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(c) with respect to the territory of the United States,

(i) the following publications of the American Institute of Certified Public Accountants (AICPA), as updated from time to time:

(A) AICPA Professional Standards,

(B) Committee on Accounting Procedure Accounting Research Bulletins,

(C) Accounting Principles Board Opinions and Statements,

(D) APB Accounting and Auditing Guides,

(E) AICPA Statements of Position, and

(F) AICPA Issues Papers and Practice Bulletins,

(ii) the following publications of the Financial Accounting Standards Board (FASB), as updated from time to time:

(A) FASB Accounting Standards and Interpretations,

(B) FASB Technical Bulletins, and

(C) FASB Concepts Statements.

[T.D. 95–68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 02–15, 67 FR 15482, Apr. 2, 2002; 67 FR 19810, Apr. 23, 2002]

PART 191—DRAWBACK

Sec.

191.0 Scope.
191.0a Claims filed under NAFTA.

Subpart A—General Provisions

191.1 Authority of the Commissioner of Customs.
191.2 Definitions.
191.3 Duties and fees subject or not subject to drawback.
191.4 Merchandise in which a U.S. Government interest exists.
191.5 Guantanamo Bay, insular possessions, trust territories.
191.6 Authority to sign drawback documents.
191.7 General manufacturing drawback ruling.
191.8 Specific manufacturing drawback ruling.
191.9 Agency.
191.10 Certificate of delivery.
191.11 Tradeoff.
191.12 Claim filed under incorrect provision.
191.13 Packaging materials.
191.14 Identification of merchandise or articles by accounting method.
191.15 Recordkeeping.

Subpart B—Manufacturing Drawback

191.21 Direct identification drawback.
191.22 Substitution drawback.
191.23 Methods of claiming drawback.
191.24 Certificate of manufacture and delivery.
191.25 Destruction under Customs supervision.
191.26 Recordkeeping for manufacturing drawback.
191.27 Time limitations.
191.28 Person entitled to claim drawback.

Subpart C—Unused Merchandise Drawback

191.31 Direct identification.
191.32 Substitution drawback.
191.33 Person entitled to claim drawback.
191.34 Certificate of delivery required.
191.35 Notice of intent to export; examination of merchandise.
191.36 Failure to file Notice of Intent to Export, Destroy or Return Merchandise for Purposes of Drawback.
191.37 Destruction under Customs supervision.
191.38 Records.

Subpart D—Rejected Merchandise

191.41 Rejected merchandise drawback.
191.42 Procedure.
191.43 Unused merchandise claim.
191.44 Destruction under Customs supervision.

Subpart E—Completion of Drawback Claims

191.51 Completion of drawback claims.
191.52 Rejecting, perfecting or amending claims.
191.53 Restructuring of claims.

Subpart F—Verification of Claims

191.61 Verification of drawback claims.
191.62 Penalties.

Subpart G—Exportation and Destruction

191.71 Drawback on articles destroyed under Customs supervision.
191.72 Exportation procedures.
191.73 Export summary procedure.
191.74 Certification of exportation by mail.
191.75 Exportation by the Government.
191.76 Landing certificate.

Subpart H—Liquidation and Protest of Drawback Entries

191.81 Liquidation.
191.82 Person entitled to claim drawback.
191.83 Person entitled to receive payment.
191.84 Protests.

Subpart I—Waiver of Prior Notice of Intent To Export; Accelerated Payment of Drawback

191.91 Waiver of prior notice of intent to export.
191.92 Accelerated payment.
191.93 Combined applications.

Subpart J—Internal Revenue Tax on Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax-Paid Alcohol

191.101 Drawback allowance.
191.102 Procedure.
191.103 Additional requirements.
191.104 Alcohol, Tobacco and Firearms certificates.
191.105 Liquidation.
191.106 Amount of drawback.

Subpart K—Supplies for Certain Vessels and Aircraft

191.111 Drawback allowance.
191.112 Procedure.

Subpart L—Meats Cured With Imported Salt

191.121 Drawback allowance.
191.122 Procedure.
191.123 Refund of duties.

Subpart M—Materials for Construction and Equipment of Vessels and Aircraft Built for Foreign Ownership and Account

191.131 Drawback allowance.
191.132 Procedure.
191.133 Explanation of terms.

Subpart N—Foreign-Built Jet Aircraft Engines Processed in the United States

191.141 Drawback allowance.
191.142 Procedure.
191.143 Drawback entry.
191.144 Refund of duties.

Subpart O—Merchandise Exported From Continuous Customs Custody

191.151 Drawback allowance.
191.152 Merchandise released from Customs custody.
191.153 Continuous Customs custody.
191.154 Filing the entry.
191.155 Merchandise withdrawn from warehouse for exportation.
191.156 Bill of lading.
191.157 Landing certificates.
191.158 Procedures.
191.159 Amount of drawback.

Subpart P—Distilled Spirits, Wines, or Beer Which Are Unmerchantable or Do Not Conform to Sample or Specifications

191.161 Refund of taxes.
191.162 Procedure.
191.163 Documentation.
191.164 Return to Customs custody.
191.165 No exportation by mail.
191.166 Destruction of merchandise.
191.167 Liquidation.
191.168 Time limit for exportation or destruction.

Subpart Q—Substitution of Finished Petroleum Derivatives

191.171 General; drawback allowance.
191.172 Definitions.
191.173 Imported duty-paid derivatives (no manufacture).
191.174 Derivatives manufactured under 19 U.S.C. 1313(a) or (b).
191.175 Drawback claimant; maintenance of records.
191.176 Procedures for claims filed under 19 U.S.C. 1313(p).

Subpart R—Merchandise Transferred to a Foreign Trade Zone From Customs Custody

191.181 Drawback allowance.
191.182 Zone-restricted merchandise.
191.183 Articles manufactured or produced in the United States.
191.184 Merchandise transferred from continuous Customs custody.
191.185 Unused merchandise drawback and merchandise not conforming to sample or specification, shipped without consent of the consignee, or found to be defective as of the time of importation.
191.186 Person entitled to claim drawback.

Subpart S—Drawback Compliance Program

191.191 Purpose.
191.192 Certification for compliance program.
191.193 Application procedure for compliance program.
191.194 Action on application to participate in compliance program.
191.195 Combined application for certification in drawback compliance program and waiver of prior notice and/or approval of accelerated payment of drawback.

APPENDIX A TO PART 191—GENERAL MANUFACTURING DRAWBACK RULINGS
APPENDIX B TO PART 191—SAMPLE FORMATS FOR APPLICATIONS FOR SPECIFIC MANUFACTURING DRAWBACK RULINGS

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1313, 1624;
§ 191.84 also issued under 19 U.S.C. 1514;
§§ 191.111, 191.112 also issued under 19 U.S.C. 1309;
§§ 191.151(a)(1), 191.153, 191.157, 191.159 also issued under 19 U.S.C. 1557;
§§ 191.182–191.186 also issued under 19 U.S.C. 81c;
§§ 191.191–191.195 also issued under 19 U.S.C. 1593a.

SOURCE: T.D. 98–16, 63 FR 11006, Mar. 5, 1998, unless otherwise noted.

§ 191.0 Scope.

This part sets forth general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. Additional drawback provisions relating to the North American Free Trade Agreement (NAFTA) are contained in subpart E of part 181 of this chapter.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by CBP Dec. 05–07, 70 FR 10884, Mar. 7, 2005; CBP Dec. 06–39, 71 FR 76134, Dec. 20, 2006]

§ 191.0a Claims filed under NAFTA.

Claims for drawback filed under the provisions of part 181 of this chapter shall be filed separately from claims filed under the provisions of this part.

Subpart A—General Provisions

§ 191.1 Authority of the Commissioner of Customs.

Pursuant to Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner of Customs, with the approval of the Secretary of the Treasury, shall prescribe rules and regulations regarding drawback.

§ 191.2 Definitions.

For the purposes of this part:

(a) *Abstract. Abstract* means the summary of the actual production records of the manufacturer.

(b) *Act. Act,* unless indicated otherwise, means the Tariff Act of 1930, as amended.

(c) *Certificate of delivery. Certificate of delivery* (see § 191.10 of this part) means Customs Form 7552, Delivery Certificate for Purposes of Drawback, summarizing information contained in original documents, establishing:

(1) The transfer from one party (transferor) to another (transferee) of:

(i) Imported merchandise;

(ii) Substituted merchandise under 19 U.S.C. 1313(j)(2);

(iii) A qualified article under 19 U.S.C. 1313(p)(2)(A)(ii) from the manufacturer or producer to the exporter or under 1313(p)(2)(A)(iv) from the importer to the exporter; or

(iv) Drawback product;

(2) The identity of such merchandise or article as being that to which a potential right to drawback exists; and

(3) The assignment of drawback rights for the merchandise or article transferred from the transferor to the transferee.

(d) *Certificate of manufacture and delivery. Certificate of manufacture and delivery* (see § 191.24 of this part) means Customs Form 7552, Delivery Certificate for Purposes of Drawback, summarizing information contained in original documents, establishing:

(1) The transfer of an article manufactured or processed under 19 U.S.C. 1313(a) or 1313(b) from one party (transferor) to another (transferee);

(2) The identity of such article as being that to which a potential right to drawback exists; and

(3) The assignment of drawback rights for the article transferred from the transferor to the transferee.

(e) *Commercially interchangeable merchandise. Commercially interchangeable merchandise* means merchandise which may be substituted under the substitution unused merchandise drawback law, § 313(j)(2) of the Act, as amended (19 U.S.C. 1313(j)(2)) (see § 191.32(b)(2) and (c) of this part), or under the provision for the substitution of finished petroleum derivatives, § 313(p), as amended (19 U.S.C. 1313(p)).

(f) *Designated merchandise. Designated merchandise* means either eligible imported duty-paid merchandise or drawback products selected by the drawback claimant as the basis for a drawback claim under 19 U.S.C. 1313(b) or

(j)(2), as applicable, or qualified articles selected by the claimant as the basis for drawback under 19 U.S.C. 1313(p).

(g) *Destruction. Destruction* means the complete destruction of articles or merchandise to the extent that they have no commercial value.

(h) *Direct identification drawback. Direct identification drawback* means drawback authorized either under §313(a) of the Act, as amended (19 U.S.C. 1313(a)), on imported merchandise used to manufacture or produce an article which is either exported or destroyed, or under §313(j)(1) of the Act, as amended (19 U.S.C. 1313(j)(1)), on imported merchandise exported, or destroyed under Customs supervision, without having been used in the United States (see also §§313(c), (e), (f), (g), (h), and (q)). Merchandise or articles may be identified for purposes of direct identification drawback by use of the accounting methods provided for in §191.14 of this subpart.

(i) *Drawback. Drawback* means the refund or remission, in whole or in part, of a customs duty, fee or internal revenue tax which was imposed on imported merchandise under Federal law because of its importation, and the refund of internal revenue taxes paid on domestic alcohol as prescribed in 19 U.S.C. 1313(d) (see also §191.3 of this subpart).

(j) *Drawback claim. Drawback claim* means the drawback entry and related documents required by regulation which together constitute the request for drawback payment.

(k) *Drawback entry. Drawback entry* means the document containing a description of, and other required information concerning, the exported or destroyed article on which drawback is claimed. Drawback entries are filed on Customs Form 7551.

(l) *Drawback product.* A *drawback product* means a finished or partially finished product manufactured in the United States under the procedures in this part for manufacturing drawback. A drawback product may be exported, or destroyed under Customs supervision with a claim for drawback, or it may be used in the further manufacture of other drawback products by manufacturers or producers operating under the procedures in this part for manufacturing drawback, in which case drawback would be claimed upon exportation or destruction of the ultimate product. Products manufactured or produced from substituted merchandise (imported or domestic) also become ''drawback products'' when applicable substitution provisions of the Act are met. For purposes of §313(b) of the Act, as amended (19 U.S.C. 1313(b)), drawback products may be designated as the basis for drawback or deemed to be substituted merchandise (see §1313(b)). For a drawback product to be designated as the basis for drawback, the product must be associated with a certificate of manufacture and delivery (see §191.24 of this part).

(m) *Exportation; exporter*—(1) *Exportation. Exportation* means the severance of goods from the mass of goods belonging to this country, with the intention of uniting them with the mass of goods belonging to some foreign country. An exportation may be deemed to have occurred when goods subject to drawback are admitted into a foreign trade zone in zone-restricted status, or are laden upon qualifying aircraft or vessels as aircraft or vessel supplies in accordance with §309(b) of the Act, as amended (19 U.S.C. 1309(b)) (see §§10.59 through 10.65 of this chapter).

(2) *Exporter. Exporter* means that person who, as the principal party in interest in the export transaction, has the power and responsibility for determining and controlling the sending of the items out of the United States. In the case of ''deemed exportations'' (see paragraph (m)(1) of this section), the exporter means that person who, as the principal party in interest in the transaction deemed to be an exportation, has the power and responsibility for determining and controlling the transaction (in the case of aircraft or vessel supplies under 19 U.S.C. 1309(b), the party who has the power and responsibility for lading the vessel supplies on the qualifying aircraft or vessel).

(n) *Filing. Filing* means the delivery to Customs of any document or documentation, as provided for in this part, and includes electronic delivery of any such document or documentation.

(o) *Fungible merchandise or articles. Fungible merchandise or articles* means

merchandise or articles which for commercial purposes are identical and interchangeable in all situations.

(p) *General manufacturing drawback ruling*. A *general manufacturing drawback ruling* means a description of a manufacturing or production operation for drawback and the regulatory requirements and interpretations applicable to that operation (see § 191.7 of this subpart).

(q) *Manufacture or production*. *Manufacture or production* means:

(1) A process, including, but not limited to, an assembly, by which merchandise is made into a new and different article having a distinctive ''name, character or use''; or

(2) A process, including, but not limited to, an assembly, by which merchandise is made fit for a particular use even though it does not meet the requirements of paragraph (q)(1) of this section.

(r) *Multiple products*. *Multiple products* mean two or more products produced concurrently by a manufacture or production operation or operations.

(s) *Possession*. *Possession*, for purposes of substitution unused merchandise drawback (19 U.S.C. 1313(j)(2)), means physical or operational control of the merchandise, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming drawback.

(t) *Records*. *Records* include, but are not limited to, statements, declarations, documents and electronically generated or machine readable data which pertain to the filing of a drawback claim or to the information contained in the records required by Chapter 4 of Title 19, United States Code, in connection with the filing of a drawback claim and which are normally kept in the ordinary course of business (see 19 U.S.C. 1508).

(u) *Relative value*. *Relative value* means, except for purposes of § 191.51(b), the value of a product divided by the total value of all products which are necessarily manufactured or produced concurrently in the same operation. Relative value is based on the market value, or other value approved by Customs, of each such product determined as of the time it is first separated in the manufacturing or production process. Market value is generally measured by the selling price, not including any packaging, transportation, or other identifiable costs, which accrue after the product itself is processed. Drawback law requires the apportionment of drawback to each such product based on its relative value at the time of separation.

(v) *Schedule*. A *schedule* means a document filed by a drawback claimant, under § 313(a) or (b), as amended (19 U.S.C. 1313(a) or (b)), showing the quantity of imported or substituted merchandise used in or appearing in each article exported or destroyed for drawback.

(w) *Specific manufacturing drawback ruling*. A *specific manufacturing drawback ruling* means a letter of approval issued by Customs Headquarters in response to an application, by a manufacturer or producer for a ruling on a specific manufacturing or production operation for drawback, as described in the format used. Synopses of approved specific manufacturing drawback rulings are published in the Customs Bulletin with each synopsis being published under an identifying Treasury Decision. Specific manufacturing drawback rulings are subject to the provisions in part 177 of this chapter.

(x) *Substituted merchandise or articles*. *Substituted merchandise or articles* means merchandise or articles that may be substituted under 19 U.S.C. 1313(b), 1313(j)(2), or 1313(p) as follows:

(1) Under § 1313(b), substituted merchandise must be of the same kind and quality as the imported designated merchandise or drawback product, that is, the imported designated merchandise or drawback products and the substituted merchandise must be capable of being used interchangeably in the manufacture or production of the exported or destroyed articles with no substantial change in the manufacturing or production process;

(2) Under § 1313(j)(2), substituted merchandise must be commercially interchangeable with the imported designated merchandise; and

(3) Under § 1313(p), a substituted article must be of the same kind and quality as the qualified article for which it is substituted, that is, the articles

must be commercially interchangeable or described in the same 8-digit HTSUS tariff classification.

