justice, signed by the Chief, Customs Section, advising that no appeal will be taken from a decision of the U.S. Court of International Trade or that it has been determined that no petition for certiorari shall be filed in the Supreme Court to review a decision of the Court of Appeals for the Federal Circuit, any entry or entries covered by such decision may be reliquidated pursuant to the judgment of the U.S. Court of International Trade prior to the expiration of the times specified in paragraphs (a) and (b) of this section.

**(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)**

**[T.D. 70-181, 35 FR 13433, Aug. 22, 1970, as amended by T.D. 85-90, 50 FR 21430, May 24, 1985]**



**PART 177—ADMINISTRATIVE RULINGS**

Sec.

- 177.0 Scope.
  - Subpart A—General Ruling Procedure**
  - 177.1 General ruling practice and definitions.
  - 177.2 Submission of ruling requests.
  - 177.3 Nonconforming requests for rulings.
  - 177.4 Oral discussion of issues.
  - 177.5 Change in status of transaction.
  - 177.6 Withdrawal of ruling requests.
  - 177.7 Situations in which no ruling will be issued.
  - 177.8 Issuance of rulings.
  - 177.9 Effect of ruling letters.
  - 177.10 Publication of decisions.
  - 177.11 Requests for advice by field offices.
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**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1502, 1624, 1625;

**§ 177.0 Scope.**

This part relates to the issuance of rulings to importers and other interested persons by the CBP, other than advance rulings under Article 509 of the North American Free Trade Agreement (see subpart I of part 181 of this chapter). It describes the situations in which a ruling may be requested, the procedures to be followed in requesting a ruling, the conditions under which a ruling will be issued, the effect of a ruling when it is issued, and the publication of rulings in the Customs Bulletin. The rulings issued under the provisions of this part will usually be prospective in application and, consequently, will usually not relate to specific matters or situations presently or previously under consideration by any CBP field office. Accordingly, the rulings requested under the provisions of this part should be distinguished from the administrative rulings, determinations, or decisions which may be requested under procedures set forth elsewhere in this chapter, including, but not limited to, those set forth in part 12 (relating to submissions of proof of admissibility of articles detained under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)), part 103 (relating to disclosure of information in Customs files), part 133 (relating to disputed claims of piratical copying of copyrighted matter), subpart C of part 152 (relating to determinations concerning the dutiable value of merchandise by Customs field officers), part 153 (relating to

enforcement of the Antidumping Act, 1921, as amended), part 159 (insofar as it relates to countervailing duties), part 171 (relating to fines, penalties, and forfeitures), part 172 (relating to liquidated damages), part 174 (relating to protests), and part 175 (relating to petitions filed by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended). Nor do the provisions of part 177 apply to requests for decisions of an operational, administrative, or investigative nature which are properly within the cognizance of a CBP Headquarters Office other than Regulations and Rulings, Office of International Trade.

[T.D. 80–285, 45 FR 80103, Dec. 3, 1980, as amended by T.D. 84–149, 49 FR 28699, July 16, 1984; T.D. 89–74, 54 FR 31515, July 31, 1989; T.D. 94–1, 58 FR 69473, Dec. 30, 1993; CBP Dec. 07–82, 72 FR 59172, Oct. 19, 2007]

**Subpart A—General Ruling Procedure**

**§ 177.1 General ruling practice and definitions.**

(a) *The issuance of rulings generally*—(1) *Prospective transactions.* It is in the interest of the sound administration of the Customs and related laws that persons engaging in any transaction affected by those laws fully understand the consequences of that transaction prior to its consummation. For this reason, the Customs Service will give full and careful consideration to written requests from importers and other interested parties for rulings or information setting forth, with respect to a specifically described transaction, a definitive interpretation of applicable law, or other appropriate information. Generally, a ruling may be requested under the provisions of this part only with respect to prospective transactions—that is, transactions which are not already pending before a Customs Service office by reason of arrival, entry, or otherwise.

(2) *Current or completed transactions*—(i) *Current transactions.* A question arising in connection with a Customs transaction already before a Customs Service office will normally be resolved by that office in accordance with the principles and precedents previously announced by the Headquarters Office. If such a question cannot be resolved on the basis of clearly established rules set forth in the Customs and related laws, or in the regulations thereunder, or in applicable Treasury Decisions, rulings, opinions, or court decisions published in the Customs Bulletin, that office may be requested to forward the question to the Headquarters Office for consideration, as more fully described in §177.11.

(ii) *Completed transactions.* A question arising in connection with an entry of merchandise which has been liquidated, or in connection with any other completed Customs transaction, may not be the subject of a ruling request.

(b) *Oral advice.* The Customs Service will not issue rulings in response to oral requests. Oral opinions or advice of Customs Service personnel are not binding on the Customs Service. However, oral inquiries may be made to Customs Service offices regarding existing rulings, the scope of such rulings, the types of transactions with respect to which the Customs Service will issue rulings, the scope of the rulings which may be issued, or the procedures to be followed in submitting ruling requests, as described in this part.

(c) *Who may request a ruling.* Except as otherwise provided in subpart I of part 181 of this chapter, a ruling may be requested under this part by any person who, as an importer or exporter of merchandise, or otherwise, has a direct and demonstrable interest in the question or questions presented

in the ruling request, or by the authorized agent of such person. A “person” in this context includes an individual, corporation, partnership, association, or other entity or group.

(d) *Definitions.* (1) A “ruling” is a written statement issued by the Headquarters Office or the appropriate office of Customs as provided in this part that interprets and applies the provisions of the Customs and related laws to a specific set of facts. A “ruling letter” is a ruling issued in response to a written request therefor and set forth in a letter addressed to the person making the request or his designee. A “published ruling” is a ruling which has been published in the Customs Bulletin.

(2) An “information letter” is a written statement issued by the Customs Service that does no more than call attention to a well-established interpretation or principle of Customs law, without applying it to a specific set of facts. An information letter may be issued in response to a request for a ruling when: (i) The request suggests that general information, rather than a ruling, is actually being sought, (ii) the request is incomplete or otherwise fails to meet the requirements set forth in this part, or (iii) the ruling requested cannot be issued for any other reason, and (iv) it is believed that general information may be of some benefit to the party making the request.

(3) A “Customs transaction” is an act or activity to which the Customs and related laws apply. A “prospective” Customs transaction is one that is contemplated or is currently being undertaken and has not resulted in any arrival or the filing of any entry or other document, or in any other act to bring the transaction, or any part of it, under the jurisdiction of any Customs Service office. A “current” Customs transaction is one which is presently under consideration by a port office of the Customs Service. A “completed” Customs transaction is one which has been acted upon by a Customs Service field office and with respect to which that office has issued a determination which is final in nature, but is (or was) subject to appeal, petition, protest, or other review, as provided in the applicable Customs laws and regulations. In a series of identical, recurring transactions, each transaction shall be considered an individual transaction for purposes of this part.

(4) An “authorized agent” is a person expressly authorized by a principal to act on his behalf. A ruling requested by an attorney or other person acting as an agent must include a statement describing the authority under which the request is made. With the exception of attorneys whose authority to represent is known, any person appearing before the Customs Service as an agent in connection with a ruling request may be required to present evidence of his authority to represent the principal. The foregoing requirements will not apply to an individual representing his full-time employer, or to a bona-fide officer, director, or other qualified representative of a corporation, association, or organized group.

(5) The term “Customs and related laws,” as generally used in this part, includes any provision of the Tariff Act of 1930, as amended (including the Harmonized Tariff Schedule of the United States), or the Customs Regulations, or any provision contained in other legislation (including the navigation laws), regulations, treaties, orders, proclamations, or other agreements administered by the Customs Service.

(6) The term “Headquarters Office,” as used herein, means the Regulations and Rulings, Office of International Trade at Headquarters, U.S. Customs and Border Protection, Washington, DC.

[T.D. 75–186, 40 FR 31929, July 30, 1975, as amended by T.D. 80–285, 45 FR 80104, Dec. 3, 1980; T.D. 84–149, 49 FR 28699, July 16, 1984; T.D. 89–1, 53 FR 51271, Dec. 21,

1988; T.D. 89–74, 54 FR 31515, July 31, 1989; T.D. 94–1, 58 FR 69473, Dec. 30, 1993; CBP Dec. 07–82, 72 FR 59172, Oct. 19, 2007]

### § 177.2 Submission of ruling requests.

(a) *Form.* A request for a ruling should be in the form of a letter. Requests for Valuation and Carrier rulings should be addressed to the Commissioner of Customs and Border Protection, Attention: Regulations and Rulings, Office of International Trade, Washington, DC 20229. The Division and Branch in the Office of Regulations and Rulings to which the request should be directed may also be indicated, if known. Requests for tariff classification rulings should be addressed to the Director, National Commodity Specialist Division, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 201 Varick Street, Suite 501, New York, New York 10014.

(b) *Content* —(1) *Generally.* Each request for a ruling must contain a complete statement of all relevant facts relating to the transaction. Such facts include the names, addresses, and other identifying information of all interested parties (if known); the name of the port or place at which any article involved in the transaction will arrive or be entered, or which will otherwise have jurisdiction with respect to the act or activity described in the transaction; and a description of the transaction itself, appropriate in detail to the type of ruling requested.

(2) *Description of transaction* —(i) *Generally.* The Customs transaction to which the ruling request relates must be described in sufficient detail to permit the proper application of relevant customs and related laws.

(ii) *Tariff classification rulings.* (A) If the transaction involves the importation of an article for which a ruling as to its proper classification under the provisions of the Harmonized Tariff Schedule of the United States is requested, the request for a ruling should include a full and complete description of the article and whenever germane to the proper classification of the article, information as to the article's chief use in the United States, its commercial, common, or technical designation, and, where the article is composed of two or more materials, the relative quantity (by weight and by volume) and value of each. The ruling request should also note, whenever germane, the purchase price of the article, and its approximate selling price in the United States. Individual requests for rulings submitted to service port offices will be limited to five (5) merchandise items, all of which must be of the same class or kind.

(B) Rulings issued by the Director, National Commodity Specialist Division, or any service port office are limited to prospective transactions. Only the Headquarters Office will prepare final decisions under §177.11 (Requests for Advice by Field Officers), or §174.23 (Further Review of Protests), §177.10 (Change of Practice), decisions under part 175 of this chapter (petitions under section 516, Tariff Act of 1930, as amended), decisions under §177.13 (Inconsistent Customs decisions), and decisions under Policies and Procedures Manual Supplement 2126–01.

(C) The requesting party may send the request directly to the Director, Commercial and Trade Facilitation Division, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, Washington, DC 20229. The Headquarters Office retains authority to independently review all tariff classification ruling letters issued by the Director, National Commodity Specialist Division, and any service port office. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification set forth in a ruling issued by the Director, National Commod-

**PART 178— APPROVAL OF INFORMATION  
COLLECTION REQUIREMENTS**

- Sec.  
178.1 Purpose.  
178.2 Listing of OMB control numbers.

