

may make a combined entry for rewarehouse and withdrawal for consumption.

(b) *Procedure for entry.* The procedures set forth in §144.41 are applicable to this type of entry, with the following exceptions:

(1) *Form of entry.* A combined entry for rewarehouse and withdrawal for consumption shall be made on Customs Form 7501 (Consumption Entry), in 4 copies, and shall contain all of the statistical information as provided in §141.61(e) of this chapter, one copy to be used as the permit. No declaration is required on the entry;

(2) *Extra copy for Internal Revenue.* An additional copy of Customs Form 7501, marked or stamped "For Internal Revenue Purposes," shall be presented for each entry of cigars, cigarettes, or cigarette papers or tubes, when the release from Customs custody of those articles is subject to part 275 of the regulations of the Internal Revenue Service (26 CFR part 275) and tax is payable to Customs; and

(3) *Deposit of duties.* Estimated Customs duties, taxes, and other charges, as set forth in subpart G of part 141 of this chapter, shall be deposited upon presentation of the combined entry. The port director shall then issue a permit for release on Customs Form 7501.

[T.D. 73-175, 38 FR 17464, July 2, 1973, as amended by T.D. 73-312, 38 FR 30884, Nov. 8, 1973; T.D. 87-75, 52 FR 20068, May 29, 1987]

PART 145—MAIL IMPORTATIONS

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POLICY STATEMENT TO PART 145—EXAMINATION OF SEALED LETTER CLASS MAIL
APPENDIX TO PART 145

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 23, 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;

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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.

SOURCE: T.D. 73-135, 38 FR 13369, May 21, 1973, unless otherwise noted.

§ 145.0 Scope.

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 mails 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 for which Customs prepares documentation is set forth in § 24.22 of this chapter.

[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]

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.

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(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 Customs 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 \$2,000 in value, Customs Form 3419 or 3419A or Customs Form 368 or 368A (serially numbered) or Customs Form 7501 shall be used for the entry of the merchandise, and the duty, any tax, and the amount of the mitigated forfeiture shall 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]

§ 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.

Subpart B—Requirements and Procedures

§ 145.11 Declarations of value and invoices.

(a) *Customs declaration.* A clear and complete Customs declaration on the form provided by the foreign post office, giving a full and accurate description of the contents and value of the merchandise, shall be securely attached to at least one mail article of each shipment, including shipments of special classes of merchandise treated in subpart D of this part. Although a Customs declaration is required to be attached to only one mail article of each shipment, examination and release of the merchandise will be expedited if such a declaration is attached to each individual mail article.

(b) *Invoice or statement of commercial value.* Each shipment of merchandise shall have an invoice or bill of sale (or, in the case of merchandise not purchased or consigned for sale, a statement of the fair retail value in the country of shipment), giving an accurate description and the purchase price of the merchandise, securely attached to the outside of the mail article or enclosed therein. If the shipment consists of more than one mail article, a copy of the invoice should accompany each mail article, or else the invoice shall accompany the mail article bearing the declaration, and that mail article shall be marked "Invoice enclosed."

(c) [Reserved]

(d) *Shipments without declaration and invoice.* Shipment of merchandise which are not accompanied by a Customs declaration and invoice in accordance with paragraphs (a) through (b) of this section may be subject to seizure

and forfeiture in accordance with § 145.4.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 76-103, 41 FR 14731, Apr. 7, 1976; T.D. 78-102, 43 FR 14454, Apr. 6, 1978; T.D. 85-39, 50 FR 9612, Mar. 11, 1985]

§ 145.12 Entry of merchandise.

(a) *Formal entries—(1) Discretionary.* The port director may require formal entry of any mail shipment regardless of value if in his opinion it is necessary to protect the revenue.

(2) *Required.* Formal entry at the customhouse shall be required for every importation in the mails which exceeds \$2,000 in value, except for special classes of merchandise which can be released without entry (see subpart D of this part), and except as provided in subparts B and C of part 143 and § 10.1 of this chapter.

(3) *Separate shipments.* Separate shipments not exceeding \$2,000 in value, if mailed abroad at different times (as shown by the declaration or other mailing indicia), shall not be combined for the purpose of requiring formal entry, even though they reach Customs at the same time and are covered by a single order or contract in excess of \$2,000, unless there was a splitting of shipments in order to avoid the payment of Customs duty.

(4) *Notice of formal entry requirement.* When a formal entry is required, the addressee shall be notified of the arrival of the shipment and of the place at which entry is to be made. If the shipment is addressed to a point which is not a Customs port or station, the port of entry specified in the notice shall be the port nearest the destination of the shipment. When a formal entry is filed, it shall contain all the statistical information as provided in § 141.61(e) of this chapter.