(y) *Verification*. *Verification* means the examination of any and all records, maintained by the claimant, or any party involved in the drawback process, which are required by the appropriate Customs officer to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998, as amended by T.D. 01–18, 66 FR 9649, Feb. 9, 2001]

§ 191.3 Duties and fees subject or not subject to drawback.

(a) Duties and fees subject to drawback include:

(1) All ordinary Customs duties, including:

(i) Duties paid on an entry, or withdrawal from warehouse, for consumption for which liquidation has become final;

(ii) Estimated duties paid on an entry, or withdrawal from warehouse, for consumption, for which liquidation has not become final, subject to the conditions and requirements of § 191.81(b) of this subpart; and

(iii) Tenders of duties after liquidation of the entry, or withdrawal from warehouse, for consumption for which the duties are paid, subject to the conditions and requirements of § 191.81(c) of this part, including:

(A) Voluntary tenders (for purposes of this section, a ''voluntary tender'' is a payment of duties on imported merchandise in excess of duties included in the liquidation of the entry, or withdrawal from warehouse, for consumption, provided that the liquidation has become final and that the other conditions of this section and § 191.81 of this part are met);

(B) Tenders of duties in connection with notices of prior disclosure under 19 U.S.C. 1592(c)(4); and

(C) Duties restored under 19 U.S.C. 1592(d).

(2) Marking duties assessed under § 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c));

(3) Internal revenue taxes which attach upon importation (see § 101.1 of this chapter); and

(4) Merchandise processing fees (see § 24.23 of this chapter) for unused merchandise drawback pursuant to 19 U.S.C. 1313(j), and drawback for substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv).

(b) Duties and fees not subject to drawback include:

(1) Harbor maintenance fee (see § 24.24 of this chapter);

(2) Merchandise processing fees (*see* § 24.23 of this chapter), except where unused merchandise drawback pursuant to 19 U.S.C. 1313(j) or drawback for substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv) is claimed; and

(3) Antidumping and countervailing duties on merchandise entered, or withdrawn from warehouse, for consumption on or after August 23, 1988.

(c) No drawback shall be allowed when the identified merchandise, the designated imported merchandise, or the substituted other merchandise (when applicable), consists of an agricultural product which is duty-paid at the over-quota rate of duty established under a tariff-rate quota, except that:

(1) Agricultural products as described in this paragraph are eligible for drawback under 19 U.S.C. 1313(j)(1); and

(2) Tobacco otherwise meeting the description of agricultural products in this paragraph is eligible for drawback under 19 U.S.C. 1313(j)(1) or 19 U.S.C. 1313(a).

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 27489, May 19, 1998, as amended by T.D. 01–18, 66 FR 9649, Feb. 9, 2001; CBP Dec. 04–33, 69 FR 60083, Oct. 7, 2004]

§ 191.4 Merchandise in which a U.S. Government interest exists.

(a) *Restricted meaning of Government*. A U.S. Government instrumentality operating with nonappropriated funds is considered a Government entity within the meaning of this section.

(b) *Allowance of drawback*. If the merchandise is sold to the U.S. Government, drawback shall be available only to the:

(1) Department, branch, agency, or instrumentality of the U.S. Government which purchased it; or

(2) Supplier, or any of the parties specified in § 191.82 of this part, provided the claim is supported by documentation signed by a proper officer of the department, branch, agency, or instrumentality concerned certifying that the right to drawback was reserved by the supplier or other parties with the knowledge and consent of the department, branch, agency, or instrumentality.

(c) *Bond*. No bond shall be required when a United States Government entity claims drawback.

§ 191.5 Guantanamo Bay, insular possessions, trust territories.

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes and, accordingly, drawback may be permitted on articles shipped there. Under 19 U.S.C. 1313, drawback of Customs duty is not allowed on articles shipped to Puerto Rico, the U.S. Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

§ 191.6 Authority to sign drawback documents.

(a) Documents listed in paragraph (b) of this section shall be signed only by one of the following:

(1) The president, a vice-president, secretary, treasurer, or any other employee legally authorized to bind the corporation;

(2) A full partner of a partnership;

(3) The owner of a sole proprietorship;

(4) Any employee of the business entity with a power of attorney;

(5) An individual acting on his or her own behalf; or

(6) A licensed Customs broker with a power of attorney.

(b) The following documents require execution in accordance with paragraph (a) of this section:

(1) Drawback entries;

(2) Certificates of delivery;

(3) Certificates of manufacture and delivery;

(4) Notices of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback;

(5) Certifications of exporters on bills of lading or evidence of exportation (see §§ 191.28 and 191.82 of this part); and

(6) Abstracts, schedules and extracts from monthly abstracts if not included as part of a drawback claim.

(c) The following documents (see also part 177 of this chapter) may be executed by one of the persons described in paragraph (a) of this section or by any other individual legally authorized to bind the person (or entity) for whom the document is executed:

(1) A letter of notification of intent to operate under a general manufacturing drawback ruling under § 191.7 of this part;

(2) An application for a specific manufacturing drawback ruling under § 191.8 of this part;

(3) A request for a nonbinding predetermination of commercial interchangeability under § 191.32(c) of this part;

(4) An application for waiver of prior notice under § 191.91 of this part;

(5) An application for approval of accelerated payment of drawback under § 191.92 of this part; and

(6) An application for certification in the Drawback Compliance Program under § 191.193 of this part.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998; 63 FR 27489, May 19, 1998]

§ 191.7 General manufacturing drawback ruling.

(a) *Purpose; eligibility*. General manufacturing drawback rulings are designed to simplify drawback for certain common manufacturing operations but do not preclude or limit the use of applications for specific manufacturing drawback rulings (see § 191.8). A manufacturer or producer engaged in an operation that falls within a published general manufacturing drawback ruling may submit a letter of notification of intent to operate under that general ruling. Where a separately-incorporated subsidiary of a parent corporation is engaged in manufacture or production for drawback, the subsidiary is

the proper party to submit the letter of notification, and cannot operate under a letter of notification submitted by the parent corporation.

(b) *Procedures*—(1) *Publication*. General manufacturing drawback rulings are contained in appendix A to this part. As deemed necessary by Customs, new general manufacturing drawback rulings will be issued as Treasury Decisions and added to the appendix thereafter.

(2) *Submission*—(i) *Where filed*. Letters of notification of intent to operate under a general manufacturing drawback ruling shall be submitted to any drawback office where drawback entries will be filed and liquidated, provided that the general manufacturing drawback ruling will be followed without variation. If there is any variation in the general manufacturing drawback ruling, the manufacturer or producer shall apply for a specific manufacturing drawback ruling under § 191.8 of this subpart.

(ii) *Copies*. Letters of notification of intent shall be submitted in duplicate unless claims are to be filed at more than one drawback office, in which case one additional copy of the letter of notification shall be filed for each additional office. Upon issuance of a letter of acknowledgment (paragraph (c)(1) of this section), the drawback office with which the letter of notification is submitted shall forward the additional copy to such additional office(s), with a copy of the letter of acknowledgment.

(3) *Information required*. Each manufacturer or producer submitting a letter of notification of intent to operate under a general manufacturing drawback ruling under this section must provide the following specific detailed information:

(i) Name and address of manufacturer or producer (if the manufacturer or producer is a separately-incorporated subsidiary of a corporation, the subsidiary corporation must submit a letter of notification in its own name);

(ii) In the case of a business entity, the names of the persons listed in § 191.6(a)(1) through (6) who will sign drawback documents;

(iii) Locations of the factories which will operate under the letter of notification;

(iv) Identity (by T.D. number and title) of the general manufacturing drawback ruling under which the manufacturer or producer will operate;

(v) Description of the merchandise and articles, unless specifically described in the general manufacturing drawback ruling;

(vi) Description of the manufacturing or production process, unless specifically described in the general manufacturing drawback ruling;

(vii) Basis of claim used for calculating drawback; and

(viii) IRS (Internal Revenue Service) number (with suffix) of the manufacturer or producer.

(c) *Review and action by CBP*. The drawback office to which the letter of notification of intent to operate under a general manufacturing drawback ruling was submitted shall review the letter of notification of intent.

(1) *Acknowledgment*. The drawback office shall promptly issue a letter of acknowledgment, acknowledging receipt of the letter of intent and authorizing the person to operate under the identified general manufacturing drawback ruling, subject to the requirements and conditions of that general manufacturing drawback ruling and the law and regulations, to the person who submitted the letter of notification if:

(i) The letter of notification is complete (*i.e.*, containing the information required in paragraph (b)(3) of this section);

(ii) The general manufacturing drawback ruling identified by the manufacturer or producer is applicable to the manufacturing or production process;

(iii) The general manufacturing drawback ruling identified by the manufacturer or producer is followed without variation; and

(iv) The described manufacturing or production process is a manufacture or production under § 191.2(q) of this subpart.

(2) *Computer-generated number*. With the letter of acknowledgment the drawback office shall include the unique computer-generated number assigned to the acknowledgment of the

letter of notification of intent to operate. This number must be stated when the person files manufacturing drawback claims with Customs under the general manufacturing drawback ruling.

(3) *Non-conforming letters of notification of intent.* If the letter of notification of intent to operate does not meet the requirements of paragraph (c)(1) of this section in any respect, the drawback office shall promptly and in writing specifically advise the person of this fact and why this is so. A letter of notification of intent to operate which is not acknowledged may be resubmitted to the drawback office with which it was initially submitted with modifications and/or explanations addressing the reasons given for non-acknowledgment, or the matter may be referred (by letter from the manufacturer or producer) to CBP Headquarters (Attention: Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade).

(d) *Duration.* Acknowledged letters of notification under this section shall remain in effect under the same terms as provided for in § 191.8(h) for specific manufacturing drawback rulings.

§ 191.8 Specific manufacturing drawback ruling.

(a) *Applicant.* Unless operating under a general manufacturing drawback ruling (see § 191.7), each manufacturer or producer of articles intended to be claimed for drawback shall apply for a specific manufacturing drawback ruling. Where a separately-incorporated subsidiary of a parent corporation is engaged in manufacture or production for drawback, the subsidiary is the proper party to apply for a specific manufacturing drawback ruling, and cannot operate under any specific manufacturing drawback ruling approved in favor of the parent corporation.

(b) *Sample application.* Sample formats for applications for specific manufacturing drawback rulings are contained in appendix B to this part.

(c) *Content of application.* The application of each manufacturer or producer shall include the following information as applicable:

(1) Name and address of the applicant;

(2) Internal Revenue Service (IRS) number (with suffix) of the applicant;

(3) Description of the type of business in which engaged;

(4) Description of the manufacturing or production process, which shows how the designated and substituted merchandise are used to make the article that is to be exported or destroyed;

(5) In the case of a business entity, the names of persons listed in § 191.6(a)(1) through (6) who will sign drawback documents;

(6) Description of the imported merchandise including specifications;

(7) Description of the exported article;

(8) Basis of claim for calculating manufacturing drawback;

(9) Summary of the records kept to support claims for drawback; and

(10) Identity and address of the recordkeeper if other than the claimant.

(d) *Submission.* An application for a specific manufacturing drawback ruling shall be submitted, in triplicate, to CBP Headquarters (Attention: Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade). If drawback claims are to be filed under the ruling at more than one drawback office, one additional copy of the application shall be filed with CBP Headquarters for each additional office.

(e) *Review and action by CBP.* CBP Headquarters shall review the application for a specific manufacturing drawback ruling.

(1) *Approval.* If consistent with the drawback law and regulations, Customs Headquarters shall issue a letter of approval to the applicant and shall forward 1 copy of the application for the specific manufacturing drawback ruling to the appropriate drawback office(s) with a copy of the letter of approval. Synopses of approved specific manufacturing drawback rulings shall be published in the weekly Customs Bulletin with each synopsis being published under an identifying Treasury Decision (T.D.). Each specific manufacturing drawback ruling shall be assigned a unique computer-generated manufacturing number which shall be included in the letter of approval to the applicant from Customs Headquarters, shall appear in the published

synopsis, and must be used when filing manufacturing drawback claims with Customs.

(2) *Disapproval.* If not consistent with the drawback law and regulations, CBP Headquarters shall promptly and in writing inform the applicant that the application cannot be approved and shall specifically advise the applicant why this is so. A disapproved application may be resubmitted with modifications and/or explanations addressing the reasons given for disapproval, or the disapproval may be appealed to CBP Headquarters (Attention: Director, Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade).

(f) *Schedules and supplemental schedules.* When an application for a specific manufacturing drawback ruling states that drawback is to be based upon a schedule filed by the manufacturer or producer, the schedule will be reviewed by Customs Headquarters. The application may include a request for authorization for the filing of supplemental schedules with the drawback office where claims are filed.

(g) *Procedure to modify a specific manufacturing drawback ruling*—(1) *Supplemental application.* Except as provided for limited modifications in paragraph (g)(2) of this section, a manufacturer or producer desiring to modify an existing specific manufacturing drawback ruling shall submit a supplemental application for such a ruling to CBP Headquarters (Attention: Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade). Such a supplemental application may, at the discretion of the manufacturer or producer, be in the form of the original application, or it may identify the specific manufacturing drawback ruling to be modified (by T.D. number and unique computer-generated number) and include only those paragraphs of the application to be modified, with a statement that all other paragraphs are unchanged and are incorporated by reference in the supplemental application.

(2) *Limited modifications.* (i) A supplemental application for a specific manufacturing drawback ruling shall be submitted to the drawback office(s) where claims are filed if the modifications are limited to:

(A) The location of a factory, or the addition of one or more factories where the methods followed and records maintained are the same as those at another factory operating under the existing specific manufacturing drawback ruling of the manufacturer or producer;

(B) The succession of a sole proprietorship, partnership or corporation to the operations of a manufacturer or producer;

(C) A change in name of the manufacturer or producer;

(D) A change in the persons who will sign drawback documents in the case of a business entity;

(E) A change in the basis of claim used for calculating drawback;

(F) A change in the decision to use or not to use an agent under § 191.9 of this chapter, or a change in the identity of an agent under that section;

(G) A change in the drawback office where claims will be filed under the ruling (see paragraph (g)(2)(iii) of this section); or

(H) Any combination of the foregoing changes.

(ii) A limited modification, as provided for in this paragraph, shall contain only the modifications to be made, in addition to identifying the specific manufacturing drawback ruling and being signed by an authorized person. To effect a limited modification, the manufacturer or producer shall file with the drawback office(s) where claims are filed (with a copy to CBP Headquarters, Attention, Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade) a letter stating the modifications to be made. The drawback office shall promptly acknowledge, in writing, acceptance of the limited modifications, with a copy to CBP Headquarters, Attention, Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade.

(iii) To effect a change in the drawback office where claims will be filed, the manufacturer or producer shall file with the new drawback office where claims will be filed, a written application to file claims at that office, with

a copy of the application and approval letter under which claims are currently filed. The manufacturer or producer shall provide a copy of the written application to file claims at the new drawback office to the drawback office where claims are currently filed.

(h) *Duration*. Subject to 19 U.S.C. 1625 and part 177 of this chapter, a specific manufacturing drawback ruling under this section shall remain in effect indefinitely unless:

(1) No drawback claim or certificate of manufacture and delivery is filed under the ruling for a period of 5 years and notice of termination is published in the Customs Bulletin; or

(2) The manufacturer or producer to whom approval of the ruling was issued files a request to terminate the ruling, in writing, with Customs Headquarters.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.9 Agency.

(a) *General*. An owner of the identified merchandise, the designated imported merchandise and/or the substituted other merchandise that is used to produce the exported articles may employ another person to do part, or all, of the manufacture or production under 19 U.S.C. 1313(a) or (b) and § 191.2(q) of this subpart. For purposes of this section, such owner is the principal and such other person is the agent. Under 19 U.S.C. 1313(b), the principal shall be treated as the manufacturer or producer of merchandise used in manufacture or production by the agent. The principal must be able to establish by its manufacturing records, the manufacturing records of its agent(s), or the manufacturing records of both (or all) parties, compliance with all requirements of this part (see, in particular, § 191.26 of this part).

(b) *Requirements*—(1) *Contract*. The manufacturer must establish that it is the principal in a contract between it and its agent who actually does the work on either the designated or substituted merchandise, or both, for the principal. The contract must include:

(i) Terms of compensation to show that the relationship is an agency rather than a sale;

(ii) How transfers of merchandise and articles will be recorded by the principal and its agent;

(iii) The work to be performed on the merchandise by the agent for the principal;

(iv) The degree of control that is to be exercised by the principal over the agent's performance of work;

(v) The party who is to bear the risk of loss on the merchandise while it is in the agent's custody; and

(vi) The period that the contract is in effect.

