

§ 4.100

not acceptable without the specific approval of the Commissioner of Customs.

[T.D. 79-255, 44 FR 57088, Oct. 4, 1979; T.D. 00-22, 65 FR 16517, Mar. 29, 2000]

§ 4.100 Licensing of vessels of less than 30 net tons.

(a) The application for a license to import merchandise in a vessel of less than 30 net tons in accordance with section 6, Anti-Smuggling Act of August 5, 1935, shall be addressed to the Secretary of the Treasury and delivered to the directors of the ports where foreign merchandise is to be imported in such vessel.

(b) The application shall contain the following information:

(1) Name of the vessel, rig, motive power, and home port.

(2) Name and address of the owner.

(3) Name and address of the master.

(4) Net tonnage of the vessel.

(5) Kind of merchandise to be imported.

(6) Country or countries of exportation.

(7) Ports of the United States where the merchandise will be imported.

(8) Whether the vessel will be used to transport and import merchandise from a hovering vessel.

(9) Kind of document under which the vessel is operating.

(c) If the port director finds that the applicant is a reputable person and that the revenue would not be jeopardized by the issuance of a license, he may issue the license for a period not to exceed 12 months, incorporating therein any special conditions he believes to be necessary or desirable, and deliver it to the licensee.

(d) The master or owner shall keep the license on board the vessel at all times and exhibit it upon demand of any duly authorized officer of the United States. This license is personal to the licensee and is not transferable.

(e) The Secretary of the Treasury or the port director at whose office the license was issued may revoke the license if any of its terms have been willfully or intentionally violated or for any other cause which may be considered prejudicial to the revenue or oth-

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erwise against the interest of the United States.

[T.D. 72-211, 37 FR 16486, Aug. 15, 1972]

§ 4.101 Prohibitions against Customs officers and employees.

No Customs officer or employee shall:

(a) Own, in whole or in part, any vessel except a yacht or other pleasure boat;

(b) Act as agent, attorney, or consignee for the owner or owners of any vessel, or of any cargo or lading on board the vessel; or

(c) Import or be concerned directly or indirectly in the importation of any merchandise for sale into the United States

[T.D. 78-394, 43 FR 49787, Oct. 25, 1978]

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

Sec.

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

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

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

7.4 Watches and watch movements from U.S. insular possessions.

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

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

(a) When spirits and wines are withdrawn from a bonded manufacturing warehouse for shipment in bond to Puerto Rico pursuant to section 311, Tariff Act of 1930, as amended,^{1,2} the

¹[Reserved]

²* * * Distilled spirits and wines which are rectified in bonded manufacturing warehouses, class six, and distilled spirits which are reduced in proof and bottled in such warehouses, shall be deemed to have been manufactured within the meaning of this

warehouse withdrawal shall contain on the face thereof a statement of the kind and quantity of all imported merchandise (in its condition as imported) and imported containers used in the manufacture and putting up of such spirits and wines. The duty assessed on the imported merchandise and containers so used, and their classification and value, shall be shown on the withdrawal in accordance with §144.41 of this chapter. If no imported merchandise or containers have been used, the warehouse withdrawal shall bear an endorsement to that effect. (See §§191.105 and 191.106 of this chapter.)

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

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

(Secs. 311, 319, 484(a), 46 Stat. 691, as amended, 696, 722, as amended; 19 U.S.C. 1311, 1319, 1484(a); R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[28 FR 14636, Dec. 31, 1963, as amended by T.D. 73-175, 38 FR 17445, July 2, 1973; T.D. 83-212, 48 FR 46770, Oct. 14, 1983; T.D. 98-16, 63 FR 11004, Mar. 5, 1998]

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

³Section 319, Tariff Act of 1930, authorizes the Legislature of Puerto Rico to impose a duty on coffee imported into Puerto Rico, including coffee grown in a foreign country coming into Puerto Rico from the United

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

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

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

(c) The Secretary of the Treasury administers the customs laws of the U.S. Virgin Islands through the United

States, and the Legislature of Puerto Rico has imposed such a duty.

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

[T.D. 97-75, 62 FR 46439, Sept. 3, 1997]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Did not enter into the commerce of the foreign territory or country except for the purpose of sale other than

at retail, and the port director is satisfied that the importation into the insular possession or the United States results from the original commercial transaction between the importer and the producer or the latter's sales agent; and

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

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

(f) *Documentation*. (1) When goods are sought to be admitted free of duty as provided in paragraph (a)(1) of this section, there shall be filed with the entry/entry summary a properly completed certificate of origin on Customs Form 3229, signed by the chief or assistant chief customs officer or other official responsible for customs administration at the port of shipment, showing that the goods comply with the requirements for duty-free entry set forth in paragraph (a)(1) of this section. Except in the case of goods which incorporate a material described in paragraph (c)(3)(ii) of this section, a certificate of origin shall not be required for any shipment eligible for informal entry under § 143.21 of this chapter or in any case where the port director is otherwise satisfied that the goods qualify for duty-free treatment under paragraph (a)(1) of this section.