(b) *Mail and informal entries—(1) Preparation of entry form.* Except as provided in paragraphs (c) and (e) of this section, Customs officers shall prepare and attach a mail entry (Customs Form 3419 or 3419A) for each shipment not exceeding \$2,000 in value which is to be delivered by the Postal Service, and return the shipment to the Postal Service for delivery and collection of

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duty. If the addressee has arranged to pick up such a shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry (Customs Form 368 or 368A (serially numbered), or an entry summary, Customs Form 7501, and collect the duty in accordance with subpart C of part 143 of this chapter.

(2) *Rates of duty.* Merchandise released under a mail or informal entry shall be dutiable at the rates of duty in effect when the preparation of the entry is completed by a Customs employee, ready for transmittal with the merchandise to the addressee.

(c) *Dutiable shipments not over \$2,000 for Government agencies.* When a dutiable shipment not exceeding \$2,000 in value is addressed to a U.S. Government department or agency, the port director may release the merchandise prior to the payment of duties under an entry on Customs Form 368 or 368A (serially numbered) or Customs Form 7501, upon the receipt of a stipulation in the form set forth in §141.102(d) of this chapter. If the stipulation does not accompany the shipment, the port director shall notify the Government department or agency of the arrival of the shipment and request the stipulation. Upon receipt of the completed stipulation and preparation of the entry form, the port director shall stamp all mail articles in the shipment to show that they have received Customs treatment and shall return the shipment to the Postal Service for delivery, unless the addressee has arranged to pick up the shipment at the Customs office where it is being processed. The proper Government department or agency shall be billed later for any duties and taxes due.

(d) *Release without entry.* Certain types of merchandise may be passed free of duty without issuing an entry (see subpart D of this part).

(e) *Unaccompanied shipments*—(1) *Mail entry to be attached.* If the requirements of §148.115(a) of this chapter are met, Customs officers shall prepare and attach a mail entry, Customs Form 3419 or 3419A, for each shipment for which entry is claimed under subheading 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), which is to be delivered by the Postal

Service, and return the shipment to the Postal Service for delivery and collection of duty. If the addressee has arranged to pick up the shipment at the Customs office where it is being processed, the Customs officer shall prepare an informal entry, Customs Form 368 or 368A (serially numbered), or entry summary, Customs Form 7501, and collect the duty in accordance with subpart C of part 143 of this chapter if the requirements of §148.115(a) of this chapter are met.

(2) *Disposition of Customs Form 255.* The Declaration of Unaccompanied Articles, Customs Form 255, affixed to the shipment shall be removed by the Customs officer and retained for Customs purposes. If a mail entry, Customs Form 3419 or 3419A, has been prepared, the mail entry number shall be noted on the Customs Form 255.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 73-175, 38 FR 17469, July 2, 1973; T.D. 73-312, 38 FR 30884, Nov. 8, 1973; T.D. 78-102, 43 FR 14454, Apr. 6, 1978; T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 85-123, 50 FR 29955, July 23, 1985; T.D. 87-75, 52 FR 26142, July 13, 1987; T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 89-82, 54 FR 36026, Aug. 31, 1989; 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]

§ 145.13 Internal revenue tax on mail entries.

(a) *Method of collection.* Any internal revenue tax assessed on a mail entry shall be shown as a separate item on the entry, and collected in the same manner as Customs duties.

(b) *Release without payment of tax.* A mail entry may not be used to release a shipment of cigars, cigarettes, or cigarette papers or tubes for a manufacturer without payment of tax as provided for in 27 CFR part 275 and §11.2a of this chapter. If a claim for release without payment of tax is made by the addressee at the time of delivery, the shipment will be returned by the Postal Service to the port of entry or sent to the nearest Customs office at which appropriate release as claimed may be arranged by the addressee.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 78-329, 43 FR 43455, Sept. 26, 1978]

§ 145.14 Marking requirements.

(a) *Country of origin.* Merchandise imported by mail shall be marked with the country of origin in accordance with part 134 of this chapter. If merchandise without the required marking is to be delivered from the post office where it has been given Customs examination, the Customs officer shall require compliance with the marking law and regulations. If it is to be delivered from another post office, the Customs officer shall place in the envelope containing the mail entry a copy of Customs Form 3475, containing instructions to the postmaster concerning the marking to be required before delivery.