(2) *Ownership of the merchandise by the principal*. The records of the principal and/or the agent must establish that the principal had legal and equitable title to the merchandise before receipt by the agent. The right of the agent to assert a lien on the merchandise for work performed does not derogate the principal's ownership interest under this section.

(3) *Sales prohibited*. The relationship between the principal and agent must not be that of a seller and buyer. If the parties' records show that, with respect to the merchandise that is the subject of the principal-agent contract, the merchandise is sold to the agent by the principal, or the articles manufactured by the agent are sold to the principal by the agent, those records are inadequate to establish existence of a principal-agency relationship under this section.

(c) *Specific manufacturing drawback rulings; general manufacturing drawback rulings*—(1) *Owner*. An owner who intends to operate under the principal-agent procedures of this section must state that intent in any letter of notification of intent to operate under a general manufacturing drawback ruling filed under § 191.7 of this subpart or in any application for a specific manufacturing drawback ruling filed under § 191.8 of this subpart.

(2) *Agent*. Each agent operating under this section must have filed a letter of notification of intent to operate under a general manufacturing drawback ruling (see § 191.7), for an agent, covering the articles manufactured or produced, or have obtained a specific manufacturing drawback ruling (see § 191.8), as appropriate.

(d) *Certificate; Drawback entry; Certificate of manufacture and delivery*—(1) *Contents of certificate; when filing not required.* Principals and agents operating under this section are not required to file a certificate of delivery (for the merchandise transferred from the principal to the agent) or a certificate of manufacture and delivery (for the articles transferred from the agent to the principal). The principal for whom processing is conducted under this section shall file, with any drawback claim or certificate of manufacture and delivery based on an article manufactured or produced under the principal-agent procedures in this section, a certificate, subject to the recordkeeping requirements of §§ 191.15 of this subpart and 191.26 of this part, certifying that upon request by Customs it can establish the following:

(i) Quantity, kind and quality of merchandise transferred from the principal to the agent;

(ii) Date of transfer of the merchandise from the principal to the agent;

(iii) Date of manufacturing or production operations performed by the agent;

(iv) Total quantity and description of merchandise appearing in or used in manufacturing or production operations performed by the agent;

(v) Total quantity and description of articles produced in manufacturing or production operations performed by the agent;

(vi) Quantity, kind and quality of articles transferred from the agent to the principal; and

(vii) Date of transfer of the articles from the agent to the principal.

(2) *Blanket certificate.* The certificate required under paragraph (d)(1) of this section may be a blanket certificate for a particular kind and quality of merchandise for a stated period.

§ 191.10 Certificate of delivery.

(a) *Purpose; when required.* A party who: imports and pays duty on imported merchandise; receives imported merchandise; in the case of 19 U.S.C. 1313(j)(2), receives imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise; or receives an article manufactured or produced under 19 U.S.C. 1313(a) and/or (b): may transfer such merchandise or manufactured article to another party. The party shall record this transfer by preparing and issuing in favor of such other party a certificate of delivery, certified by the importer or other party through whose possession the merchandise or manufactured article passed (see paragraph (c) of this section). A certificate of delivery issued with respect to the delivered merchandise or article:

(1) Documents the transfer of that merchandise or article;

(2) Identifies such merchandise or article as being that to which a potential right to drawback exists; and

(3) Assigns such right to the transferee (see § 191.82 of this part).

(b) *Required information.* The certificate of delivery must include the following information:

(1) The party to whom the merchandise or articles are delivered;

(2) Date of delivery;

(3) Import entry number;

(4) Quantity delivered;

(5) Total duty paid on, or attributable to, the delivered merchandise;

(6) Date certificate was issued;

(7) Date of importation;

(8) Port where import entry filed;

(9) Person from whom received;

(10) Description of the merchandise delivered;

(11) The HTSUS number with a minimum of 6 digits, for the designated imported merchandise (such HTSUS number shall be from the entry summary and other entry documentation for the merchandise unless the issuer of the certificate of delivery received the merchandise under another certificate of delivery, or a certificate of manufacture and delivery, in which case such HTSUS number shall be from the other certificate); and

(12) If the merchandise transferred is substituted for the designated imported merchandise under 19 U.S.C. 1313(j)(2), the HTSUS or Schedule B commodity number, with a minimum of 6 digits.

(c) *Intermediate transfer*—(1) *Imported merchandise.* If the imported merchandise was not delivered directly from the importer to the manufacturer, or

from the importer to the exporter (or destroyer), each intermediate transfer of the imported merchandise shall be documented by means of a certificate of delivery issued in favor of the receiving party, and certified by the person through whose possession the merchandise passed.

(2) *Manufactured article.* If the article manufactured or produced under 19 U.S.C. 1313 (a) or (b) is not delivered directly from the manufacturer to the exporter (or destroyer), each transfer after the transfer from the manufacturer (which shall be documented by means of a certificate of manufacture and delivery) shall be documented by means of a certificate of delivery, issued in favor of the receiving party, and certified by the person through whose possession the article passed.

(d) *Retention period; supporting records.* Records supporting the information required on the certificate(s) of delivery, as listed in paragraph (b) of this section, must be retained by the issuing party for 3 years from the date of payment of the related claim or longer period if required by law (see 19 U.S.C. 1508(c)(3)).

(e) *Retention; submission to Customs.* The certificate of delivery shall be retained by the party to whom the merchandise or article covered by the certificate was delivered. Customs may request the certificate from the claimant for the drawback claim based upon the certificate (see §§ 191.51, 191.52). If the certificate is requested by Customs, but is not provided by the claimant, the part of the drawback claim dependent on that certificate will be denied.

(f) *Warehouse transfer and withdrawals.* The person in whose name merchandise is withdrawn from a bonded warehouse shall be considered the importer for drawback purposes. No certificate of delivery is required covering prior transfers of merchandise while in a bonded warehouse.

§ 191.11 Tradeoff.

(a) *Exchanged merchandise.* To comply with §§ 191.21 and 191.22 of this part, the use of domestic merchandise taken in exchange for imported merchandise of the same kind and quality (as defined in § 191.2(x)(1) of this part for purposes of 19 U.S.C. 1313(b)) shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the transfer of the imported merchandise. This provision shall be known as tradeoff and is authorized by § 313(k) of the Act, as amended (19 U.S.C. 1313(k)).

(b) *Requirements.* Tradeoff must occur between two separate legal entities but it is not necessary that the entity exchanging the imported merchandise be the importer thereof. In addition, tradeoff must consist of an exchange of same kind and quality merchandise and nothing else (the exchange may be of different quantities of same kind and quality merchandise, but may not involve the payment or receipt of cash payments or other than same kind and quality merchandise). If the quantities of merchandise exchanged are different, the lesser quantity shall be the quantity available for drawback. If the quantity of domestic merchandise received is greater than the quantity of imported merchandise exchanged, the merchandise identified for drawback shall be the portion of the domestic merchandise equal to the quantity of imported merchandise which is first received.

(c) *Application.* Each would-be user of tradeoff, except those operating under an approved specific manufacturing drawback ruling covering substitution, must apply to the Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade, CBP Headquarters, for a determination of whether the imported and domestic merchandise are of the same kind and quality. For those users manufacturing under substitution drawback, this request should be contained in the application for a specific manufacturing drawback ruling (§ 191.8). For those users manufacturing under a general manufacturing drawback ruling (§ 191.7), the request should be made by a separate letter.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.12 Claim filed under incorrect provision.

A drawback claim filed pursuant to any provision of § 313 of the Act, as amended (19 U.S.C. 1313) may be deemed filed pursuant to any other

provision thereof should the drawback office determine that drawback is not allowable under the provision as originally filed, but that it is allowable under such other provision. To be allowable under such other provision, the claim must meet each of the requirements of such provision. The claimant may raise alternative provisions prior to liquidation or by protest.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.13 Packaging materials.

(a) *Imported packaging material.* Drawback of duties is provided in § 313(q)(1) of the Act, as amended (19 U.S.C. 1313(q)(1)), on imported packaging material when used to package or repackage merchandise or articles exported or destroyed pursuant to § 313(a), (b), (c), or (j) of the Act, as amended (19 U.S.C. 1313(a), (b), (c), or (j)). Drawback is payable on the packaging material pursuant to the particular drawback provision to which the packaged goods themselves are subject. The drawback will be based on the duty, tax or fee paid on the importation of the packaging material. The packaging material must be separately identified on the claim, and all other information and documents required for the particular drawback provision under which the claim is made shall be provided for the packaging material.

(b) *Packaging material manufactured in United States from imported materials.* Drawback of duties is provided in § 313(q)(2) of the Act, as amended (19 U.S.C. 1313(q)(2)), on packaging material that is manufactured or produced in the United States from imported materials and used to package or repackage articles that are exported or destroyed under § 313(a) or (b) of the Act, as amended (19 U.S.C. 1313(a) or (b)). Drawback is payable on the packaging material under the particular manufacturing drawback provision to which the packaged articles themselves are subject, either 19 U.S.C. 1313(a) or (b), as applicable. The drawback will be based on the duty, tax, or fee that is paid on the imported merchandise used to manufacture or produce the packaging material. The packaging material and the imported merchandise used in its manufacture or production must be separately identified on the claim, and all other information and documents required for the particular drawback provision under which the claim is made must be provided for the packaging material as well as the imported merchandise used in its manufacture or production, for purposes of determining the applicable drawback payable.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–16, 67 FR 16637, Apr. 8, 2002]

§ 191.14 Identification of merchandise or articles by accounting method.

(a) *General.* This section provides for the identification of merchandise or articles for drawback purposes by the use of accounting methods. This section applies to identification of merchandise or articles in inventory or storage, as well as identification of merchandise used in manufacture or production (see § 191.2(h) of this subpart). This section is not applicable to situations in which the drawback law authorizes substitution (substitution is allowed in specified situations under 19 U.S.C. 1313(b), 1313(j)(2), 1313(k), and 1313(p); this section does apply to situations in these subsections in which substitution is not allowed, as well as to the subsections of the drawback law under which no substitution is allowed). When substitution is authorized, merchandise or articles may be substituted without reference to this section, under the criteria and conditions specifically authorized in the statutory and regulatory provisions providing for the substitution.

(b) *Conditions and criteria for identification by accounting method.* Manufacturers, producers, claimants, or other appropriate persons may identify for drawback purposes lots of merchandise or articles under this section, subject to each of the following conditions and criteria:

(1) The lots of merchandise or articles to be so identified must be fungible (see § 191.2(o) of this part);

(2) The person using the identification method must be able to establish that inventory records (for example, material control records), prepared and used in the ordinary course of business, account for the lots of merchandise or

articles to be identified as being received into and withdrawn from the same inventory. Even if merchandise or articles are received or withdrawn at different geographical locations, if such inventory records treat receipts or withdrawals as being from the same inventory, those inventory records may be used to identify the merchandise or articles under this section, subject to the conditions of this section. If any such inventory records (that is, inventory records prepared and used in the ordinary course of business) treat receipts and withdrawals as being from different inventories, those inventory records must be used and receipts into or withdrawals from the different inventories may not be accounted for together. If units of merchandise or articles can be specifically identified (for example, by serial number), the merchandise or articles must be specifically identified and may not be identified by accounting method, unless it is established that inventory records, prepared and used in the ordinary course of business, treat the merchandise or articles to be identified as being received into and withdrawn from the same inventory (subject to the above conditions);

(3) Unless otherwise provided in this section or specifically approved by Customs (by a binding ruling under part 177 of this chapter), all receipts (or inputs) into and all withdrawals from the inventory must be recorded in the accounting record;

(4) The records which support any identification method under this section are subject to verification by Customs (see § 191.61 of this part). If Customs requests such verification, the person using the identification method must be able to demonstrate how, under generally accepted accounting procedures, the records which support the identification method used account for all merchandise or articles in, and all receipts into and withdrawals from, the inventory, and the drawback per unit for each receipt and withdrawal; and

(5) Any accounting method which is used by a person for drawback purposes under this section must be used without variation with other methods for a period of at least one year, unless approval is given by Customs for a shorter period.

(c) *Approved accounting methods.* The following accounting methods are approved for use in the identification of merchandise or articles for drawback purposes under this section.

(1) *First-in, first-out (FIFO)*—(i) *General.* The FIFO method is the method by which fungible merchandise or articles are identified by recordkeeping on the basis of the first merchandise or articles received into the inventory. Under this method, withdrawals are from the oldest (first-in) merchandise or articles in the inventory at the time of withdrawal.

(ii) *Example.* If the beginning inventory is zero, 100 units with $1 drawback attributable per unit are received in inventory on the 2nd of the month, 50 units with no drawback attributable per unit are received into inventory on the 5th of the month, 75 units are withdrawn for domestic (non-export) shipment on the 10th of the month, 75 units with $2 drawback attributable per unit are received in inventory on the 15th of the month, 100 units are withdrawn for export on the 20th of the month, and no other receipts or withdrawals occurred in the month, the drawback attributable to the 100 units withdrawn for export on the 20th is a total of $75 (25 units from the receipt on the 2nd with $1 drawback attributable per unit, 50 units from the receipt on the 5th with no drawback attributable per unit, and 25 units from the receipt on the 15th with $2 drawback attributable per unit). The basis of the foregoing and the effects on the inventory of the receipts and withdrawals, and balance in the inventory thereafter are as follows: On the 2nd of the month the receipt of 100 units ($1 drawback/unit) results in a balance of that amount; the receipt of 50 units ($0 drawback/unit) on the 5th results in a balance of 150 units (100 with $1 drawback/unit and 50 with $0 drawback/unit); the withdrawal on the 10th of 75 units ($1 drawback/unit) results in a balance of 75 units (25 with $1 drawback/unit and 50 with $0 drawback/unit); the receipt of 75 units ($2 drawback/unit) on the 15th results in a balance of 150 units (25 with $1 drawback/unit, 50 with $0 drawback/unit, and 75 with $2 drawback/unit); the withdrawal

on the 20th of 100 units (25 with $1 drawback/unit, 50 with $0 drawback/unit, and 25 with $2 drawback unit) results in a balance of 50 units (all 50 with $2 drawback/unit).

(2) *Last-in, first out (LIFO)*—(i) *General.* The LIFO method is the method by which fungible merchandise or articles are identified by recordkeeping on the basis of the last merchandise or articles received into the inventory. Under this method, withdrawals are from the newest (last-in) merchandise or articles in the inventory at the time of withdrawal.

(ii) *Example.* In the example in paragraph (c)(1)(ii) of this section, the drawback attributable to the 100 units withdrawn for export on the 20th is a total of $175 (75 units from the receipt on the 15th with $2 drawback attributable per unit and 25 units from the receipt on the 2nd with $1 drawback attributable per unit). The basis of the foregoing and the effects on the inventory of the receipts and withdrawals, and balance in the inventory thereafter are as follows: On the 2nd of the month the receipt of 100 units ($1 drawback/unit) results in a balance of that amount; the receipt of 50 units ($0 drawback/unit) on the 5th results in a balance of 150 units (100 with $1 drawback/unit and 50 with $0 drawback/unit); the withdrawal on the 10th of 75 units (50 with $0 drawback/unit and 25 with $1 drawback/unit) results in a balance of 75 units (all with $1 drawback/unit); the receipt of 75 units ($2 drawback/unit) on the 15th results in a balance of 150 units (75 with $1 drawback/unit and 75 with $2 drawback/unit); the withdrawal on the 20th of 100 units (75 with $2 drawback/unit and 25 with $1 drawback/unit) results in a balance of 50 units (all 50 with $1 drawback/unit).

(3) *Low-to-high*—(i) *General.* The low-to-high method is the method by which fungible merchandise or articles are identified by recordkeeping on the basis of the lowest drawback amount per unit of the merchandise or articles in inventory. Merchandise or articles with no drawback attributable to them (for example, domestic merchandise or duty-free merchandise) must be accounted for and are treated as having the lowest drawback attributable to them. Under this method, withdrawals are from the merchandise or articles with the least amount of drawback attributable to them, then those with the next higher amount, and so forth. If the same amount of drawback is attributable to more than one lot of merchandise or articles, withdrawals are from the oldest (first-in) merchandise or articles among those lots with the same amount of drawback attributable. Drawback requirements are applicable to withdrawn merchandise or articles as identified (for example, if the merchandise or articles identified were attributable to an import more than 5 years (more than 3 years for unused merchandise drawback) before the claimed export, no drawback could be granted).