**Authority:** 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

**§ 178.1 Purpose.**

This part sets forth the control numbers assigned to information collections of the Customs Service by the Office of

Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511. This part complies with the requirements of the Paperwork Reduction Act of 1980, and implements regulations promulgated by the Office of Management and Budget, (5 CFR 1320.7(f)(2), 1320.12(d) and 1320.13(j)) which require that agencies display a current control number assigned by the Director of the Office of Management and Budget for each agency information collection.

[T.D. 85–53, 50 FR 11849, Mar. 26, 1985]

**§ 178.2 Listing of OMB control numbers.**

19 CFR Section	Description	OMB control No.
§ 4.7a	Unique bill of lading identifier for inward manifests.	1515–0142
§ 4.7a(c)(4)	Transportation manifest (cargo declaration)	1651–0001
§ 4.7b, 4.64, 122.49a, 122.49b, 122.49c, 122.75a, 122.75b	Electronic manifest requirements for carriers transporting passengers and crew on-board vessels and aircraft.	1651–0088
§ 4.7c	Vessel stow plan.	
§ 4.7d	Container status messages.	
§ 4.10, 4.16, 4.30, 4.37, 4.39, 4.91, 10.60, 24.16, 122.29, 122.38, 123.8, 146.32, 146.34	Application-Permit-Special License, Unlading-Lading, Overtime Services (Customs Form 3171)	1515–0013
§ 4.14	Vessel repair declaration and entry	1515–0082
§ 4.16	Application-Permit-Special License, Unlading-Lading, Overtime Services (Customs Form 3171)	1515–0013
§ 4.20, 4.23, and 4.24	Certification of payment of tonnage tax	1515–0113
§ 4.37	Notification regarding imported merchandise or baggage for which entry has not been made	1515–0220
§ 4.37(c)	Preparation of delivery ticket for transfer of merchandise to general order	1515–0224
§ 4.39	Application-Permit-Special License, Unlading-Lading, Overtime Services (Customs Form 3171)	1515–0013
§ 4.76	Booking information for the Sea Carrier's Module of the AES	1515–0221
§ 4.94a	Deferral of duty on large yachts imported for sale	1515–0515
§ 4.97	Application for foreign vessel to engage in salvage operation/report of salvage operation	1515–0132
§ 7.3	Claim for duty-free entry of goods imported from U.S. insular possessions.	1651–0116
§ 10.1	Declarations covering U.S. articles exported and returned without having been advanced in value or improved in condition	1515–0194
§ 10.8	Declarations covering articles exported for repairs or alterations and returned	1515–0194
§ 10.8a(b)(1)	Declaration by person abroad who received and is returning articles to the U.S. that do not conform to samples or specifications	1515–0108
§ 10.8a(b)(2)	Declaration by owner, importer, consignee or agent that articles being reimported into U.S. were previously imported, with payment of duty, and exported, without benefit of drawback	1515–0108
§ 10.9	Declarations covering metal articles exported for processing and returned for further processing	1515–0194
§§ 10.24, 162.1c	Declaration by foreign assembler and endorsement by importer that articles were assembled in whole or in part from fabricated components that were products of the U.S.	1515–0088
§ 10.25	Declaration by foreign assembler and endorsement by importer that articles were assembled in whole or in part from textile components cut to shape in the U.S.	1515–0207
§ 10.41b	Requirement to clearly and conspicuously mark serially numbered substantial holders or containers	1515–0116
§ 10.41b(e)	Requirement to keep adequate records on current status of serially numbered substantial holders or containers	1515–0101
§ 10.48	Declaration by originating artist, or seller or shipper, that work of art being imported into the U.S. is an original work of art	1515–0118
§ 10.62b	Certificate of compliance for turbine fuel withdrawals	1515–0209
§ 10.67(a)(2)	Declaration by foreign shipper describing the specific use to which articles exported from U.S. for scientific or educational purposes, and now being returned, were put while abroad	1515–0105

19 CFR Section	Description	OMB control No.
§ 10.67(a)(3)	Declaration of ultimate consignee of articles previously exported from U.S. for scientific or educational purposes, and now being returned, that such articles have not been changed in condition while abroad	1515-0104
§ 10.84	Origin certificate for automotive products from Canada	1515-0164
§ 10.91	Importers of merchandise subject to actual use provisions; proof of use for duty rates dependent on actual use.	1651-0032 and 1651-0038
§ 10.99	Importation of ethyl alcohol for nonbeverage purposes	1515-0160
§ 10.107	Report of person who sent article from foreign country, or of person in U.S. for whose account an article was received, to justify duty-free entry of articles imported under conditions of emergency	1515-0130
§ 10.137	Requirement of importer to maintain accurate, detailed records on use or other disposition of imported merchandise for "actual use" duty assessment requirements	1515-0091
§ 10.138	Certificate of importer to verify actual use of articles imported duty-free or at a reduced rate of duty under actual use provisions	1515-0109
§ 10.173	Claim for duty-free entry of eligible articles under the Generalized System of Preferences	1515-0194
§ 10.184	Refund of duties on certain wool imports	1515-0227
§ 10.198	Claim for duty-free entry of eligible articles under the Caribbean Basin Initiative	1515-0194
§ 10.199	Claim for duty-free entry of rum beverages from Canada under the Caribbean Basin Initiative	1515-0194
§ 10.207	Claim for duty-free entry of eligible articles under the Andean Trade Preference Act	1515-0219
§§ 10.214 and 10.216	Claim for preferential treatment on textile and apparel articles under the African Growth and Opportunity Act	1651-0082
§§ 10.244, 10.245, 10.246, 10.248, 10.254, 10.255, and 10.256	Claim for duty-free entry entry of eligible articles under the Andean Trade Promotion and Drug Eradication Act	1651-0091
§§ 10.307, 10.310, and 10.311	Claim for duty-free entry and election to average for automotive products under the U.S.-Canada Free Trade Agreement	1515-0164
§§ 10.410 and 10.411	Claim for preferential tariff treatment under the US-Chile Free Trade Agreement	1651-0117
§§ 10.510 and 10.511	Claim for preferential tariff treatment under the US-Singapore Free Trade Agreement	1651-0117
§§ 10.583 and 10.584	Claim for preferential tariff treatment under the Dominican Republic-Central America-US Free Trade Agreement	1651-0125
§§ 10.703 and 10.704	Claim for preferential tariff treatment under the U.S.-Jordan Free Trade Agreement	1651-0128
§§ 10.723 and 10.724	Claim for preferential tariff treatment under the U.S.-Australia Free Trade Agreement	1651-0117
§§ 10.763 and 10.764	Claim for preferential tariff treatment under the U.S.-Morocco Free Trade Agreement	1651-0117
§§ 10.803, 10.804, 10.818, and 10.821	Claim for preferential tariff treatment under the U.S.-Bahrain Free Trade Agreement	1651-0130
§§ 10.847 and 10.848	Claim for duty-free treatment under the HOPE Act	1651
§§ 10.863, 10.864, 10.881, and 10.884	Claim for preferential tariff treatment under the U.S.-Oman Free Trade Agreement	1651-0117
§§ 10.903 and 10.904	Claim for preferential tariff treatment under the U.S.-Peru Trade Promotion Agreement	1651-0117
§§ 10.1003 and 10.1004	Claim for preferential tariff treatment under the U.S.-Korea Free Trade Agreement	1651-0117
§§ 10.2003 and 10.2004	Claim for preferential tariff treatment under the US-Panama Trade Promotion Agreement	1651-0117
§§ 10.3003 and 10.3004	Claim for preferential tariff treatment under the US-Colombia Trade Promotion Agreement	1651-0117
§§ 12.104c, 12.104e	Certificates and other documentation relating to the importation of items of cultural property	1515-0147
§ 12.121	Approval of blanket certification under the Toxic Substances Control Act	1515-0173
§ 12.152	Certificate and record-keeping requirements for the entry of rough diamonds	1505-0198 and 1651-0076.
§ 19.2	Information to be supplied by owner or lessee in support of application to establish a bonded warehouse facility	1515-0121
§ 19.3	Application to alter, relocate, or discontinue a bonded warehouse/list of employees engaged in the carriage, receiving, storage or delivery of bonded merchandise	1515-0134
§ 19.9(a)	Preparation of delivery ticket for transfer of merchandise to general order	1515-0224
§ 19.13(b)	Application for establishment of a manufacturing warehouse	1515-0136
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§ 19.17	Application by manufacturer to bond (or discontinue a previously bonded) establishment engaged in the smelting or refining of metal-bearing materials	1515-0127

**PART 181—NORTH AMERICAN FREE  
TRADE AGREEMENT**

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**Appendix to Part 181—Rules of Origin Regulations**

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States(HTSUS)), 1624, 3314;

Subpart D of part 181 also issued under 19 U.S.C. 1520(d).

**Source:** T.D. 95–68, 60 FR 46334, Sept. 6, 1995, unless otherwise noted.

**§ 181.0 Scope.**

This part implements the duty preference and related Customs provisions applicable to imported goods under the North American Free Trade Agreement (the NAFTA) entered into on December 17, 1992, and under the North American Free Trade Agreement Implementation Act (107 Stat. 2057) (the Act). This part is not applicable to goods entered for consumption, or withdrawn from warehouse for consumption, on or after July 1, 2020. Except as otherwise specified in this part, the procedures and other requirements set forth in this part are in addition to the Customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the NAFTA and the Act are contained in parts 10, 12, 24, 134 and 174 of this chapter.

[CBP Dec. 20–11, 85 FR 39690, July 1, 2020]

## Subpart A—General Provisions

### § 181.1 Definitions.

As used in this part, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular subpart, section or other portion of this part:

(a) *Canada*. *Canada*, when used in a geographical rather than governmental context, means the territory of Canada as defined in Annex 201.1 of the NAFTA.

(b) *Commercial importation*. *Commercial importation* means the importation of a good into the United States, Canada or Mexico for the purpose of sale, or any commercial, industrial or other like use.

(c) *Customs administration*. *Customs administration* means the competent authority that is responsible under the law of the United States, Canada or Mexico for the administration of its customs laws and regulations.

(d) *Customs duty*. *Customs duty* means any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, other than any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of the General Agreement on Tariffs and Trade, or any equivalent provision of a successor agreement to which the United States, Canada and Mexico are party, in respect of like, directly competitive or substitutable goods of the United States, Canada or Mexico, or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty that is applied pursuant to the domestic law of the United States, Canada or Mexico and that is not applied inconsistently with Chapter Nineteen of the NAFTA;

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(4) Premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff rate quotas or tariff preference levels; and

(5) Fee applied pursuant to section 22 of the U.S. Agricultural Adjustment Act, subject to the provisions of Chapter Seven of the NAFTA.

(e) *Determination of origin*. *Determination of origin* means a determination as to whether a good qualifies as a good originating in the United States, Canada and/or Mexico under the rules set forth in General Note 12, HTSUS, and in the appendix to this part.

(f) *Exporter*. *Exporter* means an exporter located, and required under this part to maintain records regarding exportations of a good, in the United States, Canada or Mexico.