(b) *Other marking requirements.* Certain types of merchandise are subject to special marking requirements, such as those contained in the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Trademark Act. Since there is no provision for post office supervision of these types of marking, the port director shall require compliance with the law and regulations (see parts 11 and 133 of this chapter).

(c) *Failure to mark.* If the addressee fails to comply with the marking requirements, the mail article will be treated as undeliverable in accordance with § 145.5.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 78-102, 43 FR 14454, Apr. 6, 1978]

Subpart C—Administrative Review of Mail Entries**§ 145.21 Administrative review.**

Requests for adjustment of the amount of duty assessed under mail entries shall be handled as requests for administrative review in accordance with this subpart.

§ 145.22 Procedures for obtaining administrative review.

If an addressee is dissatisfied with the amount of duty assessed under a mail entry, he may obtain administrative review in the following ways:

(a) He may pay the assessed duty, take delivery of the merchandise, and send a copy of the mail entry to the issuing Customs office indicated on the

mail entry, together with a statement of the reason it is believed the duty assessed is incorrect. Any invoices, bills of sale, or other evidence should be submitted with the statement. The addressee may show the mail entry number and date on his statement instead of sending a copy of the mail entry, but this may result in delay.

(b) He may postpone acceptance of the shipment, and within the time allowed by the Postal regulations provide the postmaster with a written statement of his objections. The postmaster will forward the mail entry together with the addressee's statement and any invoices, bills of sale, or other evidence submitted by the addressee to the port director who issued the entry, and retain custody of the shipment until advice is received from the port director as to the disposition to be made. If the addressee is located near one of the ports at which Customs officers are authorized to review mail entries (see 39 CFR 10.5), the postmaster may send the mail entry to that port, together with the addressee's statement and evidence, for reconsideration by the port director.

(c) He may pay the assessed duty and take delivery of the merchandise, and file a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), in the form and manner prescribed in part 174 of this chapter.

[T.D. 73-175, 38 FR 13369, May 21, 1973, as amended by T.D. 78-99, 43 FR 13061, Mar. 29, 1978]

§ 145.23 Time limits.

A mail entry may be amended under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), only if the addressee requests such amendment within the time limits prescribed therein (see §§ 173.4 and 173.5 of this chapter), and the claim is allowable under section 520(c). Requests for adjustment in the amount of duty assessed under mail entries made under § 145.22(a) shall be made in such time that the request can be acted upon by the port director within 90 days after receipt of the mail article and payment of the duties by the addressee. Protests under § 145.22(c) must be filed not later than 90 days after payment of the duties by the addressee, but may be acted

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upon after the expiration of that 90-day period.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 78-102, 43 FR 14454, Apr. 6, 1978]

§ 145.24 Amendment of entry.

If the port director is satisfied that the objection is valid and timely, he shall amend the mail entry. If the duty has already been paid, Customs shall issue an appropriate refund of duty.

§ 145.25 Entry correct.

If the port director believes the duty originally assessed was correct, he shall send the addressee a notice in writing that the request for refund of duty has been denied. If the duty has not been paid, the mail entry shall be returned to the postmaster concerned, together with a copy of the notice sent to the addressee. The postmaster will then collect the duty and deliver the shipment, or, if the addressee refuses to pay the duty, will treat the shipment as undeliverable.

§ 145.26 Rates of duty not binding.

Rates of duty assessed on a mail entry, whether assessed on the original entry or as amendments under § 145.24, are not binding for future importations. A binding ruling on tariff classification may be obtained in accordance with the procedures set forth in part 177 of this chapter.

[T.D. 73-175, 38 FR 13369, May 21, 1973, as amended by T.D. 73-175, 38 FR 17469, July 2, 1973; T.D. 78-99, 43 FR 13061, Mar. 29, 1978]

Subpart D—Special Classes of Merchandise

§ 145.31 Importations not over \$200 in value.

The port director shall pass free of duty and tax, without preparing an entry as provided for in § 145.12, packages containing merchandise having an aggregate fair retail value in the country of shipment of not over \$200, subject to the requirements set forth in §§ 10.151 and 10.153 of this chapter.

[T.D. 94-51, 59 FR 30296, June 13, 1994]

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§ 145.32 Bona-fide gifts.

The port director shall pass free of duty and tax, without preparing an entry as provided for in § 145.12, articles sent as bona-fide gifts from persons in foreign countries to persons in the United States having an aggregate fair retail value in the country of shipment not exceeding \$100 (\$200, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), subject to the requirements set forth in §§ 10.152 and 10.153 of this chapter.

