

(i) The shipment is properly marked and accompanied by a validated copy of Customs Form 255,

(ii) The examining Customs officer is satisfied that the contents of the shipment are as stated on the Customs Form 255 and, if applicable, that they are properly classified,

(iii) The declared value conforms to the fair retail value in the country of acquisition, and

(iv) In respect to shipments for which entry is made under subheading 9816.00.40, HTSUS, any duties found to be due are paid.

(b) *Removal of Customs Form 255.* The copy of Customs Form 255 attached to the shipment shall be removed by the Customs officer and retained for Customs purposes.

(c) *Missing Customs Form 255.* If a validated copy of Customs Form 255 does not accompany the shipment, entry shall be made under the provisions of part 141 or 145 of this chapter.

(d) *Restricted or prohibited shipments.* No shipment containing prohibited or restricted merchandise for which exemption is claimed under subheading 9804.00.70, HTSUS, or for which entry is claimed under subheading 9816.00.40, HTSUS, shall be released except upon compliance with the provisions of part 12 and §§145.51 through 145.59 of this chapter, and other applicable laws and regulations.

(e) *Verification of claim.* The port director may withhold release of any shipment for which exemption is claimed under subheading 9804.00.70, HTSUS, or for which entry is claimed under subheading 9816.00.40, HTSUS, to verify the validity of the claim. If he is unable to verify the claim, the merchandise shall be released under the provisions of part 141 or 145 of this chapter.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978, as amended by T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 93-66, 58 FR 44131, Aug. 19, 1993]

#### § 148.116 Claim for refund.

Any person who has filed a declaration of unaccompanied articles under §§148.112 and 148.113 and who is dissatisfied with the amount of duty assessed on the articles upon their arrival in the United States may file a claim for ad-

ministrative review under subpart C, part 145, of this chapter if the articles arrived by mail, or under parts 173 and 174 if the articles arrived other than by mail. Any supporting documents, including a copy of Customs Form 255, should be submitted with the claim.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978]

## PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

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AUTHORITY: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States (HTSUS)), 1624. Subpart A also issued under 19 U.S.C. 1499.

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;

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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 arrival, the importer shall pay any additional expenses, including actual expenses of travel and subsistence but not the salary during regular hours of duty of the examining officer. However, no collection will be made if the total amount chargeable against one importer for one day amounts to less than 50 cents. If the total amount chargeable amounts to 50 cents or more but less than \$1, a minimum charge of \$1 will be made.

(d) *Bond for removal from Customs custody.* Before permitting the removal of merchandise for examination elsewhere than at the public stores, wharf, or other place under the control of Customs, the port director shall require the importer to execute a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 84-152, 49 FR 29374, July 20, 1984; T.D. 84-213, 49 FR 41186, Oct. 19, 1984; T.D. 93-6, 58 FR 5606, Jan. 22, 1993]

**§ 151.8 Examination after assembly.**

(a) *Application by importer.* Upon application by the importer, machinery, altars, shrines, and other articles which must be set up or assembled prior to examination may be examined at the mill, factory, or other suitable place after being assembled.

(b) *Conditions applicable.* The importer shall comply with the conditions set forth in § 151.7 (b) through (d). The port director may also require that a deposit be made of the estimated additional expense. The packages need not be corded and sealed in accordance with § 151.7(a), but the port director may make such preliminary examination as he deems necessary to identify the merchandise with the invoice.

(c) *Removal of merchandise and notification of assembly.* After the bond required by § 151.7(d) has been filed and any necessary preliminary examination has been made, the port director may permit the merchandise to be removed to the place at which it is to be assembled for examination. Within 90 days after such removal, unless an extension has been applied for and granted by the port director, the importer

shall notify the port director that the merchandise has been assembled and is ready for examination, whereupon final examination shall be made.

**§ 151.9 Immediate transportation entry delivered outside port limits.**

When merchandise covered by an immediate transportation entry has been authorized by the port director to be delivered to a place outside a port of entry as provided for in §18.11(c) of this chapter, the provisions of §151.7 shall be complied with to the same extent as if the merchandise had been delivered to the port of entry, and then authorized to be examined elsewhere than at the public stores, wharf, or other place under the control of Customs.

**§ 151.10 Sampling.**

When necessary, the port director may obtain samples of merchandise for appraisalment, classification, or other official purposes. Samples shall be taken by Customs or a commercial gauger approved in accordance with §151.13. Samples shall be marked to ensure identification and retained according to established policies.

[T.D. 87-39, 52 FR 9787, Mar. 26, 1987]

**§ 151.11 Request for samples or additional examination packages after release of merchandise.**

If the port director requires samples or additional examination packages of merchandise which has been released from Customs custody, he shall send the importer a written request, on Customs Form 28, Request for Information, or other appropriate form, to submit the necessary samples or packages. If the request is not promptly complied with, the port director may make a demand under the bond for the return of the necessary merchandise to Customs custody in accordance with §141.113 of this chapter.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 75-152, 40 FR 27444, June 30, 1975; T.D. 84-213, 49 FR 41186, Oct. 19, 1984]

**§ 151.12 [Reserved]**

**§ 151.13 Commercial gaugers and commercial laboratories.**

Commercial gaugers are commercial organizations and individuals who

measure, gauge, or sample merchandise. (The term "public gauger" has been used to denote a type of commercial gauger dealing mainly with petroleum and petroleum products. "Public gaugers" are commercial gaugers and are subject to the regulations in part 151.) Commercial laboratories are commercial organizations and individuals who analyze merchandise, i.e., determine its composition and/or characteristics through laboratory analysis. Commercial gaugers may own and operate commercial laboratories and vice versa. They may be approved or accredited, respectively, as a single organization, but each part of the organization is subject to the appropriate requirements of part 151.

(a) *Acceptance of reports.* Provided that the commercial gauger or laboratory has complied with the appropriate provisions of the Customs Regulations, and in the absence of clear evidence that the port director should not do so, the port director shall accept the reports as described in the following paragraphs.

(1) Customs shall accept, from Customs-approved commercial gaugers, gauging reports of the net landed quantity of the products described below, except that in the case of crude petroleum of Heading 2709, the gross quantity may be accepted; see §151.47. Reports shall be given in the appropriate Harmonized Tariff Schedule units of quantity, e.g., liters, barrels, and kilograms.

HTSUS	Product	Unit of quantity
1501 through 1515.	Animal and vegetable oils.	—Kilogram.
2707.10 through 2707.30 and 2902.20 through 2902.44.	Benzene, toluene, and xylene.	—Liter.
2709 .....	Crude petroleum .....	—Barrel.
2710 (various sub-headings).	Such as fuel oil, motor fuel, kerosene, naphtha, and lubricating oils.	—Barrel.
Chapter 29 (various).	Organic compounds in bulk and in liquid form.	—Kilogram, liter, etc.