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(2) When goods in a shipment not eligible for informal entry under §143.21 of this chapter are sought to be admitted free of duty as provided in paragraph (a)(2) of this section, the following declarations shall be filed with the entry/entry summary unless the port director is satisfied by reason of the nature of the goods or otherwise that the goods qualify for such duty-free entry:

(i) A declaration by the shipper in the insular possession in substantially the following form:

Marks	Numbers	Quantity	Description	Value

Dated at _____, this _____ day of _____, 19____.
Signature: _____

(ii) A declaration by the importer in the United States in substantially the following form:

I, _____ (name), of _____ (organization) declare that the (above) (attached) declaration by the shipper in the insular possession is true and correct to the best of my knowledge and belief, that the goods in question were previously imported into the customs territory of the United States and were shipped to the insular possession from the United States without remission, refund or drawback of any duties or taxes paid in connection with that prior importation, and that the goods arrived in the United States directly from the insular possession via the _____ (name of carrier) on _____, 19____.

(Date)

(Signature)

(g) *Warehouse withdrawals; drawback.* Merchandise may be withdrawn from a bonded warehouse under section 557 of the Tariff Act of 1930, as amended (19 U.S.C. 1557), for shipment to any insular possession of the United States other than Puerto Rico without payment of duty, or with a refund of duty if the duties have been paid, in like manner as for exportation to foreign

I, _____ (name) of _____ (organization) do hereby declare that to the best of my knowledge and belief the goods identified below were sent directly from the United States on _____, 19____, to _____ (name) of _____ (organization) on _____ (insular possession) via the _____ (name of carrier) and that the goods remained in said insular possession until shipped by me directly to the United States via the _____ (name of carrier) on _____, 19____.

countries. No drawback may be allowed under section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313), on goods manufactured or produced in the United States and shipped to any insular possession. No drawback of internal-revenue tax is allowable under 19 U.S.C. 1313 on goods manufactured or produced in the United States with the use of domestic tax-paid alcohol and shipped to Wake Island, Midway Islands or Johnston Atoll.

[T.D. 97-75, 62 FR 46439, Sept. 3, 1997]

§7.4 Watches and watch movements from U.S. insular possessions.

(a) The issuance of an International Trade Administration Form ITA-360, Certificate of Entitlement to Secure the Refund of Duties on Watches and Watch Movements, by the Department of Commerce, authorizes a producer of watches in the U.S. insular possessions to file requests with Customs for the refund of duties paid on imports of watches, watch movements (including solid state watches and watch movements), and watch parts (excepting separate watch cases and any articles containing any materials to which rates of duty set forth in Column 2, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) apply). The amount of the refund requested may be up to the

value specified in the certificate, provided that the articles for which refunds are requested were entered during a 3-year period beginning 2 years before the date of issuance of the Form ITA-360 certificate from the Department of Commerce.

(b) The Form ITA-360 may not be used to secure refunds. To secure a refund, the party requesting the refund of duties (claimant) must present to Customs Form ITA-361, Request for Refund of Duties on Watches and Watch Movements, properly executed, and authenticated by the Department of Commerce.

(c) By completing Form ITA-361, the insular producer may either:

(1) Transfer its entitlement, in whole or in part, to any other party for any consideration agreed to by the insular producer and the transferee, or

(2) Request the refund of duties to itself.

(d) A claimant must file Form ITA-361 with Customs at the same port where the watch import entry was originally filed and duties paid. The documentation accompanying Form ITA-361 shall include a copy of the import entry, providing proof that duty was paid on the watches and watch movements.

(e) When requesting the refund of duties on Form ITA-361, the claimant also must complete and submit to Customs the declaration on the form which reads as follows:

I declare that the information given above is true and correct to the best of my knowledge and belief; that no notices of exportation of articles with benefit of drawback were filed upon exportation of this merchandise from the United States; that no liquidated refunds on the articles relating to the present claim have been paid; and that no protest or request for litigation for refund of duties paid and herewith claimed has been made.

(f) A fee of 1 percent will be deducted from each refund request as reimbursement to salaries and expenses of those Customs personnel processing the request.

(g) Form ITA-360 expires 1 year from its date of issuance. Any refund request on Form ITA-361 made by either the insular producer itself or any transferee named on Form ITA-360 must be

filed within this 1-year period. This expiration date applies equally to all refund requests, whether a single request for the entire amount specified in the Form ITA-361 certificate or multiple requests for partial amounts. Refund requests will be accepted until either the amount specified in the certificate is depleted or until the certificate expires 1 year from its date of issuance.

(h) Customs will process only those refund requests made in accordance with the joint rules of the Departments of Commerce and the Interior governing the issuance and handling of certificates and the transfer of entitlements as contained in 15 CFR part 303.

[T.D. 84-16, 49 FR 1481, Jan. 12, 1984, as amended by T.D. 84-211, 49 FR 39044, Oct. 3, 1984; T.D. 89-1, 53 FR 51252, Dec. 21, 1988. Re-designated and amended by T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

§ 7.11 Guantanamo Bay Naval Station.

Articles of foreign origin may enter the area (both land and water) of the Guantanamo Bay Naval Station free of duty, but such articles shall be subject to duty upon their subsequent entry into the United States.

[28 FR 14636, Dec. 31, 1963]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Subpart A—General Provisions

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