(g) *Generally Accepted Accounting Principles*. *Generally Accepted Accounting Principles* means the recognized consensus or substantial authoritative support in the United States, Canada or Mexico with respect to the recording of revenues, expenses, costs, assets and liabilities, the disclosure of information and the preparation of financial statements. Generally Accepted Accounting Principles under this definition may encompass broad guidelines of general application as well as detailed standards, practices and procedures.

(h) *HTSUS*. *HTSUS* means the Harmonized Tariff Schedule of the United States.

(i) *Importer*. *Importer* means an importer located, and required under this part to maintain records regarding importations of a good, in the United States, Canada or Mexico.

(j) *Intermediate material*. *Intermediate material* means an "intermediate material" as defined in the appendix to this part.

(k) *Marking Rules*. *Marking Rules* means the "NAFTA Marking Rules" as defined in §134.1(j) of this chapter.

(l) *Measure*. *Measure* means any law, regulation, procedure, requirement or practice.

(m) *Mexico*. *Mexico*, when used in a geographical rather than governmental context, means the territory of Mexico as defined in Annex 201.1 of the NAFTA.

(n) *NAFTA*. *NAFTA* means the North American Free Trade Agreement approved by the Congress under section 101(a) of the North American Free Trade Agreement Implementation Act (107 Stat. 2057).

(o) *NAFTA drawback*. *NAFTA drawback* means any drawback, waiver or reduction of U.S. customs duty provided for in subpart E of this part.

(p) *Net cost of a good*. *Net cost of a good* means the "net cost of a good" as defined in the appendix to this part.

(q) *Originating*. *Originating*, when used with regard to a good or a material, means a good or material which qualifies as originating in the United States, Canada and/or Mexico under the rules set forth in General Note 12, HTSUS, and in the appendix to this part.

(r) *Person*. *Person* means a natural person or an enterprise.

(s) *Preferential tariff treatment*. *Preferential tariff treatment* means the duty rate applicable to an originating good or to a good to which appendix 6.B. to Annex 300-B of the NAFTA applies.

(t) *Producer*. *Producer* means a *producer* as defined in the appendix to this part.

(u) *Production*. *Production* means *production* as defined in the appendix to this part.

(v) *Transaction value*. *Transaction value* means transaction value as defined in the appendix to this part.

(w) *United States*. *United States*, when used in a geographical rather than governmental context, means the territory of the United States as defined in Annex 201.1 of the NAFTA.

(x) *Used*. *Used* means *used* as defined in the appendix to this part.

(y) *Value*. *Value* means the value of a good or material for purposes of calculating customs duties or for purposes of applying the provisions of the appendix to this part.

## Subpart B—Export Requirements

### § 181.11 Certificate of Origin.

(a) *General*. A Certificate of Origin shall be employed to certify that a good being exported either from the United States into Canada or Mexico or from Canada or Mexico into the United States qualifies as an originating good for purposes of preferential tariff treatment under the NAFTA.

(b) *Preparation of Certificate in the United States*. An exporter in the United States who completes and signs a Certificate of Origin for the purpose set forth in paragraph (a) of this section shall use Customs Form 434, or its electronic equivalent or such other medium or format as approved by the Canadian or Mexican customs administration for that purpose. Where the U.S. exporter is not the producer of the good, that exporter may complete and sign a Certificate on the basis of:

(1) Its knowledge of whether the good qualifies as an originating good;

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STATES-MEXICO-CANADA AGREEMENT  
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- 182.121 General.
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- Appendix A to Part 182—Rules of Origin Regulations**
- Authority:** 19 U.S.C. 66, 1202 (General Note 3(i) and General Note 11, Harmonized Tariff Schedule of the United States (HTSUS)), 1624, 4513, 4535;  
Section 182.1 also issued under 19 U.S.C. 4502;  
Subpart D also issued under 19 U.S.C. 1520(d);  
Subpart E also issued under 19 U.S.C. 4534;  
Subpart 182.61 also issued under 19 U.S.C. 4531, 4532;  
Subpart G also issued under 19 U.S.C. 4533.

**Subpart A—General Provisions**

**§ 182.0 Scope.**

This part implements the duty preference and related customs provisions applicable to imported and exported goods under the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA), signed on December 10, 2019, and entered into force on July 1, 2020, and under the United States-Mexico-Canada Agreement Implementation Act (134 Stat. 11) (the Act). For goods entered for consumption, or withdrawn from warehouse for consumption, prior to July 1, 2020, please see the NAFTA provisions in part 181 of this chapter. Except as otherwise specified in this part, the procedures and other requirements set forth in this part are in addition to the CBP procedures and requirements of general application contained elsewhere in this chapter.

**§ 182.1 General definitions.**

The definitions applicable to rules of origin are contained in Appendix A. This section sets forth the general definitions used throughout this part. As used in this part, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this part:

*Canada*, when used in a geographical rather than governmental context, means the "Territory" of Canada as defined in Appendix A to this part;

*Claim for preferential tariff treatment* means a claim that a good is entitled to the customs duty rate applicable under the USMCA to an originating good and to an exemption from the merchandise processing fee;

*Commercial importation* means the importation of a good into the United States, Canada, or Mexico for the purpose of sale, or any commercial, industrial, or other like use.

*Customs duty* includes a duty or charge of any kind imposed on or in connection with the importation of a good, and any surtax or surcharge imposed in connection with such importation, but does not include any:

- (1) Charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994;
- (2) Fee or other charge in connection with the importation commensurate with the cost of services rendered;
- (3) Antidumping or countervailing duty; and
- (4) Premium offered or collected on an imported good arising out of any tendering system in respect of the administration of quantitative import restrictions, tariff-rate quotas, or tariff preference levels;

*Customs Valuation Agreement* means the Agreement on Implementation of Article VII of the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

*Days* means calendar days, and includes Saturdays, Sundays and holidays;

*Enterprise* means an entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned or controlled, including a corporation, trust, partnership, sole proprietorship, joint venture, association or similar organization;

*Exporter* means an exporter located in the territory of a USMCA country and an exporter required under this part to maintain records regarding exportations of a good;

*GATT 1994* means the *General Agreement on Tariffs and Trade 1994*, set out in Annex 1A to the WTO Agreement;

*Goods* means merchandise, product, article, or material;

*Goods of a USMCA country* means domestic products as these are understood in the GATT 1994 or such goods as the USMCA country may agree, and includes originating goods of a USMCA country;

*HTSUS* means the Harmonized Tariff Schedule of the United States as promulgated by the U.S. International Trade Commission;

*Identical goods* means goods that are the same in all respects, including physical characteristics, quality, and reputation, irrespective of minor differences in appearance that are not relevant to a determination of origin of those goods;

*Importer* means an importer located in the territory of a USMCA country and an importer required under this part to maintain records regarding importations of a good;

*Indirect material* means a material used or consumed in the production, testing, or inspection of a good but not physically incorporated into the good, or a material used or consumed in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- (1) Fuel and energy,
- (2) Tools, dies, and molds,
- (3) Spare parts and materials used or consumed in the maintenance of equipment or buildings,
- (4) Lubricants, greases, compounding materials and other materials used or consumed in production or used to operate equipment or buildings,
- (5) Gloves, glasses, footwear, clothing, safety equipment, and supplies,
- (6) Equipment, devices and supplies used or consumed for testing or inspecting the goods,
- (7) Catalysts and solvents, and

(8) Any other material that is not incorporated into the good but if the use in the production of the good can reasonably be demonstrated to be a part of that production;

*Material* means a good that is used in the production of another good, and includes a part or ingredient;

*Mexico*, when used in a geographical rather than governmental context, means the "Territory" of Mexico as defined in Appendix A to this part;

*Originating*, when used with regard to a good or material, means a good or material qualifying as originating under the rules of origin set forth in General Note 11, HTSUS, and in Appendix A to this part;

*Person* means a natural person or an enterprise;

*Post-importation duty refund claim* means a claim filed by the importer of a good for a refund of any excess customs duties at any time within one year after the date of importation of the good where the good would have qualified as an originating good when it was imported into the United States but no claim for preferential tariff treatment was made.

*Preferential tariff treatment* means the customs duty rate applicable under the USMCA to an originating good;

*Producer* means a person who engages in the production of a good;

*Series of importations* means two or more customs entries covering a good arriving the same day from the same exporter and consigned to the same person;

*United States*, when used in a geographical rather than governmental context, means the territory of the United States as defined in Appendix A to this part;

*Used* means used or consumed in the production of a good;

*USMCA* means the Agreement between the United States of America, the United Mexican States, and Canada, entered into force by the United States, Canada and Mexico on July 1, 2020.

*USMCA country* means a Party to the USMCA;

*Value* means the value of a good or material for the purpose of calculating customs duties or for the purpose of applying this part;

*WTO* means the World Trade Organization; and

*WTO Agreement* means the *Marrakesh Agreement Establishing the World Trade Organization* done at Marrakesh on April 15, 1994.

[CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

## § 182.2 Confidentiality.

(a) *Maintaining confidentiality.* Subject to paragraph (b) of this section, CBP must maintain the confidentiality of the information that it receives from the public when the information is considered trade secrets under the Trade Secrets Act (18 U.S.C. 1905), personally identifiable information under the Privacy Act (5 U.S.C. 552a), or privileged or confidential commercial or financial information. This information must be maintained as confidential in accordance with part 103 of this chapter, 6 CFR part 5, and all other applicable statutes and regulations.

(b) *Authorized disclosures.* CBP may only disclose the confidential information in paragraph (a) of this section to third parties and to other USMCA countries for purposes of administration or enforcement of the customs laws or if otherwise authorized by law, and pursuant to the routine uses of the systems of record notices (SORNs) for the trade systems maintained by CBP. This does not preclude the disclosure of confidential information to U.S. government authorities responsible for the administration and enforce-



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- 190.151 Drawback allowance.  
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- 190.161 Refund of taxes.  
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**Subpart Q—Substitution of Finished Petroleum Derivatives**

- 190.171 General; drawback allowance.  
 190.172 Definitions.  
 190.173 Imported duty-paid derivatives (no manufacture).  
 190.174 Derivatives manufactured under 19 U.S.C. 1313(a) or (b).  
 190.175 Drawback claimant; maintenance of records.  
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- 190.181 Drawback allowance.  
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 190.183 Articles manufactured or produced in the United States.  
 190.184 Merchandise transferred from continuous CBP custody.  
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- 190.191 Purpose.  
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**Appendix A to Part 190—General Manufacturing Drawback Rulings**

**Appendix B to Part 190—Sample Formats for Applications for Specific Manufacturing Drawback Rulings**

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;  
 §§ 190.2, 190.10, 190.15, 190.23, 190.38, 190.51 issued under 19 U.S.C. 1508;  
 § 190.84 also issued under 19 U.S.C. 1514;  
 §§ 190.111, 190.112 also issued under 19 U.S.C. 1309;  
 §§ 190.151(a)(1), 190.153, 190.157, 190.159 also issued under 19 U.S.C. 1557;  
 §§ 190.182–190.186 also issued under 19 U.S.C. 81c;  
 §§ 190.191–190.195 also issued under 19 U.S.C. 1593a.