(2) Customs shall accept, from Customs-accredited commercial laboratories, laboratory analysis reports giving the characteristics of the products

described below when determined according to the analysis methods indicated. In cases where neither a published commercial method such as an ASTM procedure nor an Official Customs Laboratory Method (OCLM) is indicated, the commercial laboratory shall use a method of analysis which has been approved for use in Customs-

related transactions by the Director, Laboratory & Scientific Services. OCLM's and approved methods will be made available to the public under the Freedom of Information Act (5 U.S.C. 552) and 19 CFR, part 103. Methods published by organizations such as ASTM, API, and similar organizations, are not available from Customs.

HTSUS	Product	Characteristic (analysis method)
2707.10 through 2707.30 and 2902.20 through 2902.44.	Benzene toluene and xylene.	—Distillation characteristics (ASTM D 86). —Xylene isomer content (ASTM D 2306 or other equivalent approved method). —Percent composition by weight (ASTM D 2360, D 3797, D 3798, D 4492 or other equivalent approved methods).
2709 .....	Crude petroleum .....	—Water by distillation (ASTM D 4006 or other equivalent approved method). —Sediment and water (ASTM D 96 or other equivalent approved method). —API gravity (ASTM D 287 or other equivalent approved method). —Sediment by extraction (ASTM D 473 or other equivalent approved method). —Distillation characteristics (ASTM D 86 or other equivalent approved method).
2710 (various sub-headings).	Such as, fuel oil, motor fuel, Kerosene, naphtha, and lubricating oils.	—Water by distillation (ASTM D 95 or other equivalent approved method). —Sediment and water (ASTM D 96 or other equivalent approved method). —API gravity (ASTM D 287 or other equivalent approved method). —Reid vapor pressure (ASTM D 323 or other equivalent approved method). —Saybolt universal viscosity (ASTM D 445 and D 2161 or other equivalent approved methods). —Sediment by extraction (ASTM D 473 or other equivalent approved method). —Percent by weight sulfur (ASTM D 1266, ASTM D 2622, or ASTM D 3120, or other equivalent approved methods). —Percent by weight lead (ASTM D 2547, ASTM D 2599, or ASTM D 3341, or other equivalent approved methods). —Antiknock index (ASTM D 2699 (RON) and ASTM D 2700 (MON); see ASTM D 439).
Chapter 29 (various subheadings).	Organic compounds in bulk and in liquid form.	—Identity using HTSUS descriptions or common or IUPAC nomenclature. —Composition, giving percent by weight of each component. (Various methods published by ASTM, API, AOAC, USP, and similar organizations, may used for identity and composition, e.g., ASTM D 2593 for butadiene, D 2192 for aldehydes, ketones, and similar substances. Approved methods involving gas or liquid chromatography, infrared spectroscopy mass spectrometry, nuclear magnetic resonance spectrometry, and various "wet" chemical procedures and physical tests, e.g., refractive index, and melting point, may also be used.)

(b) *Approval of commercial gaugers and commercial laboratories.* Commercial gaugers seeking approval and commercial laboratories seeking accreditation shall send a letter of application to the U.S. Customs Service, Attention: Director, Laboratory & Scientific Services, Washington, DC 20229. Applications shall include:

- (1) The applicant's legal name and the addresses of the principal place of business and any other facilities;
- (2) A statement of:
  - (i) The services to be provided (e.g., gauging, laboratory analysis, etc.);
  - (ii) The commodities to be gauged, sampled, or analyzed (e.g., petroleum and petroleum products);

(iii) The characteristics to be determined (e.g., distillation characteristics, the amount of sediment and water, etc.); and

(iv) References to the procedures to be used (e.g., ASTM D 1085: Ga(u)ging Petroleum and Petroleum Products, ASTM D 86: Distillation of Petroleum Products, etc.);

(3) Detailed statements of ownership and any partnerships, parent-sub-sidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers; other commercial gaugers, laboratories, or samplers; producers; refiners; Customs brokers; carriers; etc.;

(4) A statement of financial condition;

(5) If a corporation, a copy of the articles of incorporation and the names of all officers and directors;

(6) The names (or titles) and qualifications of each person who will be authorized to sign or approve gauging or analysis reports on behalf of the commercial gauger or laboratory;

(7) A complete description of the applicant's facilities, instruments, and equipment;

(8) A bond executed in accordance with part 113, Customs Regulations (19 CFR part 113); and

(9) A written agreement in the following form to avoid conflict-of-interest situations and to comply with requirements prescribed by Customs:

COMMERCIAL GAUGER (LABORATORY)  
AGREEMENT

As conditions for approval (accreditation), I agree:

- To have no financial interest in or other connection with any business or other activity which might affect the unbiased performance of my duties as a Customs-approved (-accredited) commercial gauger (laboratory). I understand that this does not prohibit my accepting the usual fees for professional services.

- To comply with the requirements of part 151, Customs Regulations (19 CFR part 151), and to conduct my professional services in conformance with approved standards and procedures, including procedures which may be required by the Commissioner of Customs or the Director, Laboratory & Scientific Services.

- To maintain the ability, i.e., the instruments, equipment, qualified staff, facilities, etc., to perform the services for which I am approved (accredited) and to allow my performance to be evaluated by the Director, Laboratory & Scientific Services, on a periodic basis by such means as on-site inspections, demonstrations of gauging (analysis) procedures, reviews of submitted records, and proficiency testing through check-samples.

- To notify both the port director and the Director, Laboratory & Scientific Services, of any attempt to impede, influence, or coerce me in the performance of my duties immediately.

- To investigate any circumstances which might affect the accuracy of my work promptly; to correct the situation immediately and to notify both the port director and the Director, Laboratory & Scientific Services, of such matters, their con-

sequences, and any actions taken immediately.

- To notify the Director, Laboratory & Scientific Services, by certified mail within 5 days of any major changes involving legal name; address; ownership; parent-subsidiary relationships; bond; other offices; managerial, professional, or executive staff; approved signatories; facilities, instruments, or equipment; etc.

(c) *Combined approval and accreditation.* An organization having both gauging offices and laboratories may apply for approval and accreditation, respectively, in a single submission. Each part of the organization must meet and maintain the appropriate qualifications and technical and operational requirements, but any requirement imposed on the organization as a whole (e.g., the bond) may be met with one document.

(d) *Determination of competence.* The Director, Laboratory & Scientific Services, shall determine the applicant's competence, independence, and reputation by use of appropriate techniques, including background investigations by Customs Office of Investigations.

(e) *Notice of conditional approval.* The Director, Laboratory & Scientific Services, shall issue conditional approval or accreditation within 60 days of receiving a complete and acceptable application package, including a bond. Gaugers and laboratories may operate under conditional approval or accreditation for no more than 6 months or until their permanent approval or accreditation is issued or disapproved. While under conditional approval or accreditation, gaugers and laboratories are subject to all of the requirements of this part, and their conditional approval or accreditation may be suspended or revoked for cause [see §151.13(k)], for failure to comply with any provision of this part, or if Customs evaluation uncovers disqualifying factors.