(ii) *Ordinary*—(A) *Method.* Under the ordinary low-to-high method, all receipts into and all withdrawals from the inventory are recorded in the accounting record and accounted for so that each withdrawal, whether for export or domestic shipment, is identified by recordkeeping on the basis of the lowest drawback amount per unit of the merchandise or articles available in the inventory.

(B) *Example.* In this example, the beginning inventory is zero, and receipts into and withdrawals from the inventory are as follows:

Date	Receipt ($ per unit)	Withdrawals
Jan. 2	100 (zero).	
Jan. 5	50 ($1.00).	
Jan. 15		50 (export).
Jan. 20	50 ($1.01).	
Jan. 25	50 ($1.02).	
Jan. 28		50 (domestic).
Jan. 31	50 ($1.03).	
Feb. 5		100 (export).
Feb. 10	50 ($.95).	
Feb. 15		50 (export).
Feb. 20	50 (zero).	
Feb. 23		50 (domestic).
Feb. 25	50 ($1.05).	
Feb. 28		100 (export).
Mar. 5	50 ($1.06).	
Mar. 10	50 ($.85).	
Mar. 15		50 (export).
Mar. 21		50 (domestic).
Mar. 20	50 ($1.08).	
Mar. 25	50 ($.90).	
Mar. 31		100 (export).

The drawback attributable to the January 15 withdrawal for export is zero (the available receipt with the lowest drawback amount per unit is the January 2 receipt), the drawback

attributable to the January 28 withdrawal for domestic shipment (no drawback) is zero (the remainder of the January 2 receipt), the drawback attributable to the February 5 withdrawal for export is $100.50 (the January 5 and January 20 receipts), the drawback attributable to the February 15 withdrawal for export is $47.50 (the February 10 receipt), the drawback attributable to the February 23 withdrawal for domestic shipment (no drawback) is zero (the February 20 receipt), the drawback attributable to the February 28 withdrawal for export is $102.50 (the January 25 and January 31 receipts), the drawback attributable to the March 15 withdrawal for export is $42.50 (the March 10 receipt), the drawback attributable to the March 21 withdrawal for domestic shipment (no drawback) is $52.50 (the February 25 receipt), and the drawback attributable to the March 31 withdrawal for export is $98.00 (the March 25 and March 5 receipts). Remaining in inventory is the March 20 receipt of 50 units ($1.08 drawback/unit). Total drawback attributable to withdrawals for export in this example would be $391.00.

(iii) *Low-to-high method with established average inventory turn-over period*—(A) *Method*. Under the low-to-high method with established average inventory turn-over period, all receipts into and all withdrawals for export are recorded in the accounting record and accounted for so that each withdrawal is identified by recordkeeping on the basis of the lowest drawback amount per available unit of the merchandise or articles received into the inventory in the established average inventory turn-over period preceding the withdrawal.

(B) *Accounting for withdrawals (for domestic shipments and for export)*. Under this method, domestic withdrawals (withdrawals for domestic shipment) are not accounted for and do not affect the available units of merchandise or articles. All withdrawals for export must be accounted for whether or not drawback is available or claimed on the withdrawals. Once a withdrawal for export is made and accounted for under this method, the merchandise or articles withdrawn are no longer available for identification.

(C) *Establishment of inventory turn-over period*. For purposes of this section, average inventory turn-over period is based on the rate of withdrawal from inventory and represents the time in which all of the merchandise or articles in the inventory at a given time must have been withdrawn. To establish an average of this time, at least 1 year, or three (3) turn-over periods (if inventory turns over less than 3 times per year), must be averaged. The inventory turn-over period must be that for the merchandise or articles to be identified, except that if the person using the method has more than one kind of merchandise or articles with different inventory turn-over periods, the longest average turn-over period established under this section may be used (instead of using a different inventory turn-over period for each kind of merchandise or article).

(D) *Example*. In the example in paragraph (c)(3)(ii)(B) of this section (but, as required for this method, without accounting for domestic withdrawals, and with an established average inventory turn-over period of 30 days), the drawback attributable to the January 15 withdrawal for export is zero (the available receipt in the preceding 30 days with the lowest amount of drawback is the January 2 receipt, of which 50 units will remain after the withdrawal), the drawback attributable to the February 5 withdrawal for export is $101.50 (the January 20 and January 25 receipts), the drawback attributable to the February 15 withdrawal for export is $47.50 (the February 10 receipt), the drawback attributable to the February 28 withdrawal for export is $51.50 (the February 20 and January 31 receipts), the drawback attributable to the March 15 withdrawal for export is $42.50 (the March 10 receipt), and the drawback attributable to the March 31 withdrawal for export is $98.00 (the March 25 and March 5 receipts). No drawback may be claimed on the basis of the January 5 receipt or the February 25 receipt because in the case of each, there were insufficient withdrawals for export within the established average inventory turn-over period; the 50 units remaining from the January 2 receipt after the January 15 withdrawal are

not identified for a withdrawal for export because there is no other withdrawal for export (other than the January 15 withdrawal) within the established average inventory turn-over period; the March 20 receipt (50 units at $1.08) is not yet attributed to withdrawals for export. Total drawback attributable to withdrawals for export in this example would be $341.00.

(iv) *Low-to-high blanket method*—(A) *Method*. Under the low-to-high blanket method, all receipts into and all withdrawals for export are recorded in the accounting record and accounted for so that each withdrawal is identified by recordkeeping on the basis of the lowest drawback amount per available unit of the merchandise or articles received into inventory in the period preceding the withdrawal equal to the statutory period for export under the kind of drawback involved (e.g., 180 days under 19 U.S.C. 1313(p), 3 years under 19 U.S.C. 1313(c) and 1313(j), and 5 years otherwise under 19 U.S.C. 1313(i)). Drawback requirements are applicable to withdrawn merchandise or articles as identified (for example, if the merchandise or articles identified were attributable to an import more than 5 years (more than 3 years for 19 U.S.C. 1313(j); more than 180 days after the date of import or after the close of the manufacturing period for 19 U.S.C. 1313(p)) before the claimed export, no drawback could be granted).

(B) *Accounting for withdrawals (for domestic shipments and for export)*. Under this method, domestic withdrawals (withdrawals for domestic shipment) are not accounted for and do not affect the available units of merchandise or articles. All withdrawals for export must be accounted for whether or not drawback is available or claimed on the withdrawals. Once a withdrawal for export is made and accounted for under this method, the merchandise or articles withdrawn are no longer available for identification.

(C) *Example*. In the example in paragraph (c)(3)(ii)(B) of this section (but, as required for this method, without accounting for domestic withdrawals), the drawback attributable to the January 15 withdrawal for export is zero (the available receipt in the inventory with the lowest amount of drawback is the January 2 receipt, of which 50 units will remain after the withdrawal), the drawback attributable to the February 5 withdrawal for export is $50.00 (the remainder of the January 2 receipt and the January 5 receipt), the drawback attributable to the February 15 withdrawal for export is $47.50 (the February 10 receipt), the drawback attributable to the February 28 withdrawal for export is $50.50 (the February 20 and January 20 receipts), the drawback attributable to the March 15 withdrawal for export is $42.50 (the March 10 receipt), and the drawback attributable to the March 31 withdrawal for export is $96.00 (the March 25 and January 25 receipts). Receipts not attributed to withdrawals for export are the January 31 (50 units at $1.03), February 25 (50 units at $1.05), March 5 (50 units at $1.06), and March 20 (50 units at $1.08) receipts. Total drawback attributable to withdrawals for export in this example would be $286.50.

(4) *Average*—(i) *General*. The average method is the method by which fungible merchandise or articles are identified on the basis of the calculation by recordkeeping of the amount of drawback that may be attributed to each unit of merchandise or articles in the inventory. In this method, the ratio of:

(A) The total units of a particular receipt of the fungible merchandise in the inventory at the time of a withdrawal to;

(B) The total units of all receipts of the fungible merchandise (including each receipt into inventory) at the time of the withdrawal;

(C) Is applied to the withdrawal, so that the withdrawal consists of a proportionate quantity of units from each particular receipt and each receipt is correspondingly decreased. Withdrawals and corresponding decreases to receipts are rounded to the nearest whole number.

(ii) *Example*. In the example in paragraph (c)(1)(ii) of this section, the drawback attributable to the 100 units withdrawn for export on the 20th is a total of $133 (50 units from the receipt on the 15th with $2 drawback attributable per unit, 33 units from the receipt on the 2nd with $1 drawback attributable per unit, and 17 units from the receipt on the 5th with $0 drawback

attributable per unit). The basis of the foregoing and the effects on the inventory of the receipts and withdrawals, and balance in the inventory thereafter are as follows: On the 2nd of the month the receipt of 100 units ($1 drawback/unit) results in a balance of that amount; the receipt of 50 units ($0 drawback/unit) on the 5th results in a balance of 150 units (100 with $1 drawback/unit and 50 with $0 drawback/unit); the withdrawal on the 10th of 75 units (50 with $1 drawback/unit (applying the ratio of 100 units from the receipt on the 2nd to the total of 150 units at the time of withdrawal) and 25 with $0 drawback/unit (applying the ratio of 50 units from the receipt on the 5th to the total of 150 units at the time of withdrawal)) results in a balance of 75 units (with 50 with $1 drawback/unit and 25 with $0 drawback/unit, on the basis of the same ratios); the receipt of 75 units ($2 drawback/unit) on the 15th results in a balance of 150 units (50 with $1 drawback/unit, 25 with $0 drawback/unit, and 75 with $2 drawback/unit); the withdrawal on the 20th of 100 units (50 with $2 drawback/unit (applying the ratio of the 75 units from the receipt on the 15th to the total of 150 units at the time of withdrawal), 33 with $1 drawback/unit (applying the ratio of the 50 units remaining from the receipt on the 2nd to the total of 150 units at the time of withdrawal, and 17 with $0 drawback/unit (applying the ratio of the 25 units remaining from the receipt on the 5th to the total of 150 units at the time of withdrawal)) results in a balance of 50 units (25 with $2 drawback/unit, 17 with $1 drawback/unit, and 8 with $0 drawback/unit, on the basis of the same ratios).

(5) *Inventory turn-over for limited purposes.* A properly established average inventory turn-over period, as provided for in paragraph (c)(3)(iii)(C) of this section, may be used to determine:

(i) The fact and date(s) of use in manufacture or production of the imported designated merchandise and other (substituted) merchandise (see 19 U.S.C. 1313(b)); or

(ii) The fact and date(s) of manufacture or production of the finished articles (see 19 U.S.C. 1313(a) and (b)).

(d) *Approval of other accounting methods.* (1) Persons proposing to use an accounting method for identification of merchandise or articles for drawback purposes which has not been previously approved for such use (see paragraph (c) of this section), or which includes modifications from the methods listed in paragraph (c) of this section, may seek approval by Customs of the proposed accounting method under the provisions for obtaining an administrative ruling (see part 177 of this chapter). The conditions applied and the criteria used by Customs in approving such an alternative accounting method, or a modification of one of the approved accounting methods, will be the criteria in paragraph (b) of this section, as well as those in paragraph (d)(2) of this section.

(2) In order for a proposed accounting method to be approved by Customs for purposes of this section, it shall meet the following criteria:

(i) For purposes of calculations of drawback, the proposed accounting method must be either revenue neutral or favorable to the Government; and

(ii) The proposed accounting method should be:

(A) Generally consistent with commercial accounting procedures, as applicable for purposes of drawback;

(B) Consistent with inventory or material control records used in the ordinary course of business by the person proposing the method; and

(C) Easily administered by both Customs and the person proposing the method.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998; 63 FR 27489, May 19, 1998]

§ 191.15 Recordkeeping.

Pursuant to 19 U.S.C. 1508(c)(3), all records which pertain to the filing of a drawback claim or to the information contained in the records required by 19 U.S.C. 1313 in connection with the filing of a drawback claim shall be retained for 3 years after payment of such claims or longer period if required by law (under 19 U.S.C. 1508, the same records may be subject to a different period for different purposes).

Subpart B—Manufacturing Drawback

§ 191.21 Direct identification drawback.

Section 313(a) of the Act, as amended (19 U.S.C. 1313(a)), provides for drawback upon the exportation, or destruction under Customs supervision, of articles which are not used in the United States prior to their exportation or destruction, and which are manufactured or produced in the United States wholly or in part with the use of particular imported, duty-paid merchandise and/or drawback product(s). Where two or more products result, drawback shall be distributed among the products in accordance with their relative value (see § 191.2(u)) at the time of separation. Merchandise may be identified for drawback purposes under 19 U.S.C. 1313(a) in the manner provided for and prescribed in § 191.14 of this part.

§ 191.22 Substitution drawback.

(a) *General*. If imported, duty-paid, merchandise and any other merchandise (whether imported or domestic) of the same kind and quality are used in the manufacture or production of articles within a period not to exceed 3 years from the receipt of the imported merchandise by the manufacturer or producer of the articles, then upon the exportation, or destruction under Customs supervision, of any such articles, without their having been used in the United States prior to such exportation or destruction, drawback is provided for in § 313(b) of the Act, as amended (19 U.S.C. 1313(b)), even though none of the imported, duty-paid merchandise may have been used in the manufacture or production of the exported or destroyed articles. The amount of drawback allowable cannot exceed that which would have been allowable had the merchandise used therein been the imported, duty-paid merchandise.

(b) *Use by same manufacturer or producer at different factory*. Duty-paid merchandise or drawback products used at one factory of a manufacturer or producer within 3 years after the date on which the material was received by the manufacturer or producer may be designated as the basis for drawback on articles manufactured or produced in accordance with these regulations at other factories of the same manufacturer or producer.

(c) *Designation*. A manufacturer or producer may designate any eligible imported merchandise or drawback product which it has used in manufacture or production.

(d) *Designation by successor; 19 U.S.C. 1313(s)*—(1) *General rule*. Upon compliance with the requirements in this section and under 19 U.S.C. 1313(s), a drawback successor as defined in paragraph (d)(2) of this section may designate merchandise or drawback product used by a predecessor before the date of succession as the basis for drawback on articles manufactured or produced by the successor after the date of succession.

(2) *Drawback successor*. A ''drawback successor'' is a manufacturer or producer to whom another entity (predecessor) has transferred, by written agreement, merger, or corporate resolution:

(i) All or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or

(ii) The assets and other business interests of a division, plant, or other business unit of such predecessor, provided that the value of the transferred assets and interests (realty, personalty, and intangibles, exclusive of the drawback rights) exceeds the value of such drawback rights, whether vested or contingent.

(3) *Certifications and required evidence*—(i) *Records of predecessor*. The predecessor or successor must certify that the successor is in possession of the predecessor's records which are necessary to establish the right to drawback under the law and regulations with respect to the merchandise or drawback product.

(ii) *Merchandise not otherwise designated*. The predecessor or successor must certify in an attachment to the claim, that the predecessor has not designated and will not designate, nor enable any other person to designate, such merchandise or product as the basis for drawback.

(iii) *Value of transferred property*. In instances in which assets and other business interests of a division, plant, or other business unit of a predecessor

are transferred, the predecessor or successor must specify, and maintain supporting records to establish, the value of the drawback rights and the value of all other transferred property.

(iv) *Review by Customs.* The written agreement, merger, or corporate resolution, provided for in paragraph (d)(2) of this section, and the records and evidence provided for in paragraph (d)(3)(i) through (iii) of this section, must be retained by the appropriate party(s) for 3 years from the date of payment of the related claim and are subject to review by Customs upon request.

(e) *Multiple products*—(1) *General.* Where two or more products are produced concurrently in a substitution manufacturing operation, drawback shall be distributed to each product in accordance with its relative value (see § 191.2(u)) at the time of separation.

(2) *Claims covering a manufacturing period.* Where the claim covers a manufacturing period rather than a manufacturing lot, the entire period covered by the claim is the time of separation of the products and the value per unit of product is the market value for the period (see § 191.2(u) of this part). Manufacturing periods in excess of one month may not be used without specific approval of Customs.

(3) *Recordkeeping.* Records shall be maintained showing the relative value of each product at the time of separation.

§ 191.23 Methods of claiming drawback.

(a) *Used in.* Drawback may be paid based on the amount of the imported or substituted merchandise used in the manufacture of the exported article, where there is no waste or the waste is valueless or unrecoverable. This method must be used when multiple products also necessarily and concurrently result from the manufacturing process, and there is no valuable waste (see paragraph (c) of this section).

(b) *Appearing in.* Drawback is allowable under this method based only on the amount of imported or substituted merchandise that appears in (is contained in) the exported articles. This method may not be used if there are multiple products also necessarily and concurrently resulting from the manufacturing process.