[T.D. 94-51, 59 FR 30296, June 13, 1994]

§ 145.34 Personal and household effects and tools of trade.

(a) *U.S. military and civilian personnel returning from extended duty abroad.* Section 148.74 of this chapter sets forth specific requirements for exemptions from duty under subheading 9805.00.50, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for personal and household effects of military and civilian personnel of the United States returning upon the completion of extended duty abroad. A copy of the official travel orders shall be attached to or enclosed in each mail article and the outside of each mail article shall be clearly marked to show that exemption from duty is being claimed.

(b) *Other personal and household effects, and tools of trade.* Certain personal and household effects and tools of trade may be passed free of duty without issuing an entry, in accordance with § 148.53 of this chapter.

[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. 89-1, 53 FR 51263, Dec. 21, 1988]

§ 145.35 United States products returned.

Products of the United States returned after having been exported, which have not been advanced in value or improved in condition while abroad, may be passed free of duty without issuing an entry and without the declarations provided for in § 10.1(a) of this chapter, provided the shipment is valued at not over \$2,000 and the port director is satisfied that the merchandise is free of duty under subheading

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9801.00.10, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 85-123, 50 FR 29955, July 23, 1985; T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 89-82, 54 FR 36026, Aug. 31, 1989; T.D. 94-47, 59 FR 25570, May 17, 1994; T.D. 98-28, 63 FR 16417, Apr. 3, 1998]

§ 145.36 Articles for institutions.

Books and other articles classifiable under subheading 4903.00.00, 4904.00.00, 4905.91.00, 4905.99.00, 9701.10.00, 9701.90.00, 9810.00.05, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), imported by and addressed directly to a library or other institution described in subheading 9810.00.05 or 9101.30, HTSUS may be passed free of duty without issuing an entry, if the port director is satisfied that the merchandise is entitled to free entry. A declaration may be required in accordance with § 10.43 of this chapter under the procedure specified in § 145.42.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 85-123, 50 FR 29955, July 23, 1985; T.D. 89-1, 53 FR 51263, Dec. 21, 1988]

§ 145.37 Articles for the U.S. Government.

(a) *Mail articles for copyright.* Mail articles marked for copyright which are addressed to the Library of Congress, to the U.S. Copyright Office, or to the office of the Register of Copyrights, Washington, DC, shall be passed free of duty without issuing an entry.

(b) *Books, engravings, and other articles.* Books, classifiable under subheading 4903.00.00, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), and engravings, etchings, and other articles enumerated in subheading 9808.00.10, HTSUS, shall be passed free of duty without issuing an entry when they are addressed to the Library of Congress or any department or agency of the U.S. Government.

(c) *Official Government documents.* Other mail articles addressed to offices or officials of the U.S. Government, believed to contain only official documents, shall be passed free of duty without issuing an entry. Such mail articles, when believed to contain merchandise, shall be treated in the same

manner as other mail articles of merchandise so addressed.

[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. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

§ 145.38 Diplomatic pouches.

Mail articles bearing the official seal of a foreign government with which the United States has diplomatic relations, accompanied by certificates bearing such seal to the effect that they contain only official communications or documents, shall be admitted free of duty without Customs examination.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 78-102, 43 FR 14454, Apr. 6, 1978]

§ 145.39 Articles for diplomatic officers, representatives of international organizations, and foreign military personnel.

Free entry of articles in mail articles addressed to diplomatic officers, representatives of certain international organizations, and similar persons is governed by subpart I of part 148 of this chapter.

[T.D. 73-175, 38 FR 13369, May 21, 1973, as amended by T.D. 73-227, 38 FR 22548, Aug. 22, 1973; T.D. 78-102, 43 FR 14454, Apr. 6, 1978]

§ 145.40 Plant material imported for immediate exportation.

Plant material may be imported by mail free of duty for immediate exportation by mail subject to the following regulations, which have been approved by the Department of Agriculture and the Postal Service. This procedure shall not affect the movement of plant material in the internal mails through the United States:

(a) *Permit for entry.* Each shipment shall be dispatched in the mails from abroad, accompanied by a yellow and green special mail tag bearing the serial number of the permit for entry for immediate exportation or immediate transportation and exportation, issued by the U.S. Department of Agriculture, and also by the postal form of Customs declaration.

(b) *Place of inspection.* Upon arrival, the shipment shall be detained by or redispached to the postmaster at

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Washington, DC, Brownsville, Tex., Hoboken, NJ, Honolulu, Hawaii, Laredo, Tex., Miami, Fla., San Francisco, Calif., San Juan, P.R., San Pedro, Calif., or Seattle, Wash., as may be appropriate, according to the address on the green and yellow tag, and there submitted to the Customs officer and the Federal quarantine inspector. The merchandise shall be accorded special handling only at these cities, and under no circumstances shall it be permitted to enter the commerce of the United States.