(f) *Notice of approval, disapproval, suspension, or revocation.* When Customs evaluation of the applicant is complete, the Director, Laboratory & Scientific Services, shall notify the applicant that his application has been approved or give the reasons for disapproval. Approvals or accreditations may be suspended or revoked at any time for cause [see §151.13(k)] or for

failure to comply with any provision of this part, and liquidated damages may be assessed under the commercial gauger's or laboratory's bond. Notices of approval, suspension, and revocation shall be published in the FEDERAL REGISTER and the Customs Bulletin.

(g) *Technical and operational requirements.* To be approved and to maintain approval, a commercial gauger or laboratory shall conform to the following:

(1) *Equipment.* The commercial gauger or laboratory shall be equipped with all instruments and equipment needed to conduct approved services and analyses according to appropriate standards published by recognized standards-writing organizations such as the American Society for Testing and Materials (ASTM), the American Petroleum Institute (API), or the American National Standards Institute (ANSI). The commercial gauger or laboratory shall ensure that all instruments and equipment are properly calibrated, checked, and maintained.

(2) *Procedures.* The commercial gauger or laboratory shall comply in all respects with appropriate procedures published by ASTM, API, etc., and with specific procedures required by the Director, Laboratory & Scientific Services, under paragraph (h) of this section.

(3) *Facilities.* The commercial gauger or laboratory shall conduct his services in facilities which have adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed in the appropriate procedures.

(4) *Personnel.* The commercial gauger or laboratory shall be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (e.g., maintaining equipment, calibrating instruments, performing gauging services or laboratory analyses, evaluating gauging or analytical results, signing gauging or analysis reports on behalf of the commercial gauger or laboratory, etc.). In general, gauging staff should have a minimum of six (6) months training and experience in gauging, and laboratory staff should have a bachelor's degree in the sciences or two years related experience in an analytical laboratory.

(h) *Specific procedures.* The Director, Laboratory & Scientific Services, may require commercial gaugers or laboratories to follow specific procedures if warranted by local circumstances. Commercial gaugers or laboratories may request that such procedures be imposed if they believe that such procedures are warranted. Commercial gaugers or laboratories also may request the Director to review the imposition of specific procedures or delay their implementation.

(i) *Recordkeeping requirement.* The commercial gauger or laboratory shall maintain records of the type normally kept in the ordinary course of business. In addition, the commercial gauger or laboratory shall maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records shall be maintained for five (5) years in accordance with §§ 162.1a through 162.1c of this chapter.

(1) *Transaction records.* Records for each Customs-related transaction, including samples, must have the following:

- (i) A unique identifying number;
- (ii) The date and location where the transaction occurred or the sample was received or taken;
- (iii) The identity of the product (e.g., crude oil);
- (iv) The name of the client; and
- (v) The source of the sample (e.g., name of vessel, flight number of airline, name of individual taking the sample, etc.).

If available, records for each Customs-related transaction, including samples, should have the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

(2) *Major instrument records.* Records for each major piece of equipment or instrument (including analytical balances) used in Customs-related work must have the name and type of the instrument, the manufacturer's name, the instrument's model and serial numbers, and the details (names, dates, etc.) of all major servicing, recalibration, etc.

(3) *Records of gauging and analytical procedures.* The commercial gauger or

laboratory must maintain complete and up-to-date copies of all approved gauging and analytical procedures, calibration methods, etc., and must document the procedures each staff member is authorized to perform.

(4) *Gauging and laboratory analysis records.* The commercial gauger or laboratory must identify by number (see paragraph (i)(1)(i) of this section) and must maintain all information or data (such as sample weights, temperatures, references to filed spectra, etc.) associated with each Customs-related gauging transaction or laboratory analysis. Each gauging and analysis record (i.e., the complete file of all data for each separate transaction) must be dated and initialed or signed by the staff member(s) who did the work.

(5) *Gauging and laboratory analysis reports.* Each gauging or laboratory analysis report submitted to Customs must include:

- (i) The name and address of the commercial gauger or laboratory;
- (ii) A description and identification of the sample, including its unique identifying number;
- (iii) The designations of each gauging or analysis procedure used;
- (iv) The gauging or analysis report itself (i.e., the quantity and/or the characteristics of the sample);
- (v) The date of the report; and
- (vi) The initials or signature of the person accepting technical responsibility for the gauging or analysis report (i.e., an approved signatory).

(j) *Verification requirement.* To ensure compliance with part 151 and the accuracy of the information submitted to Customs by commercial gaugers and laboratories, the Director, Laboratory & Scientific Services, may conduct on-site inspections, record reviews, periodic check samples, etc.

(k) *Suspension or revocation of Customs approval or accreditation—(1) Grounds.* If a commercial gauger's or laboratory's reports are repeatedly inaccurate to a significant degree, or if the gauger or laboratory fails to comply with any applicable provision of the Customs Regulations (19 CFR chapter I), the Director, Laboratory & Scientific Services, may suspend or revoke the commercial gauger's approval or the commercial laboratory's accreditation in its en-

tirety, or the Director may suspend or revoke one or more of the gauger's or laboratory's facilities or field offices.

(2) *Notice.* The Director shall give the commercial gauger or laboratory a notice containing specific written grounds for the proposed suspension or revocation, the scope of the proposed suspension or revocation, and all procedures and timeliness for appeal and review.

(3) *Appeal.* The commercial gauger or laboratory has 30 days from the date of the notice to file a written appeal to the Director. The appeal may contain an acceptance of responsibility and may also provide extenuating circumstances and rebuttal evidence. In addition, this appeal may ask for a meeting with the Director or his designee to discuss the proposed action. Failure to file an appeal within 30 days may result in the suspension or revocation of the commercial gauger's approval or the commercial laboratory's accreditation.

(4) *Response.* If the Director accepts the commercial gauger's or laboratory's appeal, he shall notify the gauger or laboratory immediately and close the case. If not, he shall notify the gauger or laboratory within 30 days of receipt of the appeal and advise him of his right to file a written petition to the Commissioner to review the proposed action.

(5) *Commissioner's review.* The commercial gauger or laboratory has 30 days from the date of the Director's response to file (with the Director) a written petition for the Commissioner to review the proposed action. The Commissioner or his designee shall review the petition and shall forward the written decision to the Director for implementation.

(6) *Publication.* The Director shall publish notice of suspensions or revocations of a commercial gauger's approval or a commercial laboratory's accreditation in the FEDERAL REGISTER and the Customs Bulletin, giving the effective date, duration, and scope of each such action.

(l) *Additional services and commodities.*  
 (1) Customs will consider adding additional services or commodities to those set out in §151.13(a) upon the submission of a request setting out the scope

of the services or commodities being proposed, the identification of the specific standards and procedures that would be used, and technical and economic reasons why Customs should add the services or commodities.