(c) *Used in less valuable waste.* Drawback is allowable under this method based on the quantity of merchandise or drawback products used to manufacture the exported or destroyed article, reduced by an amount equal to the quantity of this merchandise that the value of the waste would replace. This method must be used when multiple products also necessarily and concurrently result from the manufacturing process, and there is valuable waste.

(d) *Abstract or schedule.* A drawback claimant may use either the abstract or schedule method to show the quantity of material used or appearing in the exported or destroyed article. An abstract is the summary of records which shows the total quantity used in or appearing in all articles produced during the period covered by the abstract. A schedule shows the quantity of material used in producing, or appearing in, each unit of product. Manufacturers or producers submitting letters of notification of intent to operate under a general manufacturing drawback ruling (see § 191.7) and applicants for approval of specific manufacturing drawback rulings (see § 191.8) shall state whether the abstract or schedule method is used; if no such statement is made, drawback claims must be based upon the abstract method.

(e) *Recordkeeping*—(1) *Valuable waste.* When the waste has a value and the drawback claim is not limited to the quantity of imported or substituted merchandise or drawback products appearing in the exported or destroyed articles claimed for drawback, the manufacturer or producer shall keep records to show the market value of the merchandise or drawback products used to manufacture or produce the exported or destroyed articles, as well as the market value of the resulting waste, under the used in less valuable waste method (see § 191.2(u) of this part).

(2) *If claim for waste is waived.* If claim for waste is waived, only the ''appearing in'' basis may be used (see paragraph (b) of this section). Waste

records need not be kept unless required to establish the quantity of imported duty-paid merchandise or drawback products appearing in the exported or destroyed articles claimed for drawback.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.24 Certificate of manufacture and delivery.

(a) *When required.* When an article or drawback product manufactured or produced under a general manufacturing drawback ruling or a specific manufacturing drawback ruling is transferred from the manufacturer or producer to another party, a certificate of manufacture and delivery shall be prepared and certified by the manufacturer.

(b) *Information required on certificate.* The following information shall be required on the certificate of manufacture and delivery executed by the manufacturer or producer:

(1) The person to whom the article or drawback product is delivered;

(2) If the article or drawback product was manufactured or produced under a general manufacturing drawback ruling, the unique computer-generated number assigned to the letter of acknowledgment for that ruling, and if the article or drawback product was manufactured or produced under a specific manufacturing drawback ruling, either the unique computer number or the T.D. number for that ruling;

(3) The quantity, kind and quality of imported, duty-paid merchandise or drawback product designated;

(4) Import entry numbers, HTSUS number for the imported merchandise to at least the 6th digit (such HTSUS number shall be from the entry summary and other entry documentation for the imported, duty-paid merchandise unless the issuer of the certificate of manufacture and delivery received the merchandise under another certificate (either of delivery or of manufacture and delivery), in which case such HTSUS number shall be from the other certificate), and applicable duty amounts;

(5) Date received at factory;

(6) Date used in manufacture;

(7) Value at factory, if applicable;

(8) Quantity of waste, if any, if applicable;

(9) Market value of any waste, if applicable;

(10) Total quantity and description of merchandise appearing in or used;

(11) Total quantity and description of articles produced;

(12) Date of manufacture or production of the articles;

(13) The quantity of articles transferred; and

(14) The person from whom the article or drawback product is delivered.

(c) *Filing of certificate.* The certificate of manufacture and delivery shall be filed with the drawback claim it supports (unless previously filed) (see § 191.51 of this part).

(d) *Effect of certificate.* A certificate of manufacture and delivery documents the delivery of articles from the manufacturer or producer to another party, identifies such articles as being those to which a potential right to drawback exists, and assigns such potential rights to the transferee (see also § 191.82 of this part).

§ 191.25 Destruction under Customs supervision.

A claimant may destroy merchandise and obtain manufacturing drawback by complying with the procedures set forth in § 191.71 of this part relating to destruction.

§ 191.26 Recordkeeping for manufacturing drawback.

(a) *Direct identification manufacturing*—(1) *Records required.* Each manufacturer or producer under 19 U.S.C. 1313(a) shall keep records to allow the verifying Customs official to trace all articles manufactured or produced for exportation or destruction with drawback, from importation, through production, to exportation or destruction. To this end, these records shall specifically establish:

(i) The date or inclusive dates of manufacture or production;

(ii) The quantity and identity of the imported duty-paid merchandise or drawback products used in or appearing in (see § 191.23) the articles manufactured or produced;

(iii) The quantity, if any, of the non-drawback merchandise used, when

these records are necessary to determine the quantity of imported duty-paid merchandise or drawback product used in the manufacture or production of the exported or destroyed articles or appearing in them;

(iv) The quantity and description of the articles manufactured or produced;

(v) The quantity of waste incurred, if applicable; and

(vi) That the finished articles on which drawback is claimed were exported or destroyed within 5 years after the importation of the duty-paid merchandise, without having been used in the United States prior to such exportation or destruction. (If the completed articles were commingled after manufacture, their identity may be maintained in the manner prescribed in § 191.14 of this part.)

(2) *Accounting*. The merchandise and articles to be exported or destroyed shall be accounted for in a manner which will enable the manufacturer, producer, or claimant:

(i) To determine, and the Customs official to verify, the applicable import entry, certificate of delivery, and/or certificate of manufacture and delivery associated with the claim; and

(ii) To identify with respect to that import entry, certificate of delivery, and/or certificate of manufacture and delivery, the imported duty-paid merchandise or drawback products used in manufacture or production.

(b) *Substitution manufacturing*. The records of the manufacturer or producer of articles manufactured or produced in accordance with 19 U.S.C. 1313(b) shall establish the facts in paragraph (a)(1)(i), (iv) through (vi) of this section, and:

(1) The quantity, identity, and specifications of the merchandise designated (imported duty-paid, or drawback product);

(2) The quantity, identity, and specifications of merchandise of the same kind and quality as the designated merchandise before its use to manufacture or produce (or appearing in) the exported or destroyed articles;

(3) That, within 3 years after receiving the designated merchandise at its plant, the manufacturer or producer used it in manufacturing or production and that during the same 3-year period it manufactured or produced the exported or destroyed articles; and

(4) If the designated merchandise is a chemical element that was contained in imported material that was subject to an *ad valorem* rate of duty, and a substitution drawback claim is made based on that chemical element:

(i) The duty paid on the imported material must be apportioned among its constituent components. The claim on the chemical element that is the designated merchandise must be limited to the duty apportioned to that element on a unit-for-unit attribution using the unit of measure set forth in the Harmonized Tariff Schedule of the United States (HTSUS) that is applicable to the imported material. If the material is a compound with other constituents, including impurities, and the purity of the compound in the imported material is shown by satisfactory analysis, that purity, converted to a decimal equivalent of the percentage, is multiplied against the entered amount of the material to establish the amount of pure compound. The amount of the element in the pure compound is to be determined by use of the atomic weights of the constituent elements and converting to the decimal equivalent of their respective percentages and multiplying that decimal equivalent against the above-determined amount of pure compound.

(ii) The amount claimed as drawback based on the chemical element must be deducted from the duty paid on the imported material that may be claimed on any other drawback claim.

Example to paragraph (b)(4): Synthetic rutile that is shown by appropriate analysis in the entry papers to be 91.7% pure titanium dioxide is imported and dutiable at a 5% *ad valorem* duty rate. The amount of imported synthetic rutile is 30,000 pounds with an entered value of $12,000. The total duty paid is $600. Titanium in the synthetic rutile is designated as the basis for a drawback claim under 19 U.S.C. 1313(b). The amount of titanium dioxide in the synthetic rutile is determined by converting the purity percentage (91.7%) to its decimal equivalent (.917) and multiplying the entered amount of synthetic rutile (30,000 pounds) by that decimal equivalent ($.917 \times 30{,}000 = 27{,}510$ pounds of titanium dioxide contained in the 30,000 pounds of imported synthetic rutile). The titanium, based on atomic weight, represents 59.93% of the

constituents in titanium dioxide. Multiplying that percentage, converted to its decimal equivalent, by the amount of titanium dioxide determines the titanium content of the imported synthetic rutile (.5993 × 27,510 pounds of titanium dioxide = 16,486.7 pounds of titanium contained in the imported synthetic rutile). Therefore, up to 16,486.7 pounds of titanium is available to be designated as the basis for drawback. As the per-unit duty paid on the synthetic rutile is calculated by dividing the duty paid ($600) by the amount of imported synthetic rutile (30,000 pounds), the per-unit duty is two cents of duty per pound of the imported synthetic rutile ($600 ÷ 30,000 = $0.02). The duty on the titanium is calculated by multiplying the amount of titanium contained in the imported synthetic rutile by two cents of duty per pound (16,486.7 × $0.02 = $329.73 duty apportioned to the titanium). The product is then multiplied by 99% to determine the maximum amount of drawback available ($329.73 × .99=$326.44). If an exported titanium alloy ingot weighs 17,000 pounds, in which 16,000 pounds of titanium was used to make the ingot, drawback is determined by multiplying the duty per pound ($0.02) by the weight of the titanium contained in the ingot (16,000 pounds) to calculate the duty available for drawback ($0.02 × 16,000 = $320.00). Because only 99% of the duty can be claimed, drawback is determined by multiplying this available duty amount by 99% (.99 × $320.00 = $316.80). As the oxygen content of the titanium dioxide is 45% of the synthetic rutile, if oxygen is the designated merchandise on another drawback claim, 45% of the duty claimed on the synthetic rutile would be available for drawback based on the substitution of oxygen.

(c) *Valuable waste records*. When waste has a value and the manufacturer, producer, or claimant, has not limited the claims based on the quantity of imported or substituted merchandise appearing in the articles exported or destroyed, the manufacturer or producer shall keep records to show the market value of the merchandise used to manufacture or produce the exported or destroyed article, as well as the quantity and market value of the waste incurred (see §191.2(u) of this part). In such records, the quantity of merchandise identified or designated for drawback, under 19 U.S.C. 1313(a) or 1313(b), respectively, shall be based on the quantity of merchandise actually used to manufacture or produce the exported or destroyed articles. The waste replacement reduction will be determined by reducing from the quantity of merchandise actually used the amount of merchandise which the value of the waste would replace.

(d) *Purchase of manufactured articles for exportation*. Where the claimant purchases articles from the manufacturer and exports them, the claimant shall file the related certificate of manufacture and delivery as part of the claim (see §191.51(a)(1) of this part).

(e) *Multiple claimants*—(1) *General*. Multiple claimants may file for drawback with respect to the same export (for example, if an automobile is exported, where different parts of the automobile have been produced by different manufacturers under drawback conditions and the exporter waives the right to claim drawback and assigns such right to the manufacturers under §191.82 of this part).

(2) *Procedures*—(i) *Submission of letter*. Each drawback claimant shall file a separate letter, as part of the claim, describing the component article on the export bill of lading to which each claim will relate. Each letter shall show the name of the claimant and bear a statement that the claim shall be limited to its respective component article. The exporter shall endorse the letters, as required, to show the respective interests of the claimants.

(ii) *Blanket waivers and assignments of drawback rights*. Exporters may waive and assign their drawback rights for all, or any portion, of their exportations with respect to a particular commodity for a given period to a drawback claimant.

(iii) *Use of export summary procedure*. If the parties elect to use the export summary procedure (§191.73 of this part) each drawback claimant shall complete a chronological summary of exports for the respective component product to which each claim will relate. Each claimant shall identify in the chronological summary the name of the other claimant(s) and the component product for which each will independently claim drawback, if known at the time the drawback claim is filed. The exporter shall endorse the summaries, as required, to show the respective interests of the claimants. Each claimant shall have on file and

make available to Customs upon request, the endorsement from the exporter assigning the right to claim drawback.

(f) *Retention of records.* Pursuant to 19 U.S.C. 1508(c)(3), all records required to be kept by the manufacturer, producer, or claimant with respect to drawback claims, and records kept by others to complement the records of the manufacturer, producer, or claimant with respect to drawback claims shall be retained for 3 years after the date of payment of the related claims (under 19 U.S.C. 1508, the same records may be subject to a different retention period for different purposes).

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–38, 67 FR 48370, July 24, 2002; CBP Dec. 03–23, 68 FR 50703, Aug. 22, 2003]

§ 191.27 Time limitations.

(a) *Direct identification manufacturing.* Drawback shall be allowed on imported merchandise used to manufacture or produce articles that are exported or destroyed under Customs supervision within 5 years after importation of the merchandise identified to support the claim.

(b) *Substitution manufacturing.* Drawback shall be allowed on the imported merchandise if the following conditions are met:

(1) The designated merchandise is used in manufacture or production within 3 years after receipt by the manufacturer or producer at its factory;

(2) Within the 3-year period described in paragraph (b)(1) of this section, the exported or destroyed articles, or drawback products, were manufactured or produced; and

(3) The completed articles must be exported or destroyed under Customs supervision within 5 years of the date of importation of the designated merchandise, or within 5 years of the earliest date of importation associated with a drawback product.

(c) *Drawback claims filed before specific or general manufacturing drawback ruling approved or acknowledged.* Drawback claims may be filed before the letter of notification of intent to operate under a general manufacturing drawback ruling covering the claims is acknowledged (§ 191.7), or before the specific manufacturing drawback ruling covering the claims is approved (§ 191.8), but no drawback shall be paid until such acknowledgement or approval, as appropriate.

§ 191.28 Person entitled to claim drawback.

The exporter (or destroyer) shall be entitled to claim drawback, unless the exporter (or destroyer), by means of a certification, assigns the right to claim drawback to the manufacturer, producer, importer, or intermediate party. Such certification shall also affirm that the exporter (or destroyer) has not and will not itself claim drawback or assign the right to claim drawback on the particular exportation or destruction to any other party. The certification provided for under this section may be a blanket certification for a stated period. Drawback is paid to the claimant, who may be the manufacturer, producer, intermediate party, importer, or exporter (destroyer).

Subpart C—Unused Merchandise Drawback

§ 191.31 Direct identification.

(a) *General.* Section 313(j)(1) of the Act, as amended (19 U.S.C. 1313(j)(1)), provides for drawback upon the exportation or destruction under Customs supervision of imported merchandise upon which was paid any duty, tax, or fee imposed under Federal law because of its importation, if the merchandise has not been used within the United States before such exportation or destruction.

(b) *Time of exportation or destruction.* Drawback shall be allowed on imported merchandise if, before the close of the 3-year period beginning on the date of importation, the merchandise is exported from the United States or destroyed under Customs supervision.

(c) *Operations performed on imported merchandise.* In cases in which an operation or operations is or are performed on the imported merchandise, the performing of any operation or combination of operations, not amounting to manufacture or production under the provisions of the manufacturing drawback law, on the imported merchandise

is not a use of that merchandise for purposes of this section.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.32 Substitution drawback.

(a) *General.* Section 313(j)(2) of the Act, as amended (19 U.S.C. 1313(j)(2)), provides for drawback on merchandise which is commercially interchangeable with imported merchandise if the commercially interchangeable merchandise is exported, or destroyed under Customs supervision, before the close of the 3-year period beginning on the date of importation of the imported merchandise, and before such exportation or destruction, the commercially interchangeable merchandise is not used in the United States (see paragraph (e) of this section) and is in the possession of the party claiming drawback.

(b) *Requirements.* (1) The claimant must have possessed the substituted merchandise that was exported or destroyed, as provided in paragraph (d)(1) of this section;

(2) The substituted merchandise must be commercially interchangeable with the imported merchandise that is designated for drawback; and

(3) The substituted merchandise exported or destroyed must not have been used in the United States before its exportation or destruction (see paragraph (e) of this section).

(c) *Determination of commercial interchangeability.* In determining commercial interchangeability, Customs shall evaluate the critical properties of the substituted merchandise and in that evaluation factors to be considered include, but are not limited to, Governmental and recognized industrial standards, part numbers, tariff classification and value. A party may seek a nonbinding predetermination of commercial interchangeability directly from the appropriate drawback office. A determination of commercial interchangeability can be obtained in one of two ways:

(1) A formal ruling from the Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade; or

(2) A submission of all the required documentation necessary to make a commercial interchangeability determination with each individual drawback claim filed.

(d) *Time limitations.* For substitution unused merchandise drawback:

(1) The claimant must have had possession of the exported or destroyed merchandise at some time during the 3-year period following the date of importation of the imported designated merchandise; and

(2) The merchandise to be exported or destroyed to qualify for drawback must be exported, or destroyed under Customs supervision, before the close of the 3-year period beginning on the date of importation of the imported designated merchandise.