(c) *Special handling.* After inspection by the Customs and quarantine officers, and with their approval, the addressee or his authorized agent shall repack and readdress the mail package under Customs supervision; endorse and sign on the package a waiver of the addressee's right to withdraw the mail article from the mails; affix to the mail article the necessary postage; and comply with any other mailing and export requirements, after which the package shall be delivered under Customs supervision to the postmaster for exportation by mail in accordance with § 145.71.

(d) *Entry not required.* It will not be necessary to issue a Customs mail entry nor to require a formal entry of the shipment.

[T.D. 73-175, 38 FR 13369, May 21, 1973, as amended by T.D. 78-102, 43 FR 14455, Apr. 6, 1978]

§ 145.41 Other conditionally and unconditionally free merchandise.

Shipments of conditionally or unconditionally free merchandise not specifically treated elsewhere in this part may be passed free of duty and tax without issuing an entry, if the value is not over \$2,000 and the port director is satisfied that the merchandise is entitled to free entry.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 85-123, 50 FR 29955, July 23, 1985; T.D. 89-82, 54 FR 36026, Aug. 31, 1989; T.D. 98-28, 63 FR 16417, Apr. 3, 1998]

§ 145.42 Proof for conditionally free merchandise.

The port director may, at his discretion, require appropriate proof of duty-free status before releasing conditionally free merchandise. This proof

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may be obtained by either of the following methods:

(a) *Retain shipment and request proof.* The shipment may be retained by the port director while the necessary proof is requested from the addressee. If the requested proof is not received within 30 days, a mail entry shall be issued at the ordinary rate of duty which would apply if the merchandise were not conditionally free, and the mail entry shall be forwarded with the shipment for collection of duties.

(b) *Send shipment with form and entry.* If the only proof required for free entry is a declaration signed by the addressee, the port director may issue a mail entry at the ordinary duty which would apply if the merchandise were not conditionally free. The shipment shall then be forwarded together with the mail entry, a copy of the appropriate declaration form, and instructions to the postmaster to deliver the shipment free of duty if the importer executes the declaration, and to collect the full duty shown on the mail entry if the importer does not execute the declaration.

§ 145.43 Unaccompanied tourist shipments

Unaccompanied tourist shipments for which entry is claimed under subheading 9804.00.70, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), may be passed free of duty and tax if the requirements of § 148.115(a) of this chapter are met. The Declaration of Unaccompanied Articles, Customs Form 255, shall be removed by the Customs officer from the shipment and retained for Customs purposes.

[T.D. 78-394, 43 FR 49788, Oct. 25, 1978, as amended by T.D. 89-1, 53 FR 51263, Dec. 21, 1988]

Subpart E—Restricted and Prohibited Merchandise

§ 145.51 Articles prohibited by section 305, Tariff Act of 1930.

(a) *Types of articles.* Various articles, as described in section 305, Tariff Act of 1930, as amended (19 U.S.C. 1305), and in part 12 of this chapter, are prohibited from importation. This prohibition includes the following types of articles:

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- (1) Obscene matter;
- (2) Articles for causing unlawful abortion (see §145.52 for the treatment of literature pertaining to such articles);
- (3) Matter advocating treason or insurrection against the United States or forcible resistance to any law of the United States;
- (4) Matter containing any threat to take the life of or inflict bodily harm upon any person in the United States; and
- (5) Lottery matter, except any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.

(b) *Disposition of articles.* Mail found to contain lottery matter shall be disposed of by the Postal Service under the postal laws and regulations. Mail found to contain any of the other prohibited articles described in paragraphs (a)(1) through (a)(4) of this section shall be given appropriate treatment by Customs under the Customs laws and regulations (see §12.40 of this chapter).

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 92-80, 57 FR 37702, Aug. 20, 1992]

§ 145.52 Literature concerning devices for unlawful abortion.

Mail articles containing literature or advertisements concerning devices to produce unlawful abortions, are prohibited from the mails by 18 U.S.C. 1461, and shall be retained by, or delivered to, the Postal Service for disposition under the postal laws and regulations. If the Postal Service determines in any case that it is proper to release the material to the addressee, it shall be submitted for Customs treatment before delivery.

[T.D. 78-99, 43 FR 13061, Mar. 29, 1978, as amended by T.D. 78-102, 43 FR 14455, Apr. 6, 1978]

§ 145.53 Firearms and munitions of war.