(2) Currently-approved commercial gaugers and currently-accredited commercial laboratories which are approved or accredited to gauge or analyze certain commodities may request the Director, Laboratory & Scientific Services, to approve or accredit them to gauge or analyze additional commodities listed in §151.13(a) by sending the Director a letter describing their proposal and giving the information set out in paragraphs (b)(1), (b)(2), (b)(6), and (b)(7) of §151.13.

(m) *Costs of using Customs-approved commercial gaugers or Customs-accredited commercial laboratories*. No expense incurred by the use of a Customs-approved commercial gauger or a Customs-accredited commercial laboratory shall be borne by the Government.

[T.D. 87-39, 52 FR 9788, Mar. 26, 1987, as amended by T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 90-78, 55 FR 40167, Oct. 2, 1990]

**§151.14 Use of commercial laboratory tests in liquidation.**

The “sediment and water” characteristic as set out in §151.13(a)(2) and as determined by a Customs-accredited commercial laboratory shall be used for Customs purposes if the difference between the value found by the commercial laboratory and the value found by the Customs laboratory does not exceed 0.11 percent. If the difference exceeds this limit and the Customs-accredited commercial laboratory cannot establish that Customs is in error, then the Customs results shall be used.

[T.D. 90-78, 55 FR 40167, Oct. 2, 1990]

**§151.15 Movement of merchandise to a centralized examination station.**

(a) *Permission to transfer merchandise for examination*. When a shipment requires examination at a centralized examination station (CES), Customs Form 3461, or Customs Form 3461 (ALT) for land border cargo, or an attachment to either, may be used to request permission to transfer the merchandise to a CES. The entry filer must write, type or stamp the following lines on

the form or attachment, and must supply the information called for on the first three lines:

Containers to be transferred: \_\_\_\_ All or,  
 Container #'s \_\_\_\_, \_\_\_\_, \_\_\_\_  
 To CES \_\_\_\_\_  
 Approved by: U.S. Customs Inspector \_\_\_\_\_  
 Date \_\_\_\_\_

Unless the port director exercises his authority pursuant to paragraph (d) of this section, the reviewing inspector will initial and date the form or attachment being used, or stamp one copy of the Customs Form 3461 or 3461 (ALT) if required by the port director. A copy of this document will act as notification and authorization to the entry filer that the merchandise must be transferred to the importer-designated CES unless another CES is designated by the port director under paragraph (d) of this section.

(b) *Assumption of liability during transfer*. Merchandise designated for examination may be transferred from the importing carrier’s point of unloading or from a bonded facility, to a CES, only if the transfer takes place under bond. The entry filer shall select one of the following bonded movements for the transfer to the CES unless the type of bonded movement to be used is specified by the port director under paragraph (d) of this section:

(1) If the merchandise is transferred directly to a CES by an importing carrier, the importing carrier shall remain liable under the terms of its international carrier bond for the proper safekeeping and delivery of the merchandise until it is receipted for by the CES operator.

(2) If the merchandise is transferred directly from a bonded carrier’s facility to a CES or is delivered directly to the CES by a bonded carrier, the bonded carrier shall remain liable under the terms of its custodial bond for the proper safekeeping and delivery of the merchandise until it is receipted for by the CES operator.

(3) If containerized cargo, including excess loose cargo that is part of the containerized cargo, is transferred to a CES operator’s own facility using his own vehicles, the CES operator shall be liable under the terms of his custodial

bond for the proper safekeeping and delivery of the merchandise to the CES facility.

(4) If the importer or his agent acting as importer of record transfers the merchandise to a CES, that importer or agent shall assume liability under his importation and entry bond (see § 151.7(d) of this part) for the proper transfer of the merchandise until it is receipted for by the CES operator.

(c) *Annual blanket transfer.* Port directors may institute an annual blanket transfer application procedure to facilitate any of the bonded movements described in paragraph (b) of this section.

(d) *Designation of bonded movement and CES to be used.* In the event the port director deems it necessary, he may direct the type of bonded movement to be used to transfer merchandise to a CES and may designate the CES at which examination must take place. In either case the port director's action will be noted on the Customs Form 3461 or 3461 (ALT) or attachment thereto.

[T.D. 93-6, 58 FR 5606, Jan. 22, 1993]

### Subpart B—Sugars, Sirups, and Molasses

#### § 151.21 Definitions.

The following are general definitions for the purposes of this subpart in applying the provisions of Chapters 17 and 18, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202):

(a) *Degree.* "Degree" or "sugar degree" means an International Sugar Degree as determined by polarimetric test performed in accordance with procedures recognized by the International Commission for Uniform Methods of Sugar Analysis. This test discloses the percentage of sucrose contained in the sugar.

(b) *Total sugars.* "Total sugars" means the sum of the sucrose, the raffinose, and the reducing sugars.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

#### § 151.22 Estimated duties on raw sugar.

Estimated duties shall be taken on raw sugar, as defined in Subheading Note 1 to Chapter 17, Harmonized Tariff Schedule of the United States, on the basis of not less than 96° polariscopic test unless the invoice shows that the sugar is of a lower grade than that of the ordinary commercial shipment.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

#### § 151.23 Allowance for moisture in raw sugar.

Inasmuch as the absorption of sea water or moisture reduces the polariscopic test of sugar, there shall be no allowance on account of increased weight of raw sugar importations due to unusual absorption of sea water or other moisture while on the voyage of importation. Any portion of the cargo claimed by the importer to have absorbed sea water or moisture on the voyage of importation shall be weighed, sampled, and tested separately. No such claim shall be considered if made after the sugar claimed to have been damaged has been weighed.

#### § 151.24 Unlading facilities for bulk sugar.

When dutiable sugar is to be imported in bulk, a full description of the facilities to be used in unlading the sugar shall be submitted to the Commissioner of Customs as far as possible in advance of the date of importation, and special instructions will be issued as to the methods to be applied in weighing and sampling such sugar.

#### § 151.25 Mixing classes of sugar.

No regulations relative to the weighing, taring, sampling, classifying, and testing of imported sugar shall be so construed as to permit mixing together sugar of different classes, such as centrifugal, beet, molasses, or any sugar different in character from those mentioned, for the purpose of weighing, taring, sampling, or testing.

**§ 151.26 Molasses in tank cars.**

When molasses is imported in tank cars, the importer shall file with the port director a certificate showing whether there is any substantial difference either in the total sugars or the character of the molasses in the different cars.

**§ 151.27 Weighing and sampling done at time of unloading.**

Sugar, sirup, and molasses requiring either weighing or sampling shall be weighed or sampled at the time of unloading. When such merchandise requires both weighing and sampling, these operations shall be performed simultaneously.

**§ 151.28 Gauging of sirup or molasses discharged into storage tanks.**

(a) *Plans of storage tank to be filed.* When sirup or molasses is imported in bulk in tank vessels and is to be pumped or discharged into storage tanks, before the discharging is permitted there shall be filed with the port director a certified copy of the plans and gauge table of the storage tank showing all inlets and outlets and stating accurately the capacity in liters per centimeter of height of the tank from an indicated starting point.