(e) *Operations performed on substituted merchandise.* In cases in which an operation or operations is or are performed on the substituted merchandise, the performing of any operation or combination of operations, not amounting to manufacture or production under the provisions of the manufacturing drawback law, on the commercially interchangeable substituted merchandise is not a use of that merchandise for purposes of this section.

(f) *Designation by successor; 19 U.S.C. 1313(s)*—(1) *General rule.* Upon compliance with the requirements of this section and under 19 U.S.C. 1313(s), a drawback successor as defined in paragraph (f)(2) of this section may designate either of the following as the basis for drawback on merchandise possessed by the successor after the date of succession:

(i) Imported merchandise which the predecessor, before the date of succession, imported; or

(ii) Imported and/or commercially interchangeable merchandise which was transferred to the predecessor and for which the predecessor received, before the date of succession, a certificate of delivery from the person who imported and paid duty on the imported merchandise.

(2) *Drawback successor.* A ''drawback successor'' is an entity to which another entity (predecessor) has transferred, by written agreement, merger, or corporate resolution:

(i) All or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or

(ii) The assets and other business interests of a division, plant, or other business unit of such predecessor, provided that the value of the transferred assets and interests (realty, personality, and intangibles, exclusive of the drawback rights) exceeds the value of such drawback rights, whether vested or contingent.

(3) *Certifications and required evidence*—(i) *Records of predecessor*. The predecessor or successor must certify in an attachment to the drawback claim that the successor is in possession of the predecessor's records which are necessary to establish the right to drawback under the law and regulations with respect to the imported and/or commercially interchangeable merchandise.

(ii) *Merchandise not otherwise designated*. The predecessor or successor must certify in an attachment to the drawback claim, that the predecessor has not and will not designate, nor enable any other person to designate, the imported and/or commercially interchangeable merchandise as the basis for drawback.

(iii) *Value of transferred property*. In instances in which assets and other business interests of a division, plant, or other business unit of a predecessor are transferred, the predecessor or successor must specify, and maintain supporting records to establish, the value of the drawback rights and the value of all other transferred property.

(iv) *Review by Customs*. The written agreement, merger, or corporate resolution, provided for in paragraph (f)(2) of this section, and the records and evidence provided for in paragraph (f)(3)(i) through (iii) of this section, must be retained by the appropriate party(ies) for 3 years from the date of payment of the related claim and are subject to review by Customs upon request.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.33 Person entitled to claim drawback.

(a) *Direct identification*. (1) Under 19 U.S.C. 1313(j)(1), the exporter (or destroyer) shall be entitled to claim drawback.

(2) The exporter or destroyer may waive the right to claim drawback and assign such right to the importer or any intermediate party. A drawback claimant under 19 U.S.C. 1313(j)(1) other than the exporter or destroyer shall secure and retain a certification signed by the exporter or destroyer that such party waived the right to claim drawback, and did not and will not authorize any other party to claim the exportation or destruction for drawback (see § 191.82 of this part). The certification provided for under this section may be a blanket certification for a stated period. The claimant shall file such certification at the time of, or prior to, the filing of the claim(s) covered by the certification.

(b) *Substitution*. (1) Under 19 U.S.C. 1313(j)(2), the following parties may claim drawback:

(i) In situations where the exporter or destroyer of the substituted merchandise is also the importer of the imported merchandise, that party shall be entitled to claim drawback.

(ii) In situations where the exporter or destroyer receives from the person who imported and paid the duty on the imported merchandise a certificate of delivery documenting the transfer of imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise, and exports or destroys such transferred merchandise, that exporter or destroyer shall be entitled to claim drawback. (Any such transferred merchandise, regardless of its origin, will be treated as imported merchandise for purposes of drawback under § 1313(j)(2), and any retained merchandise will be treated as domestic merchandise.)

(iii) In situations where the transferred merchandise described in paragraph (b)(1)(ii) of this section is the subject of further transfer(s), such transfer(s) shall be documented by certificate(s) of delivery, and the exporter or destroyer shall be entitled to claim drawback (multiple substitutions are not permitted).

(2) The exporter or destroyer may waive the right to claim drawback and assign such right to the importer or to any intermediate party, provided that the claimant had possession of the substituted merchandise prior to its exportation or destruction. A drawback

claimant under 19 U.S.C. 1313(j)(2) other than the exporter or destroyer shall secure and retain a certification signed by the exporter or destroyer that such party waived the right to claim drawback, and did not and will not authorize any other party to claim the exportation or destruction for drawback (see § 191.82 of this part). The certification provided for under this section may be a blanket certification for a stated period. The claimant shall file such certification at the time of, or prior to, the filing of the claim(s) covered by the certification.

§ 191.34 Certificate of delivery required.

(a) *Direct identification; purpose; when required.* If the exported or destroyed merchandise claimed for drawback under 19 U.S.C. 1313(j)(1) was not imported by the exporter or destroyer, a properly executed certificate of delivery must be prepared by the importer and each intermediate party. Each such transfer of the merchandise must be documented by its own certificate of delivery.

(1) *Completion.* The certificate of delivery shall be completed as provided in § 191.10 of this part. Each party must also certify on the certificate of delivery that the party did not use the transferred merchandise (see § 191.31(c) of this part).

(2) *Retention; submission to Customs.* The certificate of delivery shall be retained by the party to whom the merchandise or article covered by the certificate was delivered. Customs may request the certificate from the claimant for the drawback claim based upon the certificate (see §§ 191.51, 191.52). If the certificate is requested by Customs, but is not provided by the claimant, the part of the drawback claim dependent on that certificate will be denied.

(b) *Substitution.* For purposes of substitution unused merchandise drawback, 19 U.S.C. 1313(j)(2), if the importer, or a party who received imported merchandise and a certificate of delivery for that imported merchandise, directly or indirectly, from the importer, transfers to another party imported merchandise, duty-paid merchandise, commercially interchangeable merchandise, or any combination thereof, the transferor shall prepare and issue in favor of such party a certificate of delivery covering the transferred merchandise. The certificate of delivery must expressly state that it is prepared pursuant to 19 U.S.C. 1313(j)(2). Merchandise so transferred for which drawback is allowed under 19 U.S.C. 1313(j)(2) may not be designated for any other drawback purposes. Each transfer, whether of the imported merchandise or of imported merchandise, duty-paid merchandise, commercially interchangeable merchandise, or any combination thereof, must be documented by its own certificate of delivery. Certificates of delivery under this paragraph are subject to the provisions for completion and retention of certificates of delivery in paragraphs (a)(1) and (a)(2) of this section.

(c) *Warehouse transfer and withdrawals.* The person in whose name merchandise is withdrawn from a bonded warehouse shall be considered the importer for drawback purposes. No certificate of delivery need be prepared covering prior transfers of merchandise while in a bonded warehouse, because such transfers will be recorded in the warehouse entry (see § 144.22 of this chapter).

§ 191.35 Notice of intent to export; examination of merchandise.

(a) *Notice.* A notice of intent to export merchandise which may be the subject of an unused merchandise drawback claim (19 U.S.C. 1313(j)) must be provided to the Customs Service to give Customs the opportunity to examine the merchandise. The claimant, or the exporter, must file at the port of intended examination a Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback on Customs Form 7553 at least 2 working days prior to the date of intended exportation unless Customs approves another filing period or the claimant has been granted a waiver of prior notice (see § 191.91 of this part).

(b) *Required Information.* The notice shall certify that the merchandise has not been used in the United States before exportation. In addition, the notice shall provide the bill of lading number, if known, the name and telephone number, mailing address, and, if

available, fax number and e-mail address of a contact person, and the location of the merchandise.

(c) *Decision to examine or to waive examination.* Within two (2) working days after receipt of the Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback (see paragraph (a) of this section), Customs will notify the party designated on the Notice in writing of Customs decision to either examine the merchandise to be exported, or to waive examination. If Customs timely notifies the designated party, in writing, of its decision to examine the merchandise (see paragraph (d) of this section), but the merchandise is exported without having been presented to Customs for examination, any drawback claim, or part thereof, based on the Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback shall be denied. If Customs notifies the designated party, in writing, of its decision to waive examination of the merchandise, or, if timely notification of a decision by Customs to examine or to waive examination is absent, the merchandise may be exported without delay.

(d) *Time and place of examination.* If Customs gives timely notice of its decision to examine the export merchandise, the merchandise to be examined shall be promptly presented to Customs. Customs shall examine the merchandise within five (5) working days after presentation of the merchandise. The merchandise may be exported without examination if Customs fails to timely examine the merchandise after presentation to Customs. If the examination is completed at a port other than the port of actual exportation, the merchandise shall be transported in-bond to the port of exportation.

(e) *Extent of examination.* The appropriate Customs office may permit release of merchandise without examination, or may examine routinely (to the extent determined to be necessary) the items exported.

§ 191.36 Failure to file Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback.

(a) *General; application.* Merchandise which has been exported without complying with the requirements of § 191.35(a) or § 191.91 of this part may be eligible for unused merchandise drawback under 19 U.S.C. 1313(j) subject to the following conditions:

(1) *Application.* The claimant must file a written application with the drawback office where the drawback claims will be filed. Such application shall include the following:

(i) Required information.

(A) Name, address, and Internal Revenue Service (IRS) number (with suffix) of applicant;

(B) Name, address, and Internal Revenue Service (IRS) number(s) (with suffix) of exporter(s), if applicant is not the exporter;

(C) Export period covered by this application;

(D) Commodity/product lines of imported and exported merchandise covered in this application;

(E) The origin of the above merchandise;

(F) Estimated number of export transactions covered in this application;

(G) Estimated number of drawback claims and estimated time of filing those claims to be covered in this application;

(H) The port(s) of exportation;

(I) Estimated dollar value of potential drawback to be covered in this application; and

(J) The relationship between the parties involved in the import and export transactions;

(ii) Written declarations regarding:

(A) The reason(s) that Customs was not notified of the intent to export; and

(B) Whether the applicant, to the best of its knowledge, will have future exportations on which unused merchandise drawback might be claimed; and

(iii) A certification that the following documentary evidence will be made available for Customs review upon request:

(A) For the purpose of establishing that the imported merchandise was not

used in the United States (for purposes of drawback under 19 U.S.C. 1313(j)(1)) or that the exported merchandise was not used in the United States and was commercially interchangeable with the imported merchandise (for purposes of drawback under 19 U.S.C. 1313(j)(2)), and, as applicable:

(*1*) Business records prepared in the ordinary course of business;

(*2*) Laboratory records prepared in the ordinary course of business; and/or

(*3*) Inventory records prepared in the ordinary course of business tracing all relevant movements and storage of the imported merchandise, substituted merchandise, and/or exported merchandise; and

(B) Evidence establishing compliance with all other applicable drawback requirements.

(2) *One-Time Use*. The procedure provided for in this section may be used by a claimant only once, unless good cause is shown (for example, successorship).

(3) *Claims filed pending disposition of application*. Drawback claims may be filed under this section pending disposition of the application. However, those drawback claims will not be processed or paid until the application is approved by Customs.

(b) *Customs action*. In order for Customs to evaluate the application under this section, Customs may request, and the applicant shall provide, any of the information listed in paragraph (a)(1)(iii)(A)(*1*) through (*3*) of this section. In making its decision to approve or deny the application under this section, Customs will consider factors such as, but not limited to, the following:

(1) Information provided by the claimant in the written application;

(2) Any of the information listed in paragraph (a)(1)(iii)(A)(*1*) through (*3*) of this section and requested by Customs under this paragraph; and

(3) The applicant's prior record with Customs.

(c) *Time for Customs action*. Customs will notify the applicant in writing within 90 days after receipt of the application of its decision to approve or deny the application, or of Customs inability to approve, deny or act on the application and the reason therefor.

(d) *Appeal of denial of application*. If CBP denies the application, the applicant may file a written appeal with the drawback office which issued the denial, provided that the applicant files this appeal within 30 days of the date of denial. If CBP denies this initial appeal, the applicant may file a further written appeal with CBP Headquarters, Office of International Trade, Trade Policy and Programs, provided that the applicant files this further appeal within 30 days of the denial date of the initial appeal. CBP may extend the 30 day period for appeal to the drawback office or to CBP Headquarters, for good cause, if the applicant applies in writing for such extension within the appropriate 30 day period above.

(e) *Future intent to export unused merchandise*. If an applicant states it will have future exportations on which unused merchandise drawback may be claimed (see paragraph (a)(1)(ii)(B) of this section), the applicant will be informed of the procedures for waiver of prior notice (see § 191.91 of this part). If the applicant seeks waiver of prior notice under § 191.91, any documentation submitted to Customs to comply with this section will be included in the request under § 191.91. An applicant which states that it will have future exportations on which unused merchandise drawback may be claimed (see paragraph (a)(1)(ii)(B) of this section) and which does not obtain waiver of prior notice shall notify Customs of its intent to export prior to each such exportation, in accordance with § 191.35.

§ 191.37 Destruction under Customs supervision.

A claimant may destroy merchandise and obtain unused merchandise drawback by complying with the procedures set forth in § 191.71 of this part relating to destruction.

§ 191.38 Records.

(a) *Maintained by claimant; by others*. Pursuant to 19 U.S.C. 1508(c)(3), all records which are necessary to be maintained by the claimant under this part with respect to drawback claims, and records kept by others to complement the records of the claimant, which are essential to establish compliance with the legal requirements of

19 U.S.C. 1313(j)(1) or (j)(2), as applicable, and this part with respect to drawback claims, shall be retained for 3 years after payment of such claims (under 19 U.S.C. 1508, the same records may be subject to a different retention period for different purposes).

(b) *Accounting for the merchandise.* Merchandise subject to drawback under 19 U.S.C. 1313(j)(1) and (j)(2) shall be accounted for in a manner which will enable the claimant:

(1) To determine, and Customs to verify, the applicable import entry or certificate of delivery;

(2) To determine, and Customs to verify, the applicable exportation or destruction; and

(3) To identify with respect to the import entry or certificate of delivery, the imported duty-paid merchandise.

Subpart D—Rejected Merchandise

§ 191.41 Rejected merchandise drawback.

Section 313(c) of the Act, as amended (19 U.S.C. 1313(c)), provides for drawback upon the exportation or destruction under Customs supervision of imported merchandise which has been entered, or withdrawn from warehouse, for consumption, duty-paid; and which does not conform to sample or specifications; has been shipped without the consent of the consignee; or has been determined to be defective as of the time of importation. The claimant must show by evidence satisfactory to Customs that the exported or destroyed merchandise was defective at the time of importation, or was not in accordance with sample or specifications, or was shipped without the consent of the consignee (see subpart P for drawback of internal-revenue taxes for unmerchantable or nonconforming distilled spirits, wines, or beer).

§ 191.42 Procedure.

(a) *Return to Customs custody.* The claimant must return the merchandise to Customs custody within 3 years after the date the merchandise was originally released from Customs custody. Drawback will be denied on merchandise returned to Customs custody after the statutory 3-year time period or exported or destroyed without return to Customs custody.

(b) *Required documentation.* The claimant shall submit documentation to the drawback office as part of the drawback claim to establish that the merchandise did not conform to sample or specification, was shipped without the consent of the consignee, or was defective as of the time of importation. If the claimant was not the importer, the claimant must:

(1) Submit a statement signed by the importer and every other person, other than the ultimate purchaser, that owned the goods that no other claim for drawback was made on the goods by any other person; and

(2) Certify that records are available to support the statement required in paragraph (b)(1) of this section.

(c) *Notice.* A notice of intent to export or destroy merchandise which may be the subject of a rejected merchandise drawback claim (19 U.S.C. 1313(c)) must be provided to the Customs Service to give Customs the opportunity to examine the merchandise. The claimant, or the exporter (for destruction, see § 191.44), must file at the port of intended redelivery to Customs custody a Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback on Customs Form 7553 at least 5 working days prior to the date of intended return to Customs custody. Waiver of prior notice for exportations under 19 U.S.C. 1313(j) (see § 191.91 of this part) is inapplicable to exportations under 19 U.S.C. 1313(c).

(d) *Required Information.* The notice shall provide the bill of lading number, if known, the name and telephone number, mailing address, and, if available, fax number and e-mail address of a contact person, and the location of the merchandise.

(e) *Decision to waive examination.* Within two (2) working days after receipt of the Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback (see paragraph (c) of this section), Customs will notify, in writing, the party designated on the Notice of Customs decision to either examine the merchandise to be exported or destroyed, or to waive examination. If Customs timely notifies the designated party, in writing, of its

decision to examine the merchandise (see paragraph (f) of this section), but the merchandise is exported or destroyed without having been presented to Customs for such examination, any drawback claim, or part thereof, based on the Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback, shall be denied. If Customs notifies the designated party, in writing, of its decision to waive examination of the merchandise, or, if timely notification of a decision by Customs to examine or to waive examination is absent, the merchandise may be exported or destroyed without delay and shall be deemed to have been returned to Customs custody.