**§ 190.0 Scope.**

This part sets forth general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims filed under 19 U.S.C. 1313, as amended. For drawback claims and specialized provisions applicable to specific types of drawback claims filed pursuant to 19 U.S.C. 1313, as it was in effect on or before February 24, 2016, please see part 191 of this chapter. Additional drawback provisions relating to the North American Free Trade Agreement (NAFTA) are contained in subpart E of part 181 of this chapter, and provisions relating to the Agreement Between the United States of America, the United Mexican States, and Canada (USMCA) are contained in subpart E of part 182 of this chapter.

[CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

**§ 190.0a Claims filed under NAFTA and USMCA.**

Claims for drawback filed under the provisions of part 181 or part 182 of this chapter must be filed separately from claims filed under the provisions of this part.

[CBP Dec. 21–10, 86 FR 35566, July 6, 2021]

**Subpart A—General Provisions**

**§ 190.1 Authority of the Commissioner of CBP.**

Pursuant to DHS Delegation number 7010.3, the Commissioner of CBP has the authority to prescribe, and pursuant to Treasury Order No. 100–16 (set forth in the appendix to part 0 of this chapter), the Secretary of the Treasury has the sole authority to approve, rules and regulations regarding drawback.

**§ 190.2 Definitions.**

For the purposes of this part:

*Abstract.* *Abstract* means the summary of the actual production records of the manufacturer.

*Act.* *Act*, unless indicated otherwise, means the Tariff Act of 1930, as amended.

*Bill of materials.* *Bill of materials* refers to a record that identifies each component incorporated into a manufactured or produced article (and includes components used in the manufacturing or production process). This may include a record kept in the normal course of business.

*Designated merchandise.* *Designated merchandise* means either eligible imported duty-paid merchandise or

**PART 191—DRAWBACK**

<p>Sec. 191.0 Scope. 191.0a Claims filed under NAFTA.</p> <p style="padding-left: 2em;"><b>Subpart A—General Provisions</b></p> <p>191.1 Authority of the Commissioner of Customs. 191.2 Definitions. 191.3 Duties and fees subject or not subject to drawback. 191.4 Merchandise in which a U.S. Government interest exists. 191.5 Guantanamo Bay, insular possessions, trust territories. 191.8 Specific manufacturing drawback ruling. 191.9 Agency. 191.10 Certificate of delivery. 191.11 Tradeoff. 191.12 Claim filed under incorrect provision. 191.13 Packaging materials. 191.14 Identification of merchandise or articles by accounting method. 191.15 Recordkeeping.</p> <p style="padding-left: 2em;"><b>Subpart B—Manufacturing Drawback</b></p> <p>191.21 Direct identification drawback. 191.22 Substitution drawback. 191.23 Methods of claiming drawback. 191.24 Certificate of manufacture and delivery. 191.25 Destruction under Customs supervision. 191.26 Recordkeeping for manufacturing drawback. 191.27 Time limitations. 191.28 Person entitled to claim drawback.</p> <p style="padding-left: 2em;"><b>Subpart C—Unused Merchandise Drawback</b></p> <p>191.31 Direct identification. 191.32 Substitution drawback. 191.33 Person entitled to claim drawback. 191.34 Certificate of delivery required. 191.35 Notice of intent to export; examination of merchandise. 191.36 Failure to file Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback. 191.37 Destruction under Customs supervision. 191.38 Records.</p> <p style="padding-left: 2em;"><b>Subpart D—Rejected Merchandise</b></p> <p>191.41 Rejected merchandise drawback. 191.42 Procedure. 191.43 Unused merchandise claim. 191.44 Destruction under Customs supervision.</p> <p style="padding-left: 2em;"><b>Subpart E—Completion of Drawback Claims</b></p> <p>191.51 Completion of drawback claims. 191.52 Rejecting, perfecting or amending claims. 191.53 Restructuring of claims.</p> <p style="padding-left: 2em;"><b>Subpart F—Verification of Claims</b></p> <p>191.61 Verification of drawback claims. 191.62 Penalties.</p> <p style="padding-left: 2em;"><b>Subpart G—Exportation and Destruction</b></p> <p>191.71 Drawback on articles destroyed under Customs supervision. 191.72 Exportation procedures. 191.73 Export summary procedure.</p>	<p>Sec. 191.74 Exportation by mail. 191.75 Exportation by the Government. 191.76 Landing certificate.</p> <p style="padding-left: 2em;"><b>Subpart H—Liquidation and Protest of Drawback Entries</b></p> <p>191.81 Liquidation. 191.82 Person entitled to claim drawback. 191.83 Person entitled to receive payment. 191.84 Protests.</p> <p style="padding-left: 2em;"><b>Subpart I—Waiver of Prior Notice of Intent To Export; Accelerated Payment of Drawback</b></p> <p>191.91 Waiver of prior notice of intent to export. 191.92 Accelerated payment. 191.93 Combined applications.</p> <p style="padding-left: 2em;"><b>Subpart J—Internal Revenue Tax on Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax-Paid Alcohol</b></p> <p>191.101 Drawback allowance. 191.102 Procedure. 191.103 Additional requirements. 191.104 Alcohol, Tobacco and Firearms certificates. 191.105 Liquidation. 191.106 Amount of drawback.</p> <p style="padding-left: 2em;"><b>Subpart K—Supplies for Certain Vessels and Aircraft</b></p> <p>191.111 Drawback allowance. 191.112 Procedure.</p> <p style="padding-left: 2em;"><b>Subpart L—Meats Cured With Imported Salt</b></p> <p>191.121 Drawback allowance. 191.122 Procedure. 191.123 Refund of duties.</p> <p style="padding-left: 2em;"><b>Subpart M—Materials for Construction and Equipment of Vessels and Aircraft Built for Foreign Ownership and Account</b></p> <p>191.131 Drawback allowance. 191.132 Procedure. 191.133 Explanation of terms.</p> <p style="padding-left: 2em;"><b>Subpart N—Foreign-Built Jet Aircraft Engines Processed in the United States</b></p> <p>191.141 Drawback allowance. 191.142 Procedure. 191.143 Drawback entry. 191.144 Refund of duties.</p> <p style="padding-left: 2em;"><b>Subpart O—Merchandise Exported From Continuous Customs Custody</b></p> <p>191.151 Drawback allowance. 191.152 Merchandise released from Customs custody. 191.153 Continuous Customs custody. 191.154 Filing the entry. 191.155 Merchandise withdrawn from warehouse for exportation. 191.156 Bill of lading. 191.157 Landing certificates. 191.158 Procedures. 191.159 Amount of drawback.</p> <p style="padding-left: 2em;"><b>Subpart P—Distilled Spirits, Wines, or Beer Which Are Unmerchantable or Do Not Conform to Sample or Specifications</b></p> <p>191.161 Refund of taxes.</p>
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- 191.162 Procedure.
- 191.163 Documentation.
- 191.164 Return to Customs custody.
- 191.165 No exportation by mail.
- 191.166 Destruction of merchandise.
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#### Subpart Q—Substitution of Finished Petroleum Derivatives

- 191.171 General; drawback allowance.
- 191.172 Definitions.
- 191.173 Imported duty-paid derivatives (no manufacture).
- 191.174 Derivatives manufactured under 19 U.S.C. 1313(a) or (b).
- 191.175 Drawback claimant; maintenance of records.
- 191.176 Procedures for claims filed under 19 U.S.C. 1313(p).

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- 191.181 Drawback allowance.
- 191.182 Zone-restricted merchandise.
- 191.183 Articles manufactured or produced in the United States.
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- 191.185 Unused merchandise drawback and merchandise not conforming to sample or specification, shipped without consent of the consignee, or found to be defective as of the time of importation.
- 191.186 Person entitled to claim drawback.

#### Subpart S—Drawback Compliance Program

- 191.191 Purpose.
- 191.192 Certification for compliance program.
- 191.193 Application procedure for compliance program.
- 191.194 Action on application to participate in compliance program.
- 191.195 Combined application for certification in drawback compliance program and waiver of prior notice and/or approval of accelerated payment of drawback.

#### Appendix A to Part 191—General Manufacturing Drawback Rulings

#### Appendix B to Part 191—Sample Formats for Applications for Specific Manufacturing Drawback Rulings

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;

§191.84 also issued under 19 U.S.C. 1514;

§§191.111, 191.112 also issued under 19 U.S.C. 1309;

§§191.151(a)(1), 191.153, 191.157, 191.159 also issued under 19 U.S.C. 1557;

§§191.182–191.186 also issued under 19 U.S.C. 81c;

§§191.191–191.195 also issued under 19 U.S.C. 1593a.

**Source:** T.D. 98–16, 63 FR 11006, Mar. 5, 1998, unless otherwise noted.

### § 191.0 Scope.

This part sets forth general provisions applicable to drawback claims and specialized provisions applicable to specific

types of drawback claims filed under 19 U.S.C. 1313, prior to the February 24, 2016, amendments to the U.S. drawback law. Drawback claims may not be filed under this part after February 23, 2019. For drawback claims filed under 19 U.S.C. 1313, as amended, see part 190. Additional drawback provisions relating to the North American Free Trade Agreement (NAFTA) are contained in subpart E of part 181 of this chapter.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by CBP Dec. 05–07, 70 FR 10884, Mar. 7, 2005; CBP Dec. 18–15 83 FR 64942, Dec. 18, 2018]

### § 191.0a Claims filed under NAFTA.

Claims for drawback filed under the provisions of part 181 of this chapter shall be filed separately from claims filed under the provisions of this part.

## Subpart A—General Provisions

### § 191.1 Authority of the Commissioner of Customs.

Pursuant to DHS Delegation number 7010.3, the Commissioner of CBP has the authority to prescribe, and pursuant to Treasury Department Order No. 100–16 (set forth in the appendix to part 0 of this chapter), the Secretary of the Treasury has the sole authority to approve, rules and regulations regarding drawback.

[CBP Dec. 18–15 83 FR 64942, Dec. 18, 2018]

### § 191.2 Definitions.

For the purposes of this part:

(a) *Abstract.* *Abstract* means the summary of the actual production records of the manufacturer.

(b) *Act.* *Act*, unless indicated otherwise, means the Tariff Act of 1930, as amended.

(c) *Certificate of delivery.* *Certificate of delivery* (see §191.10 of this part) means Customs Form 7552, or its electronic equivalent, Delivery Certificate for Purposes of Drawback, summarizing information contained in original documents, establishing:

(1) The transfer from one party (transferor) to another (transferee) of:

(i) Imported merchandise;

(ii) Substituted merchandise under 19 U.S.C. 1313(j)(2);

(iii) A qualified article under 19 U.S.C. 1313(p)(2)(A)(ii) from the manufacturer or producer to the exporter or under 1313(p)(2)(A)(iv) from the importer to the exporter; or

(iv) Drawback product;

(2) The identity of such merchandise or article as being that to which a potential right to drawback exists; and

(3) The assignment of drawback rights for the merchandise or article transferred from the transferor to the transferee.

(d) *Certificate of manufacture and delivery.* *Certificate of manufacture and delivery* (see §191.24 of this part) means Customs Form 7552, or its electronic equivalent, Delivery Certificate for Purposes of Drawback, summarizing information contained in original documents, establishing:

(1) The transfer of an article manufactured or processed under 19 U.S.C. 1313(a) or 1313(b) from one party (transferor) to another (transferee);

(2) The identity of such article as being that to which a potential right to drawback exists; and

## PART 192—EXPORT CONTROL

Sec.