(b) *Settling before gauging.* After the discharge is completed, all inlets to the tank shall be carefully sealed and the sirup or molasses left undisturbed for a period not to exceed 20 days to allow for settling before being gauged. When a request for immediate gauging is made in writing by the importer, it shall be allowed by the port director.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 80-142, 45 FR 36384, May 30, 1980; T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

**§ 151.29 Expense of unloading and handling.**

No expense incidental to the unloading, transporting, or handling of sugar, sirup, or molasses for convenient weighing, gaging, measuring, sampling, or marking shall be borne by the Government.

**§ 151.30 Sugar closets.**

Sugar closets for samples shall be substantially built and secured by

locks furnished by Customs. They shall be conveniently located as near as possible to the points of discharge they are intended to serve. They shall be provided by the owner of the premises on which they are located and shall be so situated that sugar, sirup, and molasses stored therein shall not be subjected to extremes of temperature or humidity.

**§ 151.31 [Reserved]****Subpart C—Petroleum and Petroleum Products****§ 151.41 Information on entry summary.**

On the entry summary for petroleum or petroleum products in bulk, the importer shall show the API gravity at 60° Fahrenheit, in accordance with the current edition of the ASTM-IP Petroleum Measurement Tables (American Edition), approved by the American Society for Testing and Materials. The appropriate unabridged table shall be used in the reduction of volume to 60° F. If the exact volumetric quantity cannot be determined in advance, the entry summary may be made for “— barrels, more or less”, but in no case may the estimate vary by more than three percent from the gross quantity unladen. The term “barrels” is defined in Chapter 27, Additional U.S. Note 7, Harmonized Tariff Schedule of the United States. The information required by this section also shall be shown on the entry summary permit if the entry summary is filed at the time of entry, and on each entry summary continuation sheet regardless of when the entry summary is filed.

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 82-224, 47 FR 53728, Nov. 29, 1982; T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

**§ 151.42 Controls on unloading and gauging.**

(a) *Methods of control.* (1) Each port director shall establish controls and checks on the unloading and measurement of petroleum and petroleum products imported in bulk by vessel, truck, railroad car, pipeline, or other carrier. One of the following methods of control shall be employed:

(i) Customs-approved metering and sampling installations provided by the importer;

(ii) Shore tank gauging; or

(iii) Weighing for trucks and railroad cars.

(2) Vessel ullages shall be taken in every case unless the port director determines that it is impracticable to do so for safety or technological reasons. Ullages may be taken for trucks and railroad cars if weighing or shore tank gauging is not available as a method of control. Vessel ullages will not be used to determine the quantity unladen unless none of the other methods provided for in this paragraph is available or adequate.

(3) The metering and sampling installations described in paragraph (a)(1)(i) of this section are approved by Customs on a case-by-case basis. Importers seeking approval shall send a complete description of the installation to the port director who, with the concurrence of the Director, Laboratory & Scientific Services, or his designee, shall give approval or shall state, in writing, the reasons for disapproval. Approved installations are subject to periodic verification by Customs. Importers desiring to modify a Customs-approved installation shall obtain Customs approval beforehand.

(b) *Duties of Customs officers.* Customs officers may perform or witness ullaging and gauging as follows:

(1) Opening ullages.

(2) Closing ullages of carriers which have not completely discharged cargo, or if an importer or carrier requests Customs to witness closing ullages because of special problems.

(3) Shore tank gauges performed by company or related-party employees.

(4) Between 5 and 10 per cent of shore tank gauges conducted by commercial gaugers.

(5) Shore tank gauges, including those conducted by a commercial gauger if no carrier ullages are taken.

(c) *Manifest discrepancies.* Manifest discrepancies (shortages and overages) shall be reported by or on behalf of the carrier in the manner specified in §4.12 of this chapter. If a reported discrepancy is not explained to the satisfaction of the port director, the master or other person in charge, or the owner of

the vessel or vehicle, or any person directly or indirectly responsible for the discrepancy, will be subject to the imposition of the appropriate penalty under section 460, 584, or 592, Tariff Act of 1930, as amended (19 U.S.C. 1460, 1584, 1592).

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 82-224, 47 FR 53728, Nov. 29, 1982; T.D. 87-39, 52 FR 9790, Mar. 26, 1987; T.D. 89-1, 53 FR 51268, Dec. 21, 1988; T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

#### § 151.43 [Reserved]

#### § 151.44 Storage tanks.

(a) *Plans and gauge tables.* When petroleum or petroleum products subject to duty at a specific rate per barrel are imported in bulk in tank vessels and are to be transferred into shore storage tanks, both the plans of each shore tank showing all outlets and inlets and the gauge table for each tank showing its capacity in barrels per centimeter or tenth of a centimeter of height shall be certified as correct by the proprietor of the tank. One set of these plans and gauge tables so certified shall be kept on file at the plant of the oil company and shall be available at all times to Customs officers. Another certified set of the shore tank plans and gauge tables shall be filed with the port director for use in verifying the Customs officers' reports. The port director may require such additional sets of shore tank plans, including subsidiary pipeline plans, and gauge tables as he may deem necessary. The storage tank proprietor shall maintain the plans and gauge tables for 3 years after discontinuing use of the storage tanks as bonded warehouses for the storage of imported petroleum or petroleum products.

(b) *Tags required on valves.* The inlet and outlet valves of each tank shall have tags of a permanent type affixed by the proprietor or lessee indicating the use of the valves.

(c) *Verification of gauge tables.* Whenever he has reason to suspect their reliability, the port director may require the measurement and calibrations shown on the gauge tables to be verified by a Customs officer. If no qualified Customs officer is available,

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the port director may accept an independent certification verifying the measurements and calibrations. The independent verification shall be performed at the expense of the storage tank proprietor.

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 89-1, 53 FR 51268, Dec. 21, 1988]

**§ 151.45 Storage tanks bonded as warehouses.**

(a) *Application.* Tanks for the storage of imported petroleum or petroleum products in bulk may be bonded as warehouses of class 2 if to be used exclusively for the storage of petroleum or petroleum products belonging or consigned to the owner or lessee of the tank. In addition to the documents and bonds required to be filed with the application to bond (see § 19.2 of this chapter), the certified plans and gauge tables required by § 151.44 shall be filed.

(b) *Removal of nonbonded petroleum.* If a bonded tank is not empty at the time the first importation of bonded petroleum or petroleum products is to be stored therein, the amount of nonbonded petroleum or petroleum products in the tank shall be withdrawn by the proprietor as soon as possible. The request to withdraw shall be in the form of a letter and no formal withdrawal need be filed. Domestic or duty-paid petroleum or petroleum products shall not thereafter be stored in the tank as long as the tank remains bonded.

(c) *Information on warehouse withdrawal.* Warehouse withdrawals of petroleum or petroleum products from bonded tanks shall show the information specified in § 151.41, as well as the designation of the tank from which the merchandise is to be withdrawn. Such withdrawals may be made for “— U.S. gallons, more or less”, but in no case may the estimate vary by more than three percent from the gross quantity unladen.