Importations of firearms, munitions of war, and related articles are subject to the import permit requirements and

other restrictions set forth in 27 CFR parts 47, 178, 179.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 78-329, 43 FR 43455, Sept. 26, 1978]

§ 145.54 Alcoholic beverages.

(a) *Nonmailable.* Alcoholic beverages are nonmailable, with certain exceptions (see 18 U.S.C. 1716 and the postal regulations), and when imported in the mails are subject to seizure and forfeiture under 18 U.S.C. 545.

(b) *Seizure.* When alcoholic beverages are received in the mails, they shall be seized, and the addressee shall be advised that they are subject to forfeiture and that he has a right to file a petition for their release (see part 171 of this chapter).

(c) *Conditions for release.* If the port director is satisfied that there was no fraudulent intent involved, he may release the alcoholic beverages to the addressee upon the following conditions:

(1) Applicable duty and internal revenue tax shall be paid.

(2) The addressee shall comply with the alcoholic beverage laws of the State to which the shipment is destined.

(3) Any other conditions the port director may impose under his authority to remit or mitigate fines, penalties, and forfeitures shall be complied with.

(4) The addressee, his representative, or a common carrier shall pick up the merchandise at the Customs office where it is being held. Since the merchandise is nonmailable, it cannot be delivered by the Postal Service.

§ 145.55 Trademarks, trade names, and copyrights.

Merchandise bearing a trademark or trade name entitled to protection against imports, merchandise bearing a mark or name that copies or simulates such a trademark or trade name, and merchandise which is in violation of copyright law is subject to the restrictions and prohibitions set forth in part 133 of this chapter.

§ 145.56 Foreign Assets Control.

Merchandise subject to regulations of the Office of Foreign Assets Control of the Treasury Department prohibiting

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or restricting entry of unlicensed importations of articles directly or indirectly from certain designated countries shall be detained until licensed or the question of its release, seizure, or other disposition has been determined under the Foreign Assets Control or Cuban Assets Control regulations (31 CFR parts 500 and 515) (See also 19 CFR 12.150).

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 96-42, 61 FR 24889, May 17, 1996]

§ 145.57 Regulations of other agencies.

Certain types of plants and plant products, food, drugs, cosmetics, hazardous or caustic and corrosive substances, viruses, serums, and various harmful articles are subject to examination and clearance by appropriate agencies before release to the addressee (see part 12 of this chapter).

§ 145.58 Other restricted and prohibited merchandise.

Other restrictions and prohibitions pertaining to certain types of imported merchandise are set forth in part 12 of this chapter and are applicable to importations by mail.

§ 145.59 Seizures.

(a) *Articles prohibited and contrary to law.* All mail shipments containing articles the importation of which is prohibited, or articles imported into the United States in any manner contrary to law, shall be seized or detained as appropriate and held by Customs officers for appropriate treatment, except for certain articles which will be handled by the Postal Service as specified in §§ 145.51 and 145.52.

(b) *Notification of seizure or detention.* In all cases where articles are seized or detained by Customs officers, the addressee shall be notified of the seizure or detention, of the reason for such action, and, if appropriate, of his right to petition for relief (see part 171 of this chapter).

Subpart F—Exportation by Mail

§ 145.71 Exportation from continuous Government custody.

(a) *Relief from duties.* Merchandise imported into the United States, unless

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nonmailable, may be exported by any class of mail without the payment of duties, if:

(1) The merchandise has remained continuously in the custody of the Government (Customs or postal authorities); and

(2) The mail articles containing such merchandise are inspected and mailed under Customs supervision.

(b) *Waiver of right to withdraw.* Waiver of the right to withdraw the mail article from the mails shall be endorsed on each mail article to be so exported and signed by the exporter.

(c) *Export entry or withdrawal required.* An export entry in accordance with § 18.25 of this chapter or a warehouse withdrawal for exportation in accordance with § 144.37 of this chapter, whichever is appropriate, shall be filed for merchandise being exported under this section, except for merchandise imported by mail which is either:

(1) Unclaimed or refused and being returned by the Postal Service to the country of origin as undeliverable mail; or

(2) For which a formal entry has not been filed and which is being remailed from continuous Customs or postal custody to Canada.

[T.D. 73-175, 38 FR 13369, May 21, 1973, as amended by T.D. 73-175, 38 FR 17470, July 2, 1973; T.D. 78-102, 43 FR 14455, Apr. 6, 1978]

§ 145.72 Delivery to Customs custody for exportation.