192.0 Scope.

### Subpart A—Exportation of Used Self-Propelled Vehicles, Vessels, and Aircraft

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**Authority:** 19 U.S.C. 66, 1624, 1646c. Subpart A also issued  
under 19 U.S.C. 1627a, 1646a, 1646b; subpart B also issued under  
13 U.S.C. 303; 19 U.S.C. 2071 note; 46 U.S.C. 91.

**Source:** T.D. 89-46, 54 FR 15403, Apr. 18, 1989, unless other-  
wise noted.

#### § 192.0 Scope.

This part sets forth regulations pertaining to procedures for the lawful exportation of used self-propelled vehicles, vessels and aircraft, and the penalties and liabilities incurred for failure to comply with any of the procedures. This part also sets forth regulations concerning controls exercised by CBP with respect to the exportation of certain merchandise. This part also makes provision for the Automated Export System (AES), implemented by the Foreign Trade Regulations (FTR) of the Census Bureau, U.S. Department of Commerce, at part 30, subpart A (15 CFR part 30, subpart A), and provides the grounds under which CBP, as one of the reviewing agencies of the government's export partnership, may deny an application for post-departure filing status or revoke a participant's privilege to use such filing option, and provides for the appeal procedures to challenge such action by CBP.

[T.D. 89-46, 54 FR 15403, Apr. 18, 1989, as amended by  
T.D. 99-57, 64 FR 40987, July 28, 1999; CBP Dec. 17-06,  
82 FR 32232, July 13, 2017]

### Subpart A—Exportation of Used Self-Propelled Vehicles, Vessels, and Aircraft

#### § 192.1 Definitions.

The following are general definitions for the purposes of this subpart A.

**Certified.** "Certified" when used with reference to a copy means a document issued by a government authority that includes on it a signed statement by the authority that the copy is an authentic copy of the original.

**Copy.** "Copy" refers to a duplicate or photocopy of an original document. Where there is any writing on the backside of an original document, a "complete copy" means that both sides of the document are copied.

**Export.** "Export" refers to the transportation of merchandise out of the U.S. for the purpose of being entered into the commerce of a foreign country.

**Self-propelled vehicle.** "Self-propelled vehicle" includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail.

**Ultimate purchaser.** "Ultimate purchaser" means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

**Used.** "Used" refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

[T.D. 89-46, 54 FR 15403, Apr. 18, 1989, as amended by  
T.D. 99-34, 64 FR 16639, Apr. 6, 1999]

#### § 192.2 Requirements for exportation.

(a) **Basic requirements.** A person attempting to export a used self-propelled vehicle shall present to Customs, at the port of exportation, both the vehicle and the required documentation describing the vehicle, which includes the Vehicle Identification Number or, if the vehicle does not have a Vehicle Identification Number, the product identification number. Exportation of a vehicle will be permitted only upon compliance with these requirements, unless the vehicle was entered into the United States under an in-bond procedure, or under a carnet or Temporary Importation Bond; a vehicle entered under an in-bond procedure, or under a carnet or Temporary Importation Bond is exempt from these requirements. The person attempting to export the vehicle may employ an agent for the exportation of the vehicle.

(b) **Documentation required.**—(1) **For U.S.-titled vehicles.**—(i) **Vehicles issued an original certificate of title.** For used, self-propelled vehicles issued, by any jurisdiction in the United States, a Certificate of Title or a Salvage Title that remains in force, the owner must provide to Customs, at the time and place specified in this section, the original Certificate of Title or a certified copy of the Certificate of Title and two complete copies of the original Certificate of Title or certified copy of the original.

(ii) **Where title evidences third-party ownership/claims.** If the used, self-propelled vehicle is leased or a recorded lien exists in the U.S., in addition to complying with paragraph (b)(1)(i) of this section, the provisional owner must provide to Customs a separate writing from the third-party-in-interest which expressly provides that the subject vehicle may be exported. This writing must be on the third-party's letterhead paper, and contain a complete description of the vehicle including the Vehicle Identification Number (VIN), the name of the owner or lienholder of the leased vehicle, and the telephone numbers at which that owner or lienholder may be contacted. The writing must bear an original signature of the third-party and state the date it was signed.

(iii) **Where U.S. Government employees are involved.** If the used, self-propelled vehicle is owned by a U.S. government employee and is being exported in conjunction with that employee's reassignment abroad pursuant to official travel orders, then, in lieu of complying with paragraph (b)(1)(i) of this section, the employee may be required to establish that he has complied with the sponsoring agency's internal travel department procedures for vehicle export.

(2) **For foreign-titled vehicles.** For used, self-propelled vehicles that are registered or titled abroad, the owner must provide to Customs, at the time and place specified in this section, the original document that provides satisfactory proof of ownership (with an English translation of the text if

the original language is not in English), and two complete copies of that document (and translation, if necessary).

(3) *For untitled vehicles.*—(i) Newly-manufactured vehicles issued an MSO. For newly-manufactured, self-propelled vehicles that are purchased from a U.S. manufacturer, distributor, or dealer that become used, as defined in this subpart, and are issued a Manufacturer's Statement of Origin (MSO), but not issued a Certificate of Title by any jurisdiction of the United States, the owner must provide to Customs, at the time and place specified in this section, the original MSO and two complete copies of the original MSO.

(ii) *Newly-manufactured vehicles not issued an MSO.* For newly-manufactured, self-propelled vehicles purchased from a U.S. manufacturer, distributor, or dealer that become used, as defined in this subpart, and not issued an MSO or a Certificate of Title by any jurisdiction of the United States, the owner must establish that the jurisdiction from where the vehicle comes does not have any ownership documentation requirements regarding such vehicles and provide to Customs, at the time and place specified in this section, an original document that proves ownership, such as a dealer's invoice, and two complete copies of such original documentation.

(iii) *Vehicles issued a junk or scrap certificate.* For used, self-propelled vehicles for which a junk or scrap certificate issued, by any jurisdiction of the United States, remains in force, the owner must provide to Customs, at the time and place specified in this section, the original certificate or a certified copy of the original document and two complete copies of the original document or certified copy of the original.

(iv) *Vehicles issued a title or certificate that is not in force or are otherwise not registered.* For used, self-propelled vehicles that were issued, by any jurisdiction of the United States, a title or certificate that is no longer in force, or that are not required to be titled or registered, and for which an MSO was not issued, the owner must establish that the jurisdiction from where the vehicle comes does not have any ownership documentation requirements regarding such vehicles and provide to Customs, at the time and place specified in this section, the original document that shows his basis for ownership or right of possession, such as a bill of sale, and two complete copies of that original document. Further, the owner must certify in writing to Customs that the procurement of the vehicle was a bona fide transaction, and that the vehicle presented for export is not stolen.

(c) *When presented*—(1) *Exportation by vessel or aircraft.* For those vehicles exported by vessel or aircraft, the required documentation and the vehicle must be presented to Customs at least 72 hours prior to export.

(2) *Exportation at land border crossing points.* For those vehicles exported by rail, highway, or under their own power:

(i) The required documentation must be submitted to Customs at least 72 hours prior to export; and

(ii) The vehicle must be presented to Customs at the time of exportation.

(d) *Where presented.* Port directors will establish locations at which exporters must present the required documentation and the vehicles for inspection. Port directors will publicize these locations, including their hours of operation.

(e) *Authentication of documentation.* Customs will determine the authenticity of the documents submitted. Once the authenticity of the documents is established, Customs will mark the documents. In most cases the original document(s) will be returned to the exporter. In those cases where the original title document was presented to and retained by

Customs and cannot be found prior to the vehicle's export, the exporter's authenticated copy of the original documentation serves as evidence of compliance with the reporting requirements.

[T.D. 89-46, 54 FR 15403, Apr. 18, 1989, as amended by T.D. 90-71, 55 FR 37708, Sept. 13, 1990; T.D. 99-34, 64 FR 16639, Apr. 6, 1999]

### § 192.3 Penalties.

(a) A \$500 penalty shall be assessed against an exporter attempting to export a vehicle without complying with the requirements set forth in this part of the regulations.

(b) A \$500 penalty shall be assessed against an exporter who has exported a vehicle without complying with the requirements set forth in this part of the regulations.

(c) A penalty not to exceed \$10,000 may be assessed against an importer or exporter who knowingly imports, exports or attempts to import or export:

(1) Any stolen self-propelled vehicle, vessel, aircraft or part of a self-propelled vehicle, vessel or aircraft; or

(2) Any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered.

(d) Any stolen self-propelled vehicle, vessel or aircraft or part thereof or any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with or altered may be subject to seizure and forfeiture pursuant to 19 U.S.C. 1627a.

### § 192.4 Liability of carriers.

Under the provisions of 19 U.S.C. 1436, the vessel master is charged with the responsibility for presenting a true manifest. If used vehicles are not included on the manifest or are inaccurately described thereon, a liability for penalties may be incurred.

[T.D. 89-46, 54 FR 15403, Apr. 18, 1989, as amended by T.D. 98-74, 63 FR 51290, Sept. 25, 1998]

## Subpart B—Filing of Export Information Through the Automated Export System (AES)

Source: T.D. 99-57, 64 FR 40987, July 28, 1999, unless otherwise noted.

### § 192.11 Description of the AES.

The Automated Export System (AES) is the information system for collecting Electronic Export Information (EEI) from persons exporting goods from the United States, Puerto Rico, or the U.S. Virgin Islands; between Puerto Rico and the United States; and to the U.S. Virgin Islands from the United States or Puerto Rico. Pursuant to the Census Bureau's Foreign Trade Regulations (FTR), all commodity export information for which EEI is required must be filed through the AES. This system is the CBP-approved electronic data interchange system used for purposes of filing EEI as required by §192.14. AES is also the system by which certain sea carriers may report required outbound vessel information electronically (see, §§4.63, 4.75, and 4.76 of this chapter). Eligibility and application procedures are found in the General Requirements section of the FTR, codified at 15 CFR part 30, subpart A. The Census Bureau's FTR (15 CFR part 30, subpart A) provides that exporters may choose to submit export information through AES by any one of three electronic filing options available. Only Option 4, the complete

## TREASURY ORDERS

### DEPARTMENT OF THE TREASURY U.S. CUSTOMS SERVICE

(T.D. 53654)

Treasury Department Order No. 165, Revised

Delegation to the Commissioner of Customs  
of general authority over functions in the  
Bureau of Customs

Treasury Department,  
Washington, D.C., Nov. 2, 1954.

By virtue of the authority vested in me by Reorganization Plan No. 26 of 1950 (3 CFR, 1950 Supp. Ch. III), it is hereby ordered:

1. There are hereby transferred to the Commissioner of Customs the functions of all officers, employees, and agencies of the Bureau of Customs and, subject to the exceptions hereinafter specified, all the rights, privileges, powers, and duties vested in the Secretary of the Treasury by the Tariff Act of 1930, as amended, by the navigation laws administered by the Bureau of Customs, or by any other law to the extent that it is administered by the Bureau of Customs.