(f) *Time and place of examination.* If Customs gives timely notice of its decision to examine the merchandise to be exported or destroyed, the merchandise to be examined shall be promptly presented to Customs. Customs shall examine the merchandise within five (5) working days after presentation of the merchandise. The merchandise may be exported or destroyed without examination if Customs fails to timely examine the merchandise after presentation to Customs, and in such case the merchandise shall be deemed to have been returned to Customs custody. If the examination is completed at a port other than the port of actual exportation or destruction, the merchandise shall be transported in-bond to the port of exportation or destruction.

(g) *Extent of examination.* The appropriate Customs office may permit release of merchandise without examination, or may examine, to the extent determined to be necessary, the items exported or destroyed.

(h) *Drawback claim.* When filing the drawback claim, the drawback claimant must correctly calculate the amount of drawback due (see § 191.51(b) of this part). The procedures for restructuring a claim (see § 191.53 of this part) shall apply to rejected merchandise drawback if the claimant has an ongoing export program which qualifies for this type of drawback.

(i) *Exportation.* The claimant shall export the merchandise and shall provide documentary evidence of exportation (see subpart G of this part). The claimant may establish exportation by mail as set out in § 191.74 of this part.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.43 Unused merchandise claim.

Rejected merchandise may be the subject of an unused merchandise drawback claim under 19 U.S.C. 1313(j)(1), in accordance with subpart C of this part, to the extent that the merchandise qualifies therefor.

§ 191.44 Destruction under Customs supervision.

A claimant may destroy merchandise and obtain rejected merchandise drawback by complying with the procedures set forth in § 191.71 of this part relating to destruction.

Subpart E—Completion of Drawback Claims

§ 191.51 Completion of drawback claims.

(a) *General*—(1) *Complete claim.* Unless otherwise specified, a complete drawback claim under this part shall consist of the drawback entry on Customs Form 7551, applicable certificate(s) of manufacture and delivery, applicable Notice(s) of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback, applicable import entry number(s), coding sheet unless the data is filed electronically, and evidence of exportation or destruction under subpart G of this part.

(2) *Certificates.* Additionally, at the time of the filing of the claim, the associated certificate(s) of delivery must be in the possession of the party to whom the merchandise or article covered by the certificate was delivered. Any required certificate(s) of manufacture and delivery, if not previously filed with Customs, must be filed with the claim. Previously filed certificates of manufacture and delivery, if required, shall be referenced in the claim.

(b) *Drawback due*—(1) *Claimant required to calculate drawback.* Drawback claimants are required to correctly calculate the amount of drawback due. The amount of drawback requested on the drawback entry is generally to be

99 percent of the import duties eligible for drawback. (For example, if $1,000 in import duties are eligible for drawback less 1 percent ($10), the amount claimed on the drawback entry should be for $990.) Claims exceeding 99 percent (or 100% when 100% of the duty is available for drawback) will not be paid until the calculations have been corrected by the claimant. Claims for less than 99 percent (or 100% when 100% of the duty is available for drawback) will be paid as filed, unless the claimant amends the claim in accordance with § 191.52(c).

(2) *Merchandise processing fee apportionment calculation.* Where a drawback claimant seeks unused merchandise drawback pursuant to 19 U.S.C. 1313(j), or drawback for substitution of finished petroleum derivatives pursuant to 19 U.S.C. 1313(p)(2)(A)(iii) or (iv), for a merchandise processing fee paid pursuant to 19 U.S.C. 58c(a)(9)(A), the claimant is required to correctly apportion the fee to that merchandise that provides the basis for drawback when calculating the amount of drawback requested on the drawback entry. This is determined as follows:

(i) *Relative value ratio for each line item.* The value of each line item of entered merchandise subject to a merchandise processing fee is calculated (to four decimal places) by dividing the value of the line item subject to the fee by the total value of entered merchandise subject to the fee. The resulting value forms the relative value ratio.

(ii) *Merchandise processing fee apportioned to each line item.* To apportion the merchandise processing fee to each line item, the relative value ratio for each line item is multiplied by the merchandise processing fee paid.

(iii) *Amount of merchandise processing fee eligible for drawback per line item.* The amount of merchandise processing fee apportioned to each line item is multiplied by 99 percent to calculate that portion of the fee attributable to each line item that is eligible for drawback.

(iv) *Amount of merchandise processing fee eligible for drawback per unit of merchandise.* To calculate the amount of a merchandise processing fee eligible for drawback per unit of merchandise, the line item amount that is eligible for drawback is divided by the number of units covered by that line item (to two decimal places).

Example 1:

Line item 1—5,000 articles valued at $10 each total $50,000

Line item 2—6,000 articles valued at $15 each total $90,000

Line item 3—10,000 articles valued at $20 each total $200,000

Total units = 21,000

Total value = $340,000

Merchandise processing fee = $485 (for purposes of this example, the fee cap of $485, as per 19 U.S.C. 58c(a)(9)(B)(i), is applicable)

Line item relative value ratios. The relative value ratio for line item 1 is calculated by dividing the value of that line item by the total value ($50,000 ÷ 340,000 = .1470). The relative value ratio for line item 2 is .2647. The relative value ratio for line item 3 is .5882.

Merchandise processing fee apportioned to each line item. The amount of fee attributable to each line item is calculated by multiplying $485 by the applicable relative value ratio. The amount of the $485 fee attributable to line item 1 is $71.295 (.1470 × $485 = $71.295). The amount of the fee attributable to line item 2 is $128.3795 (.2647 × $485 = $128.3795). The amount of the fee attributable to line item 3 is $285.277 (.5882 × $485 = $285.277).

Amount of merchandise processing fee eligible for drawback per line item. The amount of merchandise processing fee eligible for drawback for line item 1 is $70.5821 ÷ (.99 × $71.295). The amount of fee eligible for drawback for line item 2 is $127.0957 (.99 × $128.3795). The amount of fee eligible for drawback for line item 3 is $282.4242 (.99 × $285.277).

Amount of merchandise processing fee eligible for drawback per unit of merchandise. The amount of merchandise processing fee eligible for drawback per unit of merchandise is calculated by dividing the amount of fee eligible for drawback for the line item by the number of units in the line item. For line item 1, the amount of merchandise processing fee eligible for drawback per unit is $.0141 ($70.5821 ÷ 5,000 = $.0141). If 1,000 widgets form the basis of a claim for drawback under 19 U.S.C. 1313(j), the total amount of drawback attributable to the merchandise processing fee is $14.10 (1,000 × .0141 = $14.10). For line item 2, the amount of fee eligible for drawback per unit is $.0212 ($127.0957 ÷ 6,000 = $.0212). For line item 3, the amount of fee eligible for drawback per unit is $.0282 ($282.4242 ÷ 10,000 = $.0282).

Example 2: This example illustrates the treatment of dutiable merchandise that is exempt from the merchandise processing fee and duty-free merchandise that is subject to the merchandise processing fee.

Line item 1—700 meters of printed cloth valued at $10 per meter (total value $7,000) that is exempt from the merchandise processing fee under 19 U.S.C. 58c(b)(8)(B)(iii)

Line item 2—15,000 articles valued at $100 each (total value $1,500,000)

Line item 3—10,000 duty-free articles valued at $50 each (total value $500,000)

The relative value ratios are calculated using line items 2 and 3 only, as there is no merchandise processing fee imposed by reason of importation on line item 1.

Line item 2—1,500,000 ÷ 2,000,000 = .75 (line items 2 and 3 form the total value of the merchandise subject to the merchandise processing fee).

Line item 3—500,000 ÷ 2,000,000 = .25.

If the total merchandise processing fee paid was $485, the amount of the fee attributable to line item 2 is $363.75 (.75 × $485 = $363.75). The amount of the fee attributable to line item 3 is $121.25 (.25 × $485 = $121.25).

The amount of merchandise processing fee eligible for drawback for line item 2 is $360.1125 (.99 × $363.75). The amount of fee eligible for line item 3 is $120.0375 (.99 × $121.25).

The amount of drawback on the merchandise processing fee attributable to each unit of line item 2 is $.0240 ($360.1125 ÷ 15,000 = $.0240). The amount of drawback on the merchandise processing fee attributable to each unit of line item 3 is $.0120 ($120.0375 ÷ 10,000 = $.0120).

If 1,000 units of line item 2 were exported, the drawback attributable to the merchandise processing fee is $24.00 ($.0240 × 1,000 = $24.00).

(c) *HTSUS number(s) or Schedule B commodity number(s) of imports and exports*—(1) *General*. Drawback claimants are required to provide, on all drawback claims they submit, the Harmonized Tariff Schedule of the United States (HTSUS) number(s) for the designated imported merchandise and the HTSUS number(s) or the Schedule B commodity number(s) for the exported article or articles.

(2) *Imports*. For imports, HTSUS numbers shall be provided from the entry summary(s) and other entry documentation, when the claimant is the importer of record, or from the certificate of delivery and/or the certificate of manufacture and delivery, otherwise. Manufacturing drawback claimants filing drawback claims based on certificate(s) of manufacture and delivery filed with the claims or previously filed with Customs (see paragraph (a) of this section), may meet this requirement with the HTSUS number(s) for the designated imported merchandise on such certificate(s).

(3) *Exports*. For exports, the HTSUS number(s) or Schedule B commodity number(s) shall be from the Shipper's Export Declaration(s) (SEDs), when required. If no SED is required (see, e.g., 15 CFR 30.58), the claimant shall provide the Schedule B commodity number(s) or HTSUS number(s) that the exporter would have set forth on the SED, but for the exemption from the requirement for an SED.

(4) *6-digit level for HTSUS and Schedule B commodity numbers*. The HTSUS numbers and Schedule B commodity numbers shall be stated to at least 6 digits.

(5) *Effective date*. For imports, HTSUS numbers are required for merchandise entered, or withdrawn from warehouse, for consumption on or after April 6, 1998. For exports, HTSUS numbers or Schedule B commodity numbers are required for exported merchandise or articles exported on or after the date 1 year after April 6, 1998.

(d) *Place of filing*. For manufacturing drawback, the claimant shall file the drawback claim with the drawback office listed, as appropriate, in the general manufacturing drawback ruling or the specific manufacturing drawback ruling (see §§191.7 and 191.8 of this part). For other kinds of drawback, the claimant shall file the claim with any drawback office.

(e) *Time of filing*—(1) *General*. A completed drawback claim, with all required documents, shall be filed within 3 years after the date of exportation or destruction of the merchandise or articles which are the subject of the claim. Except for landing certificates (see §191.76 of this part), or unless this time is extended as provided in paragraph (e)(2) of this section, claims not completed within the 3-year period shall be considered abandoned. Except as provided in paragraph (e)(2) of this section, no extension will be granted unless it is established that Customs was responsible for the untimely filing.

(2) *Major disaster*. The 3-year period for filing a completed drawback claim provided for in paragraph (e)(1) of this section may be extended for a period not to exceed 18 months if:

(i) The claimant establishes to the satisfaction of Customs that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster, within the meaning given to that term in 42 U.S.C. 5122(2), on or after January 1, 1994; and

(ii) The claimant files a request for such extension with Customs within 1 year from the last day of the 3-year period referred to in paragraph (e)(1) of this section.

(3) *Record retention*. If an extension is granted with respect to a request filed under paragraph (e)(2)(ii) of this section, the periods of time for retaining records under 19 U.S.C. 1508(c)(3) shall be extended for an additional 18 months.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 01–14, 66 FR 8767, Feb. 2, 2001; T.D. 01–18, 66 FR 9649, Feb. 9, 2001; T.D. 02–39, 67 FR 48548, July 25, 2002; CBP Dec. 04–33, 69 FR 60083, Oct. 7, 2004]

§ 191.52 Rejecting, perfecting or amending claims.

(a) *Rejecting the claim*. Upon review of a drawback claim, if the claim is determined to be incomplete (see § 191.51(a)(1)), the claim will be rejected and Customs will notify the filer in writing. The filer shall then have the opportunity to complete the claim subject to the requirement for filing a complete claim within 3 years.

(b) *Perfecting the claim; additional evidence required*. If Customs determines that the claim is complete according to the requirements of § 191.51(a)(1), but that additional evidence or information is required, Customs will notify the filer in writing. The claimant shall furnish, or have the appropriate party furnish, the evidence or information requested within 30 days of the date of notification by Customs. Customs may extend this 30 day period for good cause if the claimant files a written request for such extension within the 30 day period. The evidence or information required under this paragraph may be filed more than 3 years after the date of exportation or destruction of the articles which are the subject of the claim. Such additional evidence or information may include, but is not limited to:

(1) The export bill of lading or other actual evidence of exportation, as provided for in § 191.72(a) of this part, which shall show that the articles were shipped by the person filing the drawback entry, or a letter of endorsement from the party in whose name the articles were shipped which shall be attached to such bill of lading, showing that the party filing the entry is authorized to claim drawback and receive payment (the claimant shall have on file and make available to Customs upon request, the endorsement from the exporter assigning the right to claim drawback);

(2) A copy of the import entry and invoice annotated for the merchandise identified or designated;

(3) A copy of the export invoice annotated to indicate the items on which drawback is being claimed; and

(4) Certificate(s) of delivery upon which the claim is based (see § 191.10(e) of this part).

(c) *Amending the claim; supplemental filing*. Amendments to claims for which the drawback entries have not been liquidated must be made within three (3) years after the date of exportation or destruction of the articles which are the subject of the original drawback claim. Liquidated drawback entries may not be amended; however, they may be protested as provided for in § 191.84 of this part and part 174 of this chapter.

§ 191.53 Restructuring of claims.

(a) *General*. Customs may require claimants to restructure their drawback claims in such a manner as to foster Customs administrative efficiency. In making this determination, Customs will consider the following factors:

(1) The number of transactions of the claimant (imports and exports);

(2) The value of the claims;

(3) The frequency of claims;

(4) The product or products being claimed; and

(5) For 19 U.S.C. 1313(a) and 1313(b) claims, the provisions, as applicable, of the general manufacturing drawback ruling or the specific manufacturing drawback ruling.

(b) *Exemption from restructuring; criteria*. In order to be exempt from a restructuring, a claimant must demonstrate an inability or impracticability in restructuring its claims as required by Customs and must provide a mutually acceptable alternative. Criteria used in such determination will include a demonstration by the claimant of one or more of the following:

(1) Complexities caused by multiple commodities or the applicable general manufacturing drawback ruling or the specific manufacturing drawback ruling;

(2) Variable and conflicting manufacturing and inventory periods (for example, financial, accounting and manufacturing records maintained are significantly different);

(3) Complexities caused by multiple manufacturing locations;

(4) Complexities caused by difficulty in adjusting accounting and inventory records (for example, records maintained—financial or accounting—are significantly different); and/or

(5) Complexities caused by significantly different methods of operation.

Subpart F—Verification of Claims

§ 191.61 Verification of drawback claims.

(a) *Authority*—(1) *Drawback office*. All claims shall be subject to verification by the port director where the claim is filed.

(2) *Two or more locations*. The port director selecting the claim for verification may forward copies of the claim and, as applicable, letters of notification and acknowledgement for the general manufacturing drawback ruling or application and letter of approval for a specific manufacturing drawback ruling, and request for verification, to other drawback offices when deemed necessary.

(b) *Method*. The verifying office shall verify compliance with the law and this part, the accuracy of the related general manufacturing drawback ruling or specific manufacturing drawback ruling (as applicable), and the selected drawback claims. Verification may include an examination of all records relating to the transaction(s).

(c) *Liquidation*. When a claim has been selected for verification, liquidation will be postponed only on the drawback entries for those claims selected for verification. Postponement will continue in effect until the verification has been completed and the appropriate port director issues a report. In the event that a substantial error is revealed during the verification, Customs may postpone liquidation of all related product line claims, or, in Customs discretion, all claims for that claimant.

(d) *Errors in specific or general manufacturing drawback rulings*—(1) *Specific manufacturing drawback ruling; action by port director*. If verification of a drawback claim filed under a specific manufacturing drawback ruling (see § 191.8 of this part) reveals errors of deficiencies in the drawback ruling or application therefor, the port director shall promptly inform CBP Headquarters (Attention: Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade).