In certain cases where merchandise has not been in continuous Government custody, delivery to Customs custody is appropriate before exportation by mail, as set forth in the following sections of this chapter:

(a) Section 10.8 (articles exported for repairs or alterations).

(b) Section 10.9 (articles exported for processing).

(c) Section 148.33 (merchandise which was imported free of duty under a personal exemption, found to be unsatisfactory, and is being exported for replacement).

(d) Section 10.38 (exportation of imported merchandise which was entered temporarily under bond).

(e) Section 191.42 (exportation of rejected imported merchandise, with drawback of duties).

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 98-16, 63 FR 11005, Mar. 5, 1998]

POLICY STATEMENT TO PART 145—EXAMINATION OF SEALED LETTER CLASS MAIL

A. Customs officers and employees shall not open first class mail arriving in the U.S. Virgin Islands for delivery there, if it originated in the Customs territory of the United States, unless a search warrant or written authorization of the sender or addressee is obtained. Customs officers or employees may open and examine all other sealed letter class mail which is subject to the Customs mail regulations (see 19 CFR part 145) and 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. Customs officers and employees shall not open any sealed letter class mail which appears to contain only correspondence unless a search warrant or written authorization of the sender or addressee is obtained in advance of the opening.

C. Customs officers and employees are prohibited from reading, or authorizing or allowing others to read, any correspondence contained in any letter class mail unless there has been obtained in advance either a search warrant or written authorization of the sender or addressee. This prohibition, which will continue to be strictly enforced, also applies 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.

D. If a violation of law is discovered upon opening any mail article referred to in paragraph C, and it is believed that the correspondence may provide additional information concerning the violation and is therefore needed for further investigation or use in court, a search warrant shall be obtained before any correspondence is seized, read, or referred to another agency. Search warrants shall be promptly sought. Correspondence may be detained while a search warrant is being sought.

E. If no controlled delivery is arranged and correspondence is not to be otherwise seized pursuant to a search warrant (see "F" below), the item which constitutes the violation shall be removed and any correspondence shall be replaced in the wrapper, or in a new wrapper if the original wrapper has been seized pursuant to 19 U.S.C. 1595a. The wrapper shall then be resealed, marked to indicate it was opened by Customs, and re-

turned to postal channels. Appropriate seizure notices shall be sent in accordance with 19 CFR 145.59(b).

F. No mail article may be referred to another agency without a search warrant unless—

(1) Any correspondence has been removed and the mail article is being referred for examination and clearance under 19 CFR 145.57,

(2) Any correspondence has been removed and the mail article has been lawfully seized by Customs,

(3) The mail article is being referred to Postal Service channels to effect a controlled delivery in cooperation with other law enforcement agencies, or

(4) The mail article is being returned to Postal Service channels for normal processing.

G. Whenever sealed letter class mail is opened, the factors giving the Customs officer or employee "reasonable cause to suspect" the presence of merchandise or contraband shall be recorded on the appropriate form and on the opened envelope or other container by means of appropriate coded symbols. Should a seizure result, these factors shall also be recorded on the seizure report.

H. Sealed letter class mail with the green Customs label on a Customs declaration may be opened without additional cause. Correspondence in such mail is subject to the restrictions regarding the detention, reading, and referral of mail to other agencies found in paragraphs C through F.

I. Whenever any sealed letter class mail is opened for any of the reasons set forth in the above paragraphs, a Postal Service employee shall be present and shall observe the opening.

J. Any violation of the Customs mail regulations or any of these policies will lead to appropriate administrative sanctions, as well as possible criminal prosecution pursuant to 18 U.S.C. 1702.

[T.D. 73-135, 38 FR 13369, May 21, 1973, as amended by T.D. 84-213, 49 FR 41185, Oct. 19, 1984]

APPENDIX TO PART 145

A. *Scope.* The Customs Service is authorized to examine, with certain exceptions for diplomatic and governmental mail, all mail arriving from outside the Customs territory of the United States (CTUS) which is to be delivered within the CTUS, and all mail arriving from outside the U.S. Virgin Islands which is to be delivered within the U.S. Virgin Islands. The term "Customs territory of the United States" is limited to the States, the District of Columbia, and Puerto Rico. Consequently, mail arriving from other U.S. territories and possessions is subject to Customs examination even though it is designated "domestic" mail for Postal Service

purposes. Likewise, mail in the APO/FPO military postal system is subject to Customs examination, even though it also is designated "domestic" mail for Postal Service purposes. The Customs Service therefor is responsible for examining all international mail to be delivered in the CTUS and certain limited categories of so-called "domestic mail".