(a) Regulations shall be prescribed by the Commissioner of Customs, with the approval of the Secretary of the Treasury, except that regulations and instructions, not inconsistent with the general rules and regulations of the Treasury Department, which are effective only against persons in their capacity as officers, agents, or employees of the Customs Service, and which do not prescribe procedures which the public should know or follow in dealing with the Customs Service, may be prescribed by the Commissioner of Customs without the approval of the Secretary of the Treasury.

(b) Requirements of regulations which may be waived in accordance with law may be waived by the Commissioner of Customs.

(c) Determinations under §201(a), Antidumping Act, 1921, as amended, that a class or kind of foreign merchandise is being, or is likely to be, sold in the U.S. or elsewhere at less than its fair value shall be made, advice to the U.S. Tariff Commission of each such determination shall be given, and public notice of his determination and the determination of the said Commission, (the "finding" contemplated by §201(a), *supra*) shall be given, by the Secretary of the Treasury. [TD 55515.]

(d) The ascertainment, determination, or estimation, and declaration of bounties or grants under §303, Tariff Act of 1930, shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury, except that, when the Commissioner, with the approval of the Secretary, has determined and declared a rule for calculating or estimating the net amount of any such bounty or grant, any customs officer authorized by the Commissioner of Customs may ascertain and determine, or estimate, the net amount of the bounty or grant paid or bestowed in respect of each particular lot of imported merchandise.

(e) Findings under §307, Tariff Act of 1930, whether any class of goods, wares, articles, or merchandise is mined, produced, or manufactured wholly or in part in any foreign

country by convict labor or/and forced labor or/and indentured labor under penal sanctions, and findings whether such goods, wares, articles, or merchandise so mined, produced, or manufactured are mined, produced or manufactured in such quantities in the U.S. as to meet the consumptive demands of the U.S., shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury.

(f) Any authority which may be vested in the Secretary of the Treasury by a proclamation of the President made pursuant to §318, Tariff Act of 1930, shall be exercised by the Secretary of the Treasury.

(g) Any order under §511, Tariff Act of 1930, prohibiting the importation of merchandise or instructing a collector to withhold delivery of merchandise shall be made by the Commissioner of Customs with the approval of the Secretary of the Treasury.

(h) Any decision with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) in excess of \$100,000 shall be made by the Secretary of the Treasury, except decisions with respect to claims (including claims for liquidated damages), fines, or penalties (including forfeitures) incurred or arising under: [TDs 53966, 12/5/55; 54234, 10/29/56; 56276, 9/23/64.]

(1) Section 3114, Revised Statutes, as amended (19 U.S.C. 257), for failure to report, make entry, and pay duties on certain equipments and repairs for certain vessels;

(2) Section 432, Tariff Act of 1930 (19 U.S.C. 1432), for omitting from the vessel manifest any articles to be retained on board as sea stores, ship's stores, or bunker coal or bunker oil, or for landing any such articles without the required permit;

(3) Section 453, Tariff Act of 1930 (19 U.S.C. 1453), for lading or unlading merchandise or baggage valued at \$500 or more without obtaining the required license or permit;

(4) Section 460, Tariff Act of 1930, as amended (19 U.S.C. 1460), for failure to report or to file a manifest as required by §459, Tariff Act of 1930, as amended (19 U.S.C. 1459) in the following cases:

(i) Violations due to ignorance of the reporting requirement or to inadvertence and either no merchandise, or only typical personal or souvenir merchandise which would have been free of duty, it entered, is carried on the vessel or vehicle, or

(ii) Where the violation is the first offense, although not due to ignorance or inadvertence, and no intended commercial use or threat to the revenue is involved;

(5) Section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), for having on board, or unlading from, a vessel or vehicle, any merchandise which is not included or described in the manifest or does not agree therewith;

(6) Section 8 or 204 (b), Anti-Smuggling Act, approved August 5, 1935 (19 U.S.C. 1708, 1584), for failure of a vessel not exceeding 500 net tons importing spirits, wines, or other alcoholic liquors to have the certificate required by §7 of the Anti-Smuggling Act (19 U.S.C. 1707);

(7) Section 585, Tariff Act of 1930, as amended (19 U.S.C. 1585), in respect of any vessel or vehicle which departs or attempts to depart from any collection district without making the required report or entry, or unlades any merchandise before such report or entry;

(8) Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592); [TD 73-261.]

(9) The Act of February 24, 1915 (46 U.S.C. 14), for false oath to obtain a register for a wrecked vessel;

(10) Section 4143, Revised Statutes (46 U.S.C. 21), for false oath as to ownership by owner to obtain registry of vessel;

(11) Section 4163, Revised Statutes (46 U.S.C. 33), for false oath by agent or attorney to obtain registry of a vessel;

(12) Section 4177, Revised Statutes, as amended (46 U.S.C. 45), in respect of documented vessels failing to have the required number permanently marked;

(13) Section 4179, Revised Statutes (46 U.S.C. 50), for changing, or engaging in deceptive practices with respect to, the name of a documented vessel;

(14) Section 4189, Revised Statutes, as amended (46 U.S.C. 60), in respect of any vessel for which any certificate of registry, enrollment or license, or other record of document granted in lieu thereof is knowingly and fraudulently obtained or used;

(15) Section 4153, Revised Statutes, as amended (46 U.S.C. 77), in respect of documented vessels for failing to have the number denoting net tonnage permanently marked;

(16) Section 4339, Revised Statutes (46 U.S.C. 272), for refusal to take, or for taking falsely, the required oath with respect to equipment and repairs for vessels;

(17) Section 4337, Revised Statutes (46 U.S.C. 278), in respect of vessels proceeding on a foreign voyage while enrolled and licensed or licensed;

(18) Section 1 of the Act of May 28, 1906 (46 U.S.C. 292), in respect of foreign-built dredges engaging in dredging in the U.S.;

(19) Section 4365, Revised Statutes (46 U.S.C. 311), in respect of vessels licensed for the fisheries and found within three leagues of the coast with foreign merchandise exceeding \$500 in value on board without having the permission to touch and trade at foreign ports required by §4364, Revised Statutes (46 U.S.C. 310);

(20) Section 4370, Revised Statutes, as amended (46 U.S.C. 316 (a) and (d)), in respect of any vessel employed in towing in violation of subsection (a) of that section, as amended, or of any foreign vessel engaging in salvaging operations not excepted or authorized by subsection (d) of that section, as amended;

(21) Section 7, Act of June 9, 1886, as amended (46 U.S.C. 319), in respect to certain vessels trading coastwise, or engaged in the fishery, without a valid document and in respect of such vessels having on board foreign merchandise or taxable alcoholic liquors on which the duties or taxes have not been paid or secured to be paid;

(22) Section 4377, Revised Statutes, as amended (46 U.S.C. 325), in respect only of licensed vessels employed any other trade than that for which licensed, found with a forged or altered license or one granted for any other vessel, or found with any foreign merchandise or taxable alcoholic liquors on board on which the duties or taxes have not been paid or secured to be paid;

(23) Section 4240, Revised Statutes (46 U.S.C. 723), in respect of any vessel transporting to a foreign port any property taken from a wreck within U.S. jurisdiction off the coast of Florida;

(24) Section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), in respect of merchandise transported coastwise in a vessel ineligible under that section to engage in such transportation;

(25) Bonds taken pursuant to §308, Tariff Act of 1930, as amended (19 U.S.C. 1308), if the Commissioner is satisfied that the importation was properly entered under §308 and there was no intent to defraud the revenue or delay the payment of duty;

(26) Bonds taken pursuant to §304, Tariff Act of 1930, as amended (19 U.S.C. 1304), if the marking duty due under §304 of the tariff act has been deposited and the Commissioner is satisfied that the importer was not guilty of negligence or bad faith in permitting the non-properly-marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery;

(27) Bonds taken pursuant to §551, Tariff Act of 1930, as amended (19 U.S.C. 1551), if the Commissioner is satisfied that all the merchandise in respect of which the claim for liquidated damages was incurred has actually been reported or destroyed and that any failure to obtain customs supervision was without intent to evade any law or regulation;

(28) Bonds taken pursuant to §565, Tariff Act of 1930 (19 U.S.C. 1565);

(29) Bonds taken pursuant to §1 (par. 1101), Tariff Act of 1930, as amended (19 U.S.C. 1001, par. 1101), if no loss of revenue is involved;

(30) Any bond for failure to make entry and deposit estimated duties and taxes or for failure to produce required document within the time required by the law or regulation, if the Commissioner is satisfied that such failure was not due to any purpose to evade any law or regulation;

(31) Section 2 of the Act of July 14, 1956 (46 U.S.C. 883a), in respect of certain vessels of more than 500 gross tons rebuilt abroad for which the required report of the circumstances of rebuilding is not made; and **[TD 54412; 8/1/57.]**

(32) Section 27A, Merchant Marine Act of 1920, as amended (46 U.S.C. 883-1), so far as that section imposes any fine or penalty (including forfeiture) for falsifying any certificate under oath or for transporting merchandise or passengers for hire. **[TD 54745; 12/4/58.]**

(i) An award of compensation to an informer under §619, Tariff Act of 1930, shall be made by the Commissioner of Customs only with the approval of the Secretary of the Treasury when claimed in connection with any decision which has been acted upon or approved by the Secretary of the Treasury.

(j) The authority conferred by the President upon the Secretary of the Treasury by Executive Order 10289 (3 CFR, 1951 Supp., Ch II) with respect to the organization of the Customs Service and to laws administered by the Bureau of Customs shall be exercised by the Secretary of the Treasury.

(k) Any decision as to whether to waive compliance with the navigation laws pursuant to the Act of December 27, 1950, 64 Stat. 1120 (46 U.S.C. Chapter 1 Note), shall be made by the Secretary of the Treasury, except that the Commissioner of Customs shall waive compliance with such laws upon the request of the Secretary of Defense to the extent deemed necessary in the interest of national defense by the Secretary of Defense **[TD 74-175.]**

2. All functions, rights, privileges, powers, and duties transferred by this order may be delegated by the Commissioner of Customs to subordinates in the Bureau of Customs in such manner as he shall from time to time direct.