[T.D. 80-142, 45 FR 36384, May 30, 1980, as amended by T.D. 87-39, 52 FR 9790, Mar. 26, 1987]

**§ 151.46 Allowance for detectable moisture and impurities.**

An allowance for all detectable moisture and impurities present in or upon

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imported petroleum or petroleum products shall be made in accordance with § 158.13 of this chapter.

[T.D. 90-78, 55 FR 40167, Oct. 2, 1990]

**§ 151.47 Optional entry of net quantity of petroleum or petroleum products.**

Instead of stating the gross quantity of petroleum or petroleum products on the entry summary, the importer may state the net quantity. The analytical report from the Customs-accredited commercial laboratory shall be filed with the entry summary.

[T.D. 87-39, 52 FR 9790, Mar. 26, 1987, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**Subpart D—Metal-Bearing Ores and Other Metal-Bearing Materials**

**§ 151.51 Sampling requirements.**

(a) *General.* Except as provided in paragraph (b) of this section, when metal-bearing ores and other metal-bearing materials which are classifiable under Chapter 26, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), are entered for consumption or warehousing at the port of first arrival, they shall be sampled for assay and moisture purposes in accordance with § 151.52. If proper facilities for weighing or sampling are not available at the port of entry, the merchandise shall be transported under bond to the place of sampling. The sampling or weighing of metal-bearing ores or materials at any place other than the port of entry shall be at the expense of the parties in interest.

(b) *Ores of low metal content.* When, on the basis of invoice information, the nature of any available sample, knowledge of prior importations of similar materials, and other data, the port director is satisfied that metal-bearing ores entered under heading 2617, HTSUS, as containing less than 1 percent of metals dutiable under headings 2603, 2607, and 2608, HTSUS, are properly entered, he may liquidate the entry on the basis of the assay information contained in the entry papers. However, the sampling and testing procedures prescribed in §§ 151.52 and 151.54

shall be followed at random intervals for verification purposes.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.52 Sampling procedures.**

(a) *Commercial samples taken under Customs supervision.* Representative commercial moisture and assay samples shall be taken under Customs supervision for testing by the Customs laboratory. The samples used for the moisture test shall be representative of the shipment at the time the shipment is weighed for Customs purposes. When a shipment is made up of a number of lots a composite sample of the shipment shall be drawn for assay, providing composite sampling is feasible and assays of the individual lots are not required for tariff classification or other Customs purposes. The composite sample shall consist of proportional parts by weight of the prepared sample drawn from the various lots represented and shall be thoroughly mixed.

(b) *Commercial samples furnished by importer.* When commercial samples cannot be taken under Customs supervision, the importer shall be required to furnish a verified commercial moisture sample and prepared assay sample certified to be representative of the shipment at the time the shipment was weighed for Customs purposes. The samples shall be in appropriate containers, properly labeled, and shall be accompanied by a statement including:

- (1) Entry number,
- (2) Lots represented,
- (3) Kind of ore or material,
- (4) Date and place where sampling occurred, and
- (5) The name and address of the sampling concern.

(c) *Samples taken by Customs.* Where no commercial samples have been taken, the port director shall take representative samples from different parts of the shipment.

**§ 151.53 Sample lockers.**

A suitable place or containers shall be provided for the safekeeping of all Customs samples under Customs lock or seal.

**§ 151.54 Testing by Customs laboratory.**

Samples taken in accordance with § 151.52 shall be promptly forwarded to the appropriate Customs laboratory for testing in accordance with commercial methods. The port director may secure from the importer a certified copy of the commercial settlement tests for moisture and for assay which shall be transmitted with the commercial samples to the Custom laboratory. If the Customs tests are not in substantial agreement with the settlement tests, the Customs laboratory director shall review his tests. The Customs tests shall be used in determining the final duties on the merchandise, except that the settlement tests shall be used if, in the opinion of the Customs laboratory director:

(a) The settlement and Customs tests differ by no more than is to be expected between qualified laboratories, and

(b) The use of the settlement test results will not require a different tariff classification or rate of duty than is indicated by the Customs test.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 87-39, 52 FR 9791, Mar. 26, 1987]

**§ 151.55 Deductions for loss during processing.**

Deductions for the loss of copper, lead, or zinc content during processing, as authorized by Chapter 26, Additional U.S. Note 1, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be made by the port director in the liquidation of any entry only if the importer has followed the procedures set forth in that headnote. See §§ 19.17 through 19.25 of this chapter for procedures applicable to bonded smelting and refining warehouses.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**Subpart E—Wool and Hair**

**§ 151.61 Definitions.**

The following are general definitions for the purposes of this subpart:

(a) *Clean kg.* 'Clean kg' means kilograms of clean yield as defined in paragraph (b) of this section.

(b) *Clean yield.* Except for the purposes of carbonized fibers, “Clean yield” means the absolute clean content (that is, all that portion of the merchandise which consists exclusively of wool or hair free of all vegetable and other foreign material, containing by weight 12 percent of moisture and 1.5 percent of material removable from the wool or hair by extraction with alcohol, and having an ash content of not over 0.5 percent by weight), less an allowance, equal by weight to 0.5 percent of the absolute clean content plus 60 percent of the vegetable matter present, but not exceeding 15 percent by weight of the absolute clean content, for wool or hair that would ordinarily be lost during commercial cleaning operations.

(c) For the purposes of carbonized fibers, the term clean yield means the condition as entered.

(d) *Sampling unit.* “Sampling unit” means all the similar packages covered by one entry or withdrawal containing wool or hair of the same kind or same general condition and character, produced in the same country, packed in substantially the same manner, and entered as or found to be subject to the same rate of entry.

(e) *General sample.* “General sample” means the composite of the individual portions of wool or hair drawn from a sampling unit.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.62 Information on invoices.**

Invoices of wool or hair subject to duty at a rate per clean kilogram under Chapter 51, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall show the following detailed information in addition to other information required:

(a) Condition, that is, whether in the grease, washed, pulled, on the skin, scoured, carbonized, burr-picked, willowed, handshaken, or beaten;

(b) Whether free of vegetable matter, practically free, slightly burry, medium burry, heavy burry;

(c) Whether in the fleece, skirted, matchings, or sorted;

(d) Length, that is, whether super combing, ordinary combing, clothing, or filling;

(e) Country of origin, and, if possible, the province, section, or locality of production;

(f) If wool, the type symbol by which it is bought and sold in the country of origin and the grade of each lot covered by the invoice, specifying the standard or basis used, that is, whether U.S. Official Standards or the commercial terms to designate grade in the country of shipment; and

(g) Net weight of each lot of wool or hair covered by the invoice in the condition in which it is shipped, and the shipper’s estimate of the clean yield of each lot by weight or by percentage.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.63 Information on entry summary.**

Each entry summary covering wool or hair subject to duty at a rate per clean kilogram under Chapter 51, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall show as to each lot of wool or hair covered thereby, in addition to other information required, the total estimated or actual net weight of the wool or hair in its condition as imported, its total estimated clean yield in kilograms, and the estimated percentage clean yield. (19 U.S.C. 1484.)