B. *Definitions.* Under various international conventions and bilateral agreements, international mail falls within two main classes, Parcel Post and Postal Union mail.

Parcel Post is not permitted to contain correspondence but is to be used for the transmission of merchandise and is fully subject to Customs examination in the same manner as other merchandise shipments (e.g., luggage, cargo, containers, etc.). Postal Union mail is divided into "LC" mail (Lettres et Cartes) and "AO" mail (Aures Objets).

"LC mail consists of letters, packages paid at the letter rate of postage, post cards, and aerogrammes. The term "letter class mail" as used in the Customs Regulations and in this policy statement means "LC" mail as well as equivalent articles in "domestic" mail subject to Customs examination. Equivalent articles in "domestic" mail would include articles mailed at the letter rate, or equivalent class or category, in the APO/FPO military system or from a U.S. territory or possession outside the CTUS. Since the term "letter class mail" thus includes packages and bulky envelopes as long as they are mailed at the letter rate, or equivalent class or category, the restrictions relating to opening and reading of correspondence apply equally to such packages or bulky envelopes.

"AO" mail is to be treated in the same manner as Parcel Post mail since the Universal Postal Union Convention requires that they "be made up in such a manner that they may be easily examined" and generally are not permitted to "contain any document having the character of current and personal correspondence." Exceptions to the latter requirement exist for matter for the blind and certain correspondence between school children. Because of these exceptions, the prohibition against reading correspondence without a search warrant or authorization of the sender or addressee applies to correspondence of the blind and correspondence between school children contained in "AO" mail. "AO" mail can usually be identified by the following words: "Imprime" or "Printed Matter", "Cecogramme" or "Literature for the Blind", "Petit Paquet" or "Small Packet" or similar terms or their equivalents.

C. *Reasonable Cause to Suspect.* Determining whether there is "reasonable cause to suspect" that merchandise or contraband is contained in sealed letter class mail is ultimately a matter of judgment for each Custom

official, based on all relevant facts and circumstances. This judgment should be exercised within the framework of the Customs regulation that sealed letter class mail which appears to contain only correspondence is not to be opened unless a search warrant or written authorization from either the sender or the addressee has been obtained in advance of the opening.

Past practice indicates that the following circumstances (which are illustrative and not exhaustive) provide "reasonable cause to suspect" and permit the opening of sealed letter class mail without a search warrant or authorization of the sender or addressee.

1. A detector dog has alerted to the presence of narcotics or explosives in a specific mail article.

2. X-ray of fluoroscope examination indicates the presence of merchandise or contraband.

3. The weight, shape, feel, or sound of the mail article or its contents may indicate that merchandise or contraband (e.g., a hard object which may be jewelry, a stack of paper which may be counterfeit money, or coins) could be in the mail article. Contents of a mail article which feel lumpy, powdery, or spongy may, for example, indicate the presence of narcotics.

4. Information from a source previously shown to be reliable indicates that an identifiable mail article contains merchandise or contraband.

5. The mail article is insured.

6. The mail article is a box, carton, or wrapper other than a thin envelope.

7. The sender or addressee of the mail article is known to be fictitious.

On the other hand, certain facts standing alone generally will not provide "reasonable cause to suspect" the presence of merchandise or contraband and therefore do not permit the opening of sealed letter class mail. For example, sealed letter class mail may not be opened merely because:

1. The mail article is registered.

2. The feel of a letter-size envelope suggests that it contains one or a limited number of photographs.

3. The mail article appears to be part of a mass mailing.

4. The mail article is from a particular country, whether or not a known source country of contraband.

5. A detector dog has alerted to the presence of narcotics or explosives somewhere within a tray of mail (the individual articles of mail must then be examined individually).

6. The sender of addressee of the mail article is known to have mailed or received contraband or merchandise in violation of law in the past.

7. The wrapper contains writing or typing similar to that previously found on articles of mail which contained contraband or merchandise in violation of law.

In case where any one of the above facts is present, additional evidence must exist which in conjunction with that fact provides reasonable cause to suspect the presence of merchandise or contraband.

[T.D. 78-102, 43 FR 14454, Apr. 6, 1978, as amended by T.D. 83-212, 48 FR 46771, Oct. 14, 1983]

PART 146—FOREIGN TRADE ZONES

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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 23, Harmonized Tariff Schedule of the United States), 1623, 1624.

SOURCE: T.D. 86-16, 51 FR 5049, Feb. 11, 1986, unless otherwise noted.