3. This order revises Treasury Department Order No. 165, as issued on December 15, 1952 (T.D. 53160), and supersedes Treasury Department Order No. 165-1 (T.D. 53332); and shall other orders and instructions heretofore issued to the extent that such orders or instructions are inconsistent herewith. The purposes of this order are to eliminate from the citation of authority for the delegation §3 of the Act of March 3, 1927 (5 U.S.C. 281b), which was repealed in pertinent part by §10 of the Act of September 3, 1954, 68 Stat. 1229; to reissue the delegation so that it will cover all pertinent laws in effect on the date hereof; and to eliminate the requirement that findings of dumping under §201(a), Antidumping Act, 1921, be approved by the Secretary and substitute therefor the above reservation to the Secretary of determinations of



# CUSTOMS ORDERS

(T.D. 69-126)

## CUSTOMS DELEGATION ORDER NO. 1 (REVISION 1) AMENDED

Performance of functions in the U.S. Customs Service

Department of the Treasury,  
Office of the Commissioner of Customs,  
Washington, D.C., May 20, 1969.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 F.R. 7241), amended, the following officers in the headquarters office of the U.S. Customs Service are hereby authorized to make decisions and perform functions as follows: A. Director, Office of Regulations and Rulings. Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Order No. 165, Revised, as amended, (*supra*), decisions with respect to appeals from denials of requests for information under 5 U.S.C. 552, decisions with respect to appeals from denials of requests for amendment of records under 5 U.S.C. 552a, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, decisions with respect to the application of decisions of the U.S. Customs Court and the U.S. Court of Customs and Patent Appeals adverse to the Government, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division and the Director, Carriers, Drawback and Bonds Division. The Director, Office of Regulations and Rulings, is authorized to redelegate the authority delegated to him by this Order to appropriate Division Directors and Branch Chiefs in the Office of Regulations and Rulings at Customs Headquarters. [TDs 72-42, 72-321, 73-293, 77-1, 77-200, 78-111, 79-225, 80-63.]

(a) *Director, Classification and Value Division:*

(1) Decisions relating to the tariff classification, free and dutiable status of merchandise, including matters arising out of the Tariff Schedules of the United States, the qualification for the free entry of merchandise under § 321, Tariff Act of 1930, as amended, and the Trade Fair Act of 1959; legal aspects of valuation, dumping and countervailing duty determinations and procedures; and authorizations for liquidation or reliquidation of entries in matters relating to the above. [TDs 72-42, 73-321.]

(2) Decisions other than those enumerated heretofore in subparagraph (a), in matters arising under provisions of law administered in the Classification and Value Division. [TDs 72-42, 73-321.]

(b) *Director, Entry Procedures and Penalties Division:*

(1) Decisions with respect to the legal aspects of the entry of merchandise. [TDs 72-42, 73-321.]

(2) Decisions with respect to offers in compromise under 19 U.S.C. 1617, as amended, if recommended by the General Counsel of the Treasury Department. [TDs 73-293, 80-63.]

(3) All other decisions in matters arising under provisions of law administered in the Entry Procedures and Penalties Division. [TDs 77-200, 80-64.]

(c) *Director, Carriers, Drawback and Bonds Division:*

(1) Decisions relating to the legal aspect of entry, clearance, use and dutiability of vessels and aircraft, vehicles and other carriers, their equipment and repairs and other maritime activities, connected with the administration of the laws administered by the U.S. Customs Service. [TD 73-321.]

(2) Decisions with respect to the designation of instruments of international traffic and to the legal aspects of control over such instruments. [TD 75-317.]

(3) Decisions relating to legal questions about bonds, bonded warehouses, the entry of articles under items 820.40, tariff Schedules of

(4) Decisions, other than those enumerated heretofore in this subparagraph (c), in matters arising under provisions of law administered in the Carriers, Drawback and Bonds Division. [TD 73-321.]

## B. ASSISTANT COMMISSIONER OF CUSTOMS, OFFICE OF OPERATIONS:

Decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Inspection and Control Division, and the Director, Appraisal and Collections Division. [TD 73-321.]

(a) *Director, Inspection and Control Division:* [TD 72-321.]

(1) Decisions concerning (i) requests for permission for scheduled aircraft to land elsewhere than at an international airport, and (ii) the establishment and changing of hours of service at ports of entry, stations, and offices.

(2) Decisions, other than those heretofore enumerated in this subparagraph (a), regarding procedural and operational matters relating to the functions administered by the Inspection and Control Division. [TD 72-321.]

(b) *Director, Appraisal and Collections Division:* [TD 72-321.]

(1) Decisions interpreting and applying factual information concerning matters of value (valued decisions, final list, etc.).

(2) Decisions regarding the proper statistical classification of merchandise.

(3) Decisions, other than those heretofore enumerated in this subparagraph (b), regarding procedural and operational matters relating to the functions administered by the Appraisal and Collections Division. [TD 72-321.]

2. Each of the officials hereby designated will perform under this authority in his own capacity and under his own title and shall be responsible for referring to the Commissioner of Customs any matter of exceptional importance or which involves some special factor requiring that action be taken by the Commissioner of Customs.

3. The delegations made by this Order relate to decisions to be made and functions to be performed at the headquarters office of the Bureau of Customs, and no such delegation to

4. Customs Delegation Order No. 1 (T.D. 53161; 17 F.R. 11705), as amended by T.D. 53694, 19 F.R. 8756; T.D. 53914, 20 F.R. 7554; T.D. 54654, 23 F.R. 5962; T.D. 55431,

## Customs Orders

26 F.R. 6628; T.D. 55543, 27 F.R. 262; T.D. 55823, 28 F.R. 1267; T.D. 55946, 28 F.R. 7611; T.D. 56262, 29 F.R. 13350; T.D. 56293, 29 F.R. 14860; and T.D. 66-4, 31 F.R. 226, is rescinded. However, all delegations of authority to Customs officers and employees, whether in the headquarters office of the Bureau of Customs in Washington, or in the field, heretofore made in the Customs Regulations of 1943, as amended (19 CFR, Chapter II), or any other regulation, order, or instruction, other than those in Treasury Decisions 52209, 52330, 52331, and 52394 (14 F.R. 2244, 6533, 6534, 15 F.R. 589), heretofore superseded, are continued in effect unless and until otherwise prescribed. Further, all functions which immediately prior to the effective date of Reorganization Plan No. 26 of 1950 (15 F.R. 4935) were vested by law in Customs officers other than the Commissioner of Customs (which have been performed by such officers or by their successors under Reorganization Plan No. 1 of 1965 (3 CFR 1964-1965 Comp.) and under Treasury Order No. 120, dated July 31, 1950 (15 F.R. 6521)), shall continue to be performed by such officers or by their successors unless and until otherwise prescribed.

(34 F.R. 8208, 5/27/69)

LESTER D. JOHNSON,  
Commissioner of Customs.

(T.D. 53195)

### CUSTOMS DELEGATION ORDER NO. 2

Delegation of authority to certain field officers of the Customs Service to administer oaths and to designate customs officers and employees under their supervision to administer oaths

Treasury Department,  
Office of the Commissioner of Customs,  
Washington, D.C., February 4, 1953.

By virtue of the authority vested in me by Treasury Department Order No. 165 (T.D. 53160, 17 F.R. 11705), I hereby authorize all principal field officer of the Customs Service, their chief assistants, and such other customs officers as may be designated in writing by such principal officers, to administer oaths required by law or regulation in respect of any matter coming before them in the performance of their official duties.

FRANK DOW,  
Commissioner of Customs.

(T.D. 53242)

### CUSTOMS DELEGATION ORDER NO. 3

Delegation of authority to collectors of customs of the several districts to attest certificates of registry

Treasury Department,  
Office of the Commissioner of Customs,  
Washington, D.C., April 21, 1953.

By virtue of the authority vested in me by Treasury Department Order No. 165 (T.D. 53160, 17 F.R. 11705), I hereby

authorize the collectors of customs of the several districts to perform the function of attesting certificates of registry under seal and by signature heretofore performed by the Commissioner of Customs under the authority of § 4158 of the Revised Statutes of the U.S., as amended (46 U.S.C. 28).

(211.13)

D.B. STRUBINGER,  
Acting Commissioner of Customs.

(T.D. 53333)

### CUSTOMS DELEGATION ORDER NO. 5

Delegation to officers of the Bureau of Customs of authority transferred by the Secretary of the Treasury to the Commissioner of Customs by Treasury Order No. 165-1.

Treasury Department,  
Office of the Commissioner of Customs,  
Washington, D.C., August 13, 1953.

Pursuant to Treasury Department Order No. 165-1, published as T.D. 53332 (18 F.R. 5370), it is hereby ordered:

1. So much for each function transferred to the Commissioner of Customs by Treasury department Order No. 165-1 (T.D. 53332; 18 F.R. 5370) as is within the description of any function heretofore delegated by Customs Delegation Order No. 1 (T.D. 53161; 17 F.R. 11705) is hereby delegated to the respective customs officers to which such function was delegated by that order, subject to the pertinent conditions therein prescribed. So much of each function so transferred to the Commioner of Customs as is within the description of any function covered by a delegation continued in effect by paragraph 3 of Customs Delegation Order No. 1 is hereby delegated to the respective officers and employees who are authorized to perform such function heretofore delegated.

war and other articles, vessels, vehicles, and aircraft under the Act of August 13, 1953 (67 Stat. 577), amending § 1 of title VI of the Act of June 15, 1917 (40 Stat. 233), as amended (22 U.S.C. 401).

(191.1)

D.B. STRUBINGER,  
Acting Commissioner of Customs.

(T.D. 53369)

### CUSTOMS DELEGATION ORDER NO. 6

Delegation to collectors of customs of authority transferred by the Secretary of the Treasury to the Commissioner of Customs by Treasury Department Order No. 165-2

Treasury Department,  
Office of the Commissioner of Customs,  
Washington, D.C., October 29, 1953.

Pursuant to Treasury Department Order No. 165-2, published as T.D. 53368, it is hereby ordered:

The functions of refunding excess deposits of internal-revenue tax, collected by collectors of customs, and of determining, allowing, and paying interest in connection with such refunds, transferred to the Commissioner of Customs by

## REDESIGNATION TABLES

The following redesignation tables affecting Title 19 Parts 1 to 199 are set forth below as indicated:

## PART 122—PARALLEL REFERENCE TABLE

**Note:** This table shows the relationship of sections in revised Part 122 to superseded Part 6 as published at 53 FR 9292, Mar. 22, 1988, effective April 21, 1988.