[T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.64 Extra copy of entry summary.**

One extra copy of the entry summary covering wool or hair subject to duty at a rate per clean kilogram shall be filed in addition to the copies otherwise required.

[T.D. 93-52, 58 FR 37854, July 14, 1993]

**§ 151.65 Duties.**

Duties on wool or hair subject to duty at a rate per clean kilogram may be estimated at the time of filing the entry summary on the basis of the clean yield shown on the entry summary if the port director is satisfied that the revenue will be properly protected. Liquidated duties shall be based

upon the port director's final determination of clean yield. Estimated and liquidated duties on wool or hair tested for clean yield pursuant to the provisions of § 151.71, and withdrawn for consumption without a change in condition which affects the duties and in a quantity less than an entire sampling unit shall be determined on the basis of an appropriate adjustment of the estimated percentage clean yield shown on the entry summary for the wool or hair included in each of the lots covered by the withdrawal. This adjustment shall be made by increasing or decreasing such estimated percentage clean yield of each lot by the difference between the percentage clean yield of the related sampling unit, as determined by the port director, and the weighted average percentage clean yield for the sampling unit, as computed from the estimated percentages clean yield and net weights shown on the entry summary for the lots included in the sampling unit.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 79-221, 44 FR 46829, Aug. 9, 1979; T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.66 Duty on samples.**

Duty shall be assessed and collected on samples taken pursuant to any provision in this subpart, whether taken by the importer or by Customs, unless an exemption or remission is obtained by compliance with an applicable provision of the law or regulations. The duty shall be assessed upon the samples in accordance with their condition at the time of importation, except in the case of merchandise manipulated in warehouse pursuant to section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562). The collection of duty on the samples may be postponed when the importation concerned is not entered for consumption until the withdrawal of the merchandise from which the samples are taken, or until an application for the destruction or abandonment of such merchandise has been accepted pursuant to an appropriate provision of the law or regulations.

**§ 151.67 Sampling by importer.**

The importer may be permitted after entry to draw samples under Customs supervision in reasonable quantities

from the packages of wool or hair designated for examination, provided the bales or bags are properly repacked and repaired by him. Any samples so withdrawn shall be weighed and a record showing the quantities thereof shall be made and filed with the related entry.

**§ 151.68 Merchandise to be sampled and tested by Customs.**

The following shall be weighed, sampled, and tested for clean yield, unless such sampling or testing is not feasible:

(a) All importation of wool or hair subject to duty at a rate per clean kilogram, except importations entered directly for manipulation under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), or for manufacture under the provisions of section 311, Tariff Act of 1930, as amended (19 U.S.C. 1311);

(b) All imported wool or hair manipulated under the provisions of section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562) and dutiable after manipulation as wool or hair at a rate per clean kilogram; and

(c) Such other imported wool or hair as the port director may designate.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.69 Transfer or exportation of part of sampling unit.**

(a) *Transfer of right to withdraw.* When an original sampling unit has been weighed, sampled, and tested in accordance with this subpart and a part of such unit is covered by a transfer of the right to withdraw made pursuant to section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), the percentages clean yield of the part covered by the transfer and of the part not so covered shall be computed on the basis of the original Customs weights and test and the invoice data related to the respective parts.

(b) *Exportation.* When part of such an original sampling unit is exported from continuous Customs custody without having been manipulated as provided for in section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), the percentage clean yield of the part not exported shall be determined, at the discretion

of the port director, either on the basis of a new determination by reweighing, resampling, and retesting, or by a computation as described in paragraph (a) of this section, for either the exported or the remaining part.

**§ 151.70 Method of sampling by Customs.**

A general sample shall be taken from each sampling unit, unless it is not feasible to obtain a representative general sample of the wool or hair in a sampling unit or to test such a sample in accordance with the provisions of § 151.71. At the request of the importer, two general samples may be taken from a sampling unit if the taking and testing of a second general sample is feasible. If two general samples are taken, one general sample shall be held for use in making a second test for clean yield if such a test is requested in accordance with the provisions of § 151.71(c), or if a second test is found desirable by the port director or the chief chemist.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 93-52, 58 FR 37854, July 14, 1993]

**§ 151.71 Laboratory testing for clean yield.**

(a) *Test and report by Customs laboratory.* The clean yield of all general samples taken in accordance with § 151.70 shall be determined by test in a Customs laboratory, unless it is found that it is not feasible to test such a sample and obtain a proper finding of percentage clean yield. A report of the percentage clean yield of each general sample as established by the test, or a statement of the reason for not testing a general sample, shall be forwarded to the port director.

(b) *Notification to importer.* Where samples of wool or hair have been tested in a Customs laboratory and the port director has received a copy of the Laboratory Report, Customs Form 6415, the port director shall promptly provide notice of the test results by mailing a copy of that report to the importer.

(c) *Importer's request for retest.* If the importer is dissatisfied with the port director's finding of clean yield, he may file with the port director a writ-

ten request in duplicate for another laboratory test for percentage clean yield. Such request shall be filed within 14 calendar days after the date of mailing of the notice of the port director's finding of clean yield. The request shall be granted if it appears to the port director to be made in good faith and if a second general sample as provided for in § 151.70 is available for testing, or if all packages or, in the opinion of the Commissioner of Customs, an adequate number of the packages represented by the general sample are available and in their original imported condition.

(d) *Retest procedures.* The second test shall be made upon the second general sample, if such a sample is available. If the second general sample is not available, the packages shall be reweighed, resampled, and tested in accordance with the provisions of this section. All costs and expenses of such operations, exclusive of the compensation of Customs officers, shall be borne by the importer, who may be present during such resampling and testing.

(e) *Request for commercial test.* If the importer is dissatisfied with the results of the second laboratory test, or if a second laboratory test is not feasible, the wool or hair may be retested by a commercial laboratory in accordance with § 151.73.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 75-121, 40 FR 23458, May 30, 1975; T.D. 93-52, 58 FR 37854, July 14, 1993]

**§ 151.73 Importer's request for commercial laboratory test.**

(a) *Conditions for commercial test.* If the importer is dissatisfied with the results of a retest made in accordance with § 151.71(c), he may request that a commercial test be made to determine the percentage clean yield of the wool or hair.

(b) *Time for filing request.* The importer's request shall be filed in writing with the port director within 14 calendar days after the date of mailing of the notice of the port director's findings based on the retest.