<i>Revised section</i>	<i>Superseded section</i>	<i>Revised section</i>	<i>Superseded section</i>
122.0	New.	122.43(b)	New. Based on Customs Circular AIR-4-ICS, dated 1-24-68.
122.1(a)	New.	122.44	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65.
122.1(b)	6.1(e).	122.45	6.7(b)(1).
122.1(c)	6.1(g).	122.45(d)	New. Based on Customs Circular BAG-3-CO (AIR-4-AIR), dated 8-9-65.
122.1(d)	New.	122.46(a)	6.7(b)(2).
122.1(e)	6.1(h).	122.46(b)	6.7(b)(2). Also based on Customs Circular AIR-4-ICS, dated 1-24-68.
122.1(f)	New.	122.46(c)	6.7(b)(2).
122.1(g)	Based on 19 CFR 24.18.	122.47(a)	6.7(f).
122.1(h)	New.	122.47(b)	6.7(f).
122.1(i)	New.	122.47(c)(1)	6.7(b)(3)(v).
122.1(j)	New.	122.47(c)(2)	6.7(b)(3)(V), (vi).
122.1(k)	6.1(f).	122.47(d)	6.7(f).
122.1(l)	6.1(b), (c).	122.48(a), (b), (c), (d)	6.7(b)(3).
122.2	6.10.	122.48(e)	New. Based on Customs Circular ATR-7-IEI, dated 1-31-72.
122.3	6.6(b).	122.49(a)	6.7(h)(1), (2).
122.4	6.6(a)	122.49(b), (c), (d), (e), (f)	6.7(h)(1), (3). Also based on 19 CFR 4.12(a).
122.5	6.6(a).	122.51	6.2(d)(3).
122.11(a)	6.12(a), (b), (d).	122.52(a), (b), (c)	6.2(d)(3).
122.11(b)	6.12(c).	122.52(d)	6.2(d)(3)(ii). Also based on T.D. 55063(1), dated 3-4-60.
122.11(c)	6.12(e).	122.53	New. Based on 14 CFR 121.153.
122.12(a)	6.12(f).	122.54(a), (b), (c), (d), (e), (f)	6.2(d)(1).
122.12(b)	6.12(g).	122.54(g)	6.2(d)(2).
122.12(c)	6.12(h).	122.61(a)	6.3(c).
122.12(d)	6.12(i).	122.62(a), (b), (c)	6.3(c).
122.13	6.13.	122.63(a), (b)	6.5(c).
122.14	6.12a.	122.64	6.3(d).
122.21	New.	122.65	New.
122.22	New.	122.71	6.8(a).
122.23(a)	New.	122.72	6.8(a).
122.23(b), (c), (d), (e)	6.14(a).	122.73	6.8(b). Also based on T.D. 82-92, dated March 22, 1982.
122.24(a), (b)	6.14(b), (g).	122.74(a)	6.8(a). Also based on 15 CFR 30.24.
122.25(a), (b), (c), (d)	6.14(f).	122.74(b)	6.8(a).
122.26	New.	122.74(c)	6.8(a). Also based on 15 CFR 30.24(a).
122.27	Based on 19 CFR 148.5.	122.74(c)(1)	6.8(a). Also based on 15 CFR 30.24(a).
122.28	Based on 19 CFR 148.32.	122.74(c)(2)	6.8(e). Also based on 15 CFR 30.24(a)(1).
122.29	New.	122.74(c)(3)	6.8(a). Also based on 15 CFR 30.24(a)(1).
122.30	6.10 and 6.11.	122.74(d)	6.8(e).
122.31(a)	6.2(b)(1).	122.75(a)(1), (2)	6.8(e). Also based on 15 CFR 30.21(b).
122.31(b)	6.2(b)(3).	122.75(b)	6.8(e).
122.31(c)(2)	6.2(b)(2).	122.76	6.8(a). Also based on 15 CFR 30.1.
122.31(d)	6.2(b)(4).	122.77	6.8(d).
122.31(e)	6.2(b)(5).		
122.31(f)	6.2(b)(1).		
122.32	6.2(a).		
122.33	6.2(a).		
122.34	6.2(a).		
122.35	6.2(h).		
122.36	6.2(b)(6).		
122.37	6.2(h).		
122.38(a)	6.2(e), (f).		
122.38(b)	6.2(e), (f).		
122.38(c)	6.2(g).		
122.38(d)	6.2(e), (f).		
122.38(e)	6.2(g).		
122.38(f)	New. Based on Customs Circular INS-2EV, dated -12-1461.		
122.41	6.3(a), 6.4(a), (b) and 6.9(c).		
122.42	6.3(b), 6.4(c), and 6.7.		
122.43(a), (c)	6.7(a), (b).		

# Redesignation Tables

## PART 122—PARALLEL REFERENCE TABLE *continued*

<i>Revised section</i>	<i>Superseded section</i>	<i>Revised section</i>	<i>Superseded section</i>
122.78.....	6.8(c).	122.117(c), (d).....	6.20(c).
122.79(a), (b).....	6.3(c) and 6.5(b).	122.118(a).....	6.24(a).
122.80.....	6.8(e).	122.118(b).....	6.21(c).
122.81.....	6.9(a).	122.118(c).....	6.24(b), (c).
122.82.....	6.9(a). Also based on 19 CFR 4.85(a), 19 CFR 113.13a(a), (b) and 19 CFR 113.61.	122.118(d).....	6.24(g).
122.83(a), (b), (c), (d).....	6.9(b).	122.118(e).....	New. Based on 19 CFR 18.25.
122.83(e).....	6.9.	122.118(f).....	New. Based on Customs Circular AIR-7-CO, dated 3-17-65.
122.83(f).....	6.9(b).	122.118(g).....	6.24(d).
122.84(a), (b), (c), (d).....	6.9(c).	122.119(a).....	6.22(a).
122.85.....	6.9(d).	122.119(b).....	6.21(a).
122.86.....	New. Based on Customs Circular AIR-7-EV, dated 11-23-59.	122.119(c).....	6.22(a). Also based on Customs Circular TRA-1-IMS, dated 7-15-68.
122.87.....	6.9(e).	122.119(d).....	6.22(c), (d).
122.88.....	6.9(f).	122.119(e).....	6.22(a).
122.91.....	6.15(a).	122.120(a).....	6.23(a).
122.92(a), (b).....	6.15(b)(1), (2).	122.120(b)(1).....	6.23(a).
122.92(c).....	6.15(b)(3).	122.120(b)(2).....	6.23(c).
122.92(d).....	6.15(b)(4).	122.120(c).....	6.21(b).
122.92(e).....	6.15(b)(5).	122.120(d).....	6.23.
122.92(f), (g).....	6.15(b)(6).	122.120(e).....	6.23(b).
122.93(a).....	6.15(c).	122.120(f).....	6.23(c).
122.93(b).....	6.15.	122.120(g).....	6.23(e).
122.94(a), (b).....	6.16.	122.120(h).....	6.23(d).
122.95.....	6.15(a).	122.120(i), (j).....	6.23(h).
122.101.....	New. Based on Customs Circular AIR-7-IEI, dated 1-31-72.	122.120(k).....	6.23(g).
122.102.....	New. Based on Customs Circular AIR-7-IEI, dated 1-31-72.	122.131 through 122.137.....	New. Based on Customs Circular AIR-7-AIR, dated 6-16-64.
122.111.....	6.17.	122.141.....	New definition section.
122.112(a), (b), (c).....	6.17.	122.142.....	6.25(a).
122.112(d).....	6.18(a).	122.143.....	6.25(b).
122.113.....	6.18(a).	122.144(a)(1).....	6.25(c)(1).
122.114(a).....	6.18(a). Also based on Customs Circular AIR-7-EV, dated 5-8-62.	122.144(a)(2).....	6.25(c)(2).
122.114(b).....	6.18(b).	122.144(b).....	6.25(c)(3).
122.114(b)(2).....	6.18(b).	122.144(c).....	6.25(c)(4).
122.114(c).....	6.18(d).	122.151 through 122.158.....	6.3a.
122.114(d).....	New based on Customs Circular AIR-7-EV, dated 5-8-62.	122.161.....	6.11.
122.115.....	6.18(e). Also based on Customs Circular AIR-7-EV, dated 5-8-62.	122.162.....	6.7(h).
122.116.....	6.19.	122.163.....	6.22(e).
122.117(a).....	6.20(c).	122.164.....	6.23(g).
122.117(b).....	6.20(b), (d).	122.165.....	New. Based on Customs Circular AIR-4-CR, dated 11-12-72.
		122.166.....	New based on 19 U.S.C. 1433 and 1436.
		122.167.....	New based on 19 U.S.C. 1433 and 1436.

## PART 122—PARALLEL REFERENCE TABLE

**Note:** This table shows the relationship of sections in Part 6 to revised Part 122 as published at 53 FR 9292, Mar. 22, 1988.

<i>Revised section</i>	<i>Superseded section</i>	<i>Revised section</i>	<i>Superseded section</i>
6.1 (b), (c).....	122.1(1).	6.2(d)(3).....	122.51 and 122.52.
6.1(e).....	122.1(b).	6.2 (e), (f).....	122.38 (a), (b), (d), (e) and (f).
6.1(f).....	122.1(k).	6.2(g).....	122.38(c).
6.1(g).....	122.1(c).	6.2(h).....	122.35 and 122.37.
6.1(h).....	122.1(e).	6.3(a).....	122.41.
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6.2(b).....	122.31.	6.3(c).....	122.61(a), 122.62 (a), (b), (c) and 122.79(a).
6.2(b)(6).....	122.36.	6.3(d).....	122.64.
6.2(d)(1).....	122.54 (a) through (f).		
6.2(d)(2).....	122.54(g).		

**Chapter I—U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury**

**LIST OF CFR SECTIONS AFFECTED**

All changes in this volume of the CBP Regulations which were made by documents published in the Federal Register since January 1, 2001, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to Federal Register pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 2001, see the "List of CFR Sections Affected, 1949–1963, 1964–1972, 1973–1985, 1986–2000" published in 11 separate volumes.

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10.184 Undesignated center heading added; section revised; interim .....	20395
10.191 (b)(1), (3) and (4) amended; interim .....	9645
10.199 Added: interim .....	9645
10.222 Introductory text amended; interim .....	50537
10.223 (a)(6) and (7) amended; interim .....	50537
10.228 Added; interim .....	50537
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12 Authority citation amended .....	16853
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12.74 (b)(2) amended .....	8767
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19.2 (f) amended .....	8767
24.24 (e)(4) revised .....	16857
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101 Authority citation amended .....	56431
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103.31 (e)(1) amended .....	8767
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111.19 (e) amended .....	8767
112.42 Amended .....	8767
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113.63 (h)(1) amended; eff. 4–27–01 .....	16854
113.64 (b) amended; eff. 4–27–01 .....	16854
113.67 (a)(2)(i) and (b)(2)(i) amended; eff. 4–27–01 .....	16854
113.73 (a)(2) amended; eff. 4–27–01 .....	16854
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122.49a Added .....	67484
132 Authority citation amended .....	21666
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159.5 Authority citation removed; eff. 4–25–01 .....		16400
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159.6 Authority citation removed; eff. 4–25–01 .....		16400
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159.7 Authority citation removed; eff. 4–25–01 .....		16400
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159.11 (b) amended; eff. 4–25–01 .....		16400
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159.22 Authority citation removed; eff. 4–25–01 .....		16400
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159.44 Authority citation removed; eff. 4–25–01 .....		16400
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159.46 Authority citation removed; eff. 4–25–01 .....		16400
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159.55 Authority citation removed; eff. 4–25–01 .....		16400
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191.51 (b) revised .....		8767
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4.8 (b) revised .....	66318
4.37 (c) amended; (d), (e), (f) and (g) redesignated as (e), (f), (g) and (h); new (d) added; (e) amended .....	68027
4.94 (b) amended .....	52862
7 Authority citation revised .....	15098
10 Authority citation amended .....	15098, 39289
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19.2 new (d) added; revised (f).....	68027
19.9 (a) amended.....	68027
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101 Authority citation amended.....	15098
102 Authority citation revised.....	15098
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111 Authority citation amended.....	15098
113.64 (a) revised; (c), (d), (e) and (f) redesignated as (d), (e), (f) and (g); new (c) added.....	66318
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123.10 Heading, (c) and (e) revised; (d), (e) and (f) reded- ignated as (e), (f) and (g); new (d) added.....	68027
127 Authority citation amended.....	68027
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**2003**

(Regulations published from January 1, 2003  
through December 31, 2003)

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