(c) *Procedures for commercial test.* The port director shall cause a representative quantity of the wool or hair in dispute to be selected and tested by a commercial method approved by the

Commissioner of Customs. The yield, as determined by such commercial test, shall be suitably adjusted to coincide with the definition of clean yield in §151.61(b). Such test shall be made under the supervision and direction of the port director at an establishment approved by him, and the expense thereof, including the actual expense of travel and subsistence of Customs officers but not their compensation, shall be paid by the importer.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 93-52, 58 FR 37854, July 14, 1993]

**§151.74 Retest at port director's request.**

If the port director is not satisfied with the results of any test provided for in §151.71 or §151.73, he may, within 14 calendar days after receiving the report of the results of such test, proceed to have another test made upon a suitable sample of the wool or hair at the expense of the Government. When the port director is proceeding to have another test made, he shall, within the 14-day period specified in this paragraph, notify the importer by mail of that fact.

**§151.75 Final determination of clean yield.**

The port director shall base his final determination of clean yield upon a consideration of all the tests made in connection with the wool or hair concerned.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 93-52, 58 FR 37854, July 14, 1993]

**§151.76 Grading of wool.**

(a) *Examination for grade.* The port director shall cause wool dutiable at a rate per clean kilogram to be examined for grade. The standards for determining grades of wool shall be those which are established from time to time by the Secretary of Agriculture pursuant to law and which are in effect on the date of importation of the wool, as provided by Chapter 51, Additional U.S. Note 2, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Notification to importer.* If classification of the wool at the grade or

grades determined on the basis of the examination will result in the assessment of duty at a rate higher than the rate provided for wool of the grade stated in the entry, the port director shall promptly notify the importer by mail.

(c) *Importer's request for reexamination.* If the importer is dissatisfied with the port director's findings as to the grade or grades of the wool, he may, within 14 calendar days after the date of mailing of the notice of the port director's findings, file in duplicate a written request for another determination of grade or grades, stating the reason for the request. Notice of the port director's findings on the basis of the reexamination of the wool shall be mailed to the importer.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

## Subpart F—Cotton

**§151.81 Definition of staple length.**

For the purposes of this subpart, "staple length" means the length of the fibers in a particular quantity of cotton designated in terms expressing the measurement by the millimeter or fraction thereof of a representative portion of the quantity in accordance with the Official Cotton Standards of the United States for length of staple, as established by the Secretary of Agriculture.

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§151.82 Information on invoices.**

Invoices of cotton provided for in subheading 5201.00.10, 5201.00.20, 5201.00.50, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall show the following detailed information in addition to other required information:

(a) One of the following statements regarding each lot of cotton covered by the invoice:

(1) This is harsh or rough cotton under 19.05 millimeters in staple length;

(2) The staple length of this cotton is under 28.58 millimeters. (This statement is not to be used if paragraph (a)(1) of this section is applicable);

(3) The staple length of this cotton is 28.58 millimeters or more and under 34.93 millimeters;

(4) This cotton is harsh or rough cotton (other than cotton of perished staple, and cotton pickings), white in color, and has a staple length of 29.37 millimeters or more and under 44.45 millimeters;

(5) The staple length of this cotton is 34.93 millimeters or more and under 42.86 millimeters; or

(6) The staple length of this cotton is 42.86 millimeters or more.

(b) The name of the country of origin and, if practicable, the name of the province or other subdivision of the country of origin in which the cotton was grown.

(c) The variety of the cotton, such as Karnak, Gisha, Pima, Tanguis, etc.

[T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 151.83 Method of sampling.**

For determining the staple length of any lot of cotton for any Customs purposes, samples of the lot shall be taken in accordance with commercial practice.

**§ 151.84 Determination of staple length.**

The port director shall have one or more samples of each sampled bale of cotton stapled by a qualified Customs officer, or a qualified employee of the Department of Agriculture designated by the Commissioner of Customs for the purpose, and shall promptly mail the importer a notice of the results determined.

**§ 151.85 Importer's request for redetermination.**

If the importer is dissatisfied with the port director's determination, he may file with the port director, within 14 calendar days after the mailing of the notice, a written request in duplicate for a redetermination of the staple length. Each such request shall include a statement of the claimed staple length for the cotton in question and a clear statement of the basis for the claim. The request shall be granted if

it appears to the port director to be made in good faith. In making the redetermination of staple length, the port director may obtain an opinion of a board of cotton examiners from the U.S. Department of Agriculture, if he deems such action advisable. All expenses occasioned by any redetermination of staple length, exclusive of the compensation of Customs officers, shall be reimbursed to the Government by the importer.

**Subpart G—Fruit Juices**

**§ 151.91 Brix values of unconcentrated natural fruit juices.**

The following values have been determined to be the average Brix values of unconcentrated natural fruit juices in the trade and commerce of the United States, for the purposes of the provisions of the Additional U.S. Notes to Chapter 20, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), and will be used in determining the dutiable quantity of imports of concentrated fruit juices, using the procedure set forth in Additional U.S. Note 2, Chapter 20, HTSUS:

Kind of fruit juice	Average Brix value (degrees)
Apple .....	13.3
Apricot .....	14.3
Bilberry (Whortleberry, Vaccinium Myrtillium) .....	13.4
Black currant .....	15.0
Blackberry .....	10.0
Black raspberry .....	11.1
Blueberry .....	14.1
Boysenberry .....	10.0
Carob .....	40.0
Cherry .....	14.3
Crabapple .....	15.4
Cranberry .....	10.5
Date .....	18.5
Dewberry .....	10.0
Elderberry .....	11.0
Fig .....	18.2
Gooseberry .....	8.3
Grape (Vitis Vinifera) .....	21.5
Grape (Slipskin varieties) .....	16.0
Grapefruit .....	10.2
Guava .....	7.7
Lemon .....	8.9
Lime .....	10.0
Loganberry .....	10.5
Mango .....	17.0
Naranja .....	10.5
Orange .....	11.8
Papaya .....	10.2
Passion Fruit .....	15.3
Peach .....	11.8
Pear .....	15.4
Pineapple .....	14.3
Plum .....	14.3

Kind of fruit juice	Average Brix value (degrees)
Pomegranate .....	18.2
Prune .....	18.5
Quince .....	13.3
Raisin .....	18.5
Raspberry (Red raspberry) .....	10.5
Red currant .....	10.5
Soursop (Guanabana, Annono Muricata) .....	16.0
Strawberry .....	8.0
Tamarind .....	55.0
Tangerine .....	11.5
Youngberry .....	10.0

[T.D. 73-175, 38 FR 17470, July 2, 1973, as amended by T.D. 74-41, 39 FR 2470, Jan. 23, 1974; T.D. 84-173, 49 FR 31852, Aug. 9, 1984; T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**Subpart H [Reserved]**

**Subpart I—Cigars, Cigarillos, and Tobacco**

**§ 151.111 Cigars, cigarillos, and tobacco of Cuban origin.**

The tobacco National Import Specialist at the port of New York shall have general supervision of the examination of (a) all cigars or cigarillos which may be made or derived in whole or in part of Cuban articles, and (b) all tobacco which may be of Cuban origin.

[T.D. 81-189, 46 FR 37888, July 23, 1981]

**PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE**

Sec.

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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 17, 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 port director shall ascertain or estimate the date of exportation by all reasonable