(2) *General manufacturing drawback ruling*. If verification of a drawback claim filed under a general manufacturing drawback ruling (see § 191.7 of this part) reveals errors or deficiencies in a general manufacturing drawback ruling, the letter of notification of intent to operate under the general manufacturing drawback ruling, or the acknowledgment of the letter of notification of intent, the port director shall promptly inform CBP Headquarters (Attention: Entry Process and Duty Refunds Branch, Regulations and Rulings, Office of International Trade).

(3) *Action by CBP Headquarters*. CBP Headquarters shall review the stated errors or deficiencies and take appropriate action (see 19 U.S.C. 1625; 19 CFR part 177).

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998]

§ 191.62 Penalties.

(a) *Criminal penalty*. Any person who knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback upon the exportation of merchandise or knowingly or willfully makes or files any false document for the purpose of securing the payment to himself or others of any

drawback on the exportation of merchandise greater than that legally due, shall be subject to the criminal provisions of 18 U.S.C. 550, 1001 or any other appropriate criminal sanctions.

(b) *Civil penalty*. Any person who seeks, induces or affects the payment of drawback, by fraud or negligence, or attempts to do so, is subject to civil penalties, as provided under 19 U.S.C. 1593a. A fraudulent violation is subject to a maximum administrative penalty of 3 times the total actual or potential loss of revenue. Repetitive negligent violations are subject to a maximum penalty equal to the actual or potential loss of revenue.

Subpart G—Exportation and Destruction

§ 191.71 Drawback on articles destroyed under Customs supervision.

(a) *Procedure*. At least 7 working days before the intended date of destruction of merchandise or articles upon which drawback is intended to be claimed, a Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback on Customs Form 7553 shall be filed by the claimant with the Customs port where the destruction is to take place, giving notification of the date and specific location where the destruction is to occur. Within 4 working days after receipt of the Customs Form 7553, Customs shall advise the filer in writing of its determination to witness or not to witness the destruction. If the filer of the notice is not so notified within 4 working days, the merchandise may be destroyed without delay and will be deemed to have been destroyed under Customs supervision. Unless Customs determines to witness the destruction, the destruction of the articles following timely notification on Customs Form 7553 shall be deemed to have occurred under Customs supervision. If Customs attends the destruction, it must certify the Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback.

(b) *Evidence of destruction*. When Customs does not attend the destruction, the claimant must submit evidence that destruction took place in accordance with the approved Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback. The evidence must be issued by a disinterested third party (for example, a landfill operator). The type of evidence depends on the method and place of destruction, but must establish that the merchandise was, in fact, destroyed within the meaning of ''destruction'' in § 191.2(g) (*i.e.*, that no articles of commercial value remained after destruction).

(c) *Completion of drawback entry*. After destruction, the claimant must provide the Customs Form 7553, certified by the Customs official witnessing the destruction in accordance with paragraph (a) of this section, to Customs as part of the completed drawback claim based on the destruction (see § 191.51(a) of this part). If Customs has not attended the destruction, the claimant must provide the evidence that destruction took place in accordance with the approved Customs Form 7553, as provided for in paragraph (b) of this section, as part of the completed drawback claim based on the destruction (see § 191.51(a) of this part).

§ 191.72 Exportation procedures.

Exportation of articles for drawback purposes shall be established by complying with one of the procedures provided for in this section (in addition to providing prior notice of intent to export if applicable (see §§ 191.35, 191.36, 191.42, and 191.91 of this part)). Supporting documentary evidence shall establish fully the date and fact of exportation and the identity of the exporter. The procedures for establishing exportation outlined by this section include, but are not limited to:

(a) Actual evidence of exportation consisting of documentary evidence, such as an originally signed bill of lading, air waybill, freight waybill, Canadian Customs manifest, and/or cargo manifest, or certified copies thereof, issued by the exporting carrier;

(b) Export summary (§ 191.73);

(c) Certified export invoice for mail shipments (§ 191.74);

(d) Notice of lading for supplies on certain vessels or aircraft (§ 191.112); or

(e) Notice of transfer for articles manufactured or produced in the U.S. which are transferred to a foreign trade zone (§ 191.183).

§ 191.73 Export summary procedure.

(a) *General*. The export summary procedure consists of a Chronological Summary of Exports used to support a drawback claim. It may be submitted as part of the claim in lieu of actual documentary evidence of exportation. It may be used by any claimant for manufacturing drawback, and for unused or rejected merchandise drawback, as well as for drawback involving the substitution of finished petroleum derivatives (19 U.S.C. 1313(a), (b), (c), (j), or (p)). It is intended to improve administrative efficiency.

(b) *Format of Chronological Summary of Exports*. The Chronological Summary of Exports shall contain the data provided for in the following sample:

CHRONOLOGICAL SUMMARY OF EXPORTS

Drawback entry No. _____.
Claimant _____; Exporter _____ (if different from claimant)
Period from _____ to _____.

Date of export	Exporter if not claimant	Unique export identifier [1]	Description	Net quantity	Sched. B com. # or HTSUS #	Destination
(1)	(2)	(3)	(4)	(5)	(6)	(7)

[1] This number is to be used to associate the export transaction presented on the Chronological Summary of Exports to the appropriate documentary evidence of exportation (for example, Bill of Lading, Manifest no., invoice, identification of vessel or aircraft and voyage or aircraft number (see subpart K), etc.).

(c) *Documentary evidence*—(1) *Records*. The claimant, whether or not the exporter, shall maintain the Chronological Summary of Exports and such additional evidence of exportation required by Customs to establish fully the identity of the exported articles and the fact of exportation. Actual evidence of exportation, as described in § 191.72(a) of this subpart, is the primary evidence of export for drawback purposes.

(2) *Maintenance of records*. The claimant shall submit as part of the claim the Chronological Summary of Exports (see § 191.51). The claimant shall retain records supporting the Chronological Summary of Exports for 3 years after payment of the related claim, and such records are subject to review by Customs.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15289, Mar. 31, 1998]

§ 191.74 Certification of exportation by mail.

If the merchandise on which drawback is to be claimed is exported by mail or parcel post, the official postal records which describe the mail shipment shall be sufficient to prove exportation. The postal record shall be identified on the drawback entry, and shall be retained by the claimant and submitted as part of the drawback claim (see § 191.51(a).

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15289, Mar. 31, 1998]

§ 191.75 Exportation by the Government.

(a) *Claim by U.S. Government*. When a department, branch, agency, or instrumentality of the United States Government exports products with the intention of claiming drawback, it may establish the exportation in the manner provided in §§ 191.72 and 191.73 of this subpart (see § 191.4 of this part).

(b) *Claim by supplier*. When a supplier of merchandise to the Government or any of the parties specified in § 191.82 of this part claims drawback, exportation shall be established under §§ 191.72 and 191.73 of this subpart.

§ 191.76 Landing certificate.

(a) *Requirement*. Prior to the liquidation of the drawback entry, Customs may require a landing certificate for every aircraft departing from the United States under its own power if drawback is claimed on the aircraft or a part thereof, except for the exportation of supplies under § 309 of the Act, as amended (19 U.S.C. 1309). The certificate shall show the exact time of landing in the foreign destination and describe the aircraft or parts subject to drawback in sufficient detail to enable Customs officers to identify them with the documentation of exportation.

(b) *Written notice of requirement and time for filing.* A landing certificate shall be filed within one year from the written Customs request, unless Customs Headquarters grants an extension.

(c) *Signature.* A landing certificate shall be signed by a revenue officer of the foreign country of the export's destination, unless the embassy of that country certifies in writing that there is no Customs administration in that country, in which case the landing certificate may be signed by the consignee or the carrier's agent at the place of unlading.

(d) *Inability to produce landing certificates.* A landing certificate shall be waived by the requiring Customs authority if the claimant demonstrates inability to obtain a certificate and offers other satisfactory evidence of export.

Subpart H—Liquidation and Protest of Drawback Entries

§ 191.81 Liquidation.

(a) *Time of liquidation.* Drawback entries may be liquidated after:

(1) Liquidation of the import entry becomes final; or

(2) Deposit of estimated duties on the imported merchandise and before liquidation of the import entry.

(b) *Claims based on estimated duties.* (1) Drawback may be paid on estimated duties if the import entry has not been liquidated, or the liquidation has not become final (because of a protest being filed) (see also § 173.4(c) of this chapter), and the drawback claimant and any other party responsible for the payment of liquidated import duties each files a written request for payment of each drawback claim, waiving any right to payment or refund under other provisions of law, to the extent that the estimated duties on the unliquidated import entry are included in the drawback claim for which drawback on estimated duties is requested under this paragraph. The drawback claimant shall, to the best of its knowledge, identify each import entry that has been protested or that is the subject of a request for reliquidation (19 U.S.C. 1520(c)(1)) and that is included in the drawback claim. A drawback entry, once finally liquidated on the basis of estimated duties, shall not be adjusted by reason of a subsequent final liquidation of the import entry.

(2) However, if final liquidation of the import entry discloses that the total amount of import duty is different from the total estimated duties deposited, except in those cases when drawback is 100% of the duty, the party responsible for the payment of liquidated duties, as applicable, shall:

(i) Be liable for 1 percent of all increased duties found to be due on that portion of merchandise recorded on the drawback entry; or

(ii) Be entitled to a refund of 1 percent of all excess duties found to be paid on that portion of the merchandise recorded on the drawback entry.

(c) *Claims based on voluntary tenders or other payments of duties*—(1) *General.* Subject to the requirements in paragraph (c)(2) of this section, drawback may be paid on voluntary tenders of the unpaid amount of lawful ordinary Customs duties or any other payment of lawful ordinary Customs duties for an entry, or withdrawal from warehouse, for consumption (see § 191.3(a)(1)(iii) of this part), provided that:

(i) The tender or payment is specifically identified as duty on a specifically identified entry, or withdrawal from warehouse, for consumption;

(ii) Liquidation of the specifically identified entry, or withdrawal from warehouse, for consumption became final prior to such tender or payment; and

(iii) Liquidation of the drawback entry in which that specifically identified import entry, or withdrawal from warehouse, for consumption is designated has not become final.

(2) *Written request and waiver.* Drawback may be paid on claims based on voluntary tenders or other payments of duties under this subsection only if the drawback claimant and any other party responsible for the payment of the voluntary tenders or other payments of duties each files a written request for payment of each drawback claim based on such voluntary tenders or other payments of duties, waiving any claim to payment or refund under other provisions of law, to the extent

that the voluntary tenders or other payment of duties under this paragraph are included in the drawback claim for which drawback on the voluntary tenders or other payment of duties is requested under this paragraph.

(d) *Claims based on liquidated duties.* Drawback shall be based on the final liquidated duties paid that have been made final by operation of law (except in the case of the written request for payment of drawback on the basis of estimated duties, voluntary tender of duties, and other payments of duty, and waiver, provided for in paragraphs (b) and (c) of this section).

(e) *Liquidation procedure.* When the drawback claim has been completed by the filing of the entry and other required documents, and exportation (or destruction) of the articles has been established, the drawback office shall determine drawback due on the basis of the complete drawback claim, the applicable general manufacturing drawback ruling or specific manufacturing drawback ruling, and any other relevant evidence or information.

(f) *Relative value; multiple products*—(1) *Distribution.* Where two or more products result from the manufacture or production of merchandise, drawback shall be distributed to the several products in accordance with their relative value at the time of separation.

(2) *Value.* The value to be used in computing the distribution of drawback where two or more products result from the manufacture or production of merchandise under drawback conditions shall be the market value (see § 191.2(u) of this part), unless another value is approved by Customs.

(g) *Payment.* The drawback office shall authorize the amount of the refund due as drawback to the claimant.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15289, Mar. 31, 1998]

§ 191.82 Person entitled to claim drawback.

Unless otherwise provided in this part (see §§ 191.42(b), 191.162, 191.175(a), 191.186), the exporter (or destroyer) shall be entitled to claim drawback, unless the exporter (or destroyer), by means of a certification, waives the right to claim drawback and assigns such right to the manufacturer, producer, importer, or intermediate party (in the case of drawback under 19 U.S.C. 1313(j)(1) and (2), see § 191.33(a) and (b)). Such certification shall also affirm that the exporter (or destroyer) has not and will not assign the right to claim drawback on the particular exportation or destruction to any other party. The certification provided for in this section may be a blanket certification for a stated period.

§ 191.83 Person entitled to receive payment.

Drawback is paid to the claimant (see § 191.82).

§ 191.84 Protests.

Procedures to protest the denial, in whole or in part, of a drawback entry shall be in accordance with part 174 of this chapter (19 CFR part 174).

Subpart I—Waiver of Prior Notice of Intent To Export; Accelerated Payment of Drawback

§ 191.91 Waiver of prior notice of intent to export.

(a) *General*—(1) *Scope.* The requirement in § 191.35 of this part for prior notice of intent to export merchandise which may be the subject of an unused merchandise drawback claim under § 313(j) of the Act, as amended (19 U.S.C. 1313(j)), may be waived under the provisions of this section.

(2) *Effective date for claimants with existing approval.* For claimants approved for waiver of prior notice as of April 6, 1998, such approval of waiver of prior notice shall remain in effect, under the Customs Regulations in effect as of the time of the approval of waiver of prior notice, for a period of 1 year after April 6, 1998. The previously approved waiver of prior notice shall terminate at the end of such 1-year period unless the claimant applies for waiver of prior notice under this section. If a claimant approved for waiver of prior notice as of April 6, 1998 applies for waiver of prior notice under this section within such 1-year period, the claimant may continue to operate under its existing waiver of prior notice until Customs approves or denies the application for waiver of prior notice under this section, subject to the provisions in this

section (see, in particular, paragraphs (d) and (e) of this section).

(3) *Limited successorship for waiver of prior notice*. When a claimant (predecessor) is approved for waiver of prior notice under this section and all of the rights, privileges, immunities, powers, duties and liabilities of the claimant are transferred by written agreement, merger, or corporate resolution to a successor, such approval of waiver of prior notice shall remain in effect for a period of 1 year after such transfer. The approval of waiver of prior notice shall terminate at the end of such 1-year period unless the successor applies for waiver of prior notice under this section. If such successor applies for waiver of prior notice under this section within such 1-year period, the successor may continue to operate under the predecessor's waiver of prior notice until Customs approves or denies the successor's application for waiver of prior notice under this section, subject to the provisions in this section (see, in particular, paragraphs (d) and (e) of this section).

(b) *Application*—(1) *Who may apply*. A claimant for unused merchandise drawback under 19 U.S.C. 1313(j) may apply for a waiver of prior notice of intent to export merchandise under this section.

(2) *Contents of application*. An applicant for a waiver of prior notice under this section must file a written application with the drawback office where the claims will be filed. Such application shall include the following:

(i) Required information:

(A) Name, address, and Internal Revenue Service (IRS) number (with suffix) of applicant;

(B) Name, address, and Internal Revenue Service (IRS) number (with suffix) of current exporter(s) (if more than 3 exporters, such information is required only for the 3 most frequently used exporters), if applicant is not the exporter;

(C) Export period covered by this application;

(D) Commodity/product lines of imported and exported merchandise covered by this application;

(E) Origin of merchandise covered by this application;

(F) Estimated number of export transactions during the next calendar year covered by this application;

(G) Port(s) of exportation to be used during the next calendar year covered by this application;

(H) Estimated dollar value of potential drawback during the next calendar year covered by this application; and

(I) The relationship between the parties involved in the import and export transactions;

(ii) A written declaration whether or not the applicant has previously been denied a waiver request, or had an approval of a waiver revoked, by any other drawback office, and whether the applicant has previously requested a 1-time waiver of prior notice under § 191.36, and whether such request was approved or denied; and

(iii) A certification that the following documentary evidence will be made available for Customs review upon request:

(A) For the purpose of establishing that the imported merchandise was not used in the United States (for purposes of drawback under 19 U.S.C. 1313(j)(1)) or that the exported merchandise was not used in the United States and was commercially interchangeable with the imported merchandise (for purposes of drawback under 19 U.S.C. 1313(j)(2)), and, as applicable:

(*1*) Business records prepared in the ordinary course of business;

(*2*) Laboratory records prepared in the ordinary course of business; and/or

(*3*) Inventory records prepared in the ordinary course of business tracing all relevant movements and storage of the imported merchandise, substituted merchandise, and/or exported merchandise; and

(B) Any other evidence establishing compliance with other applicable drawback requirements, upon Customs request under paragraph (b)(2)(iii) of this section.

(3) *Samples of records to accompany application*. To expedite the processing of applications under this section, the application should contain at least one sample of each of the records to be used to establish compliance with the applicable requirements (that is, sample of

import document (for example, Customs Form 7501), sample of export document (for example, bill of lading), and samples of business, laboratory, and inventory records certified, under paragraph (b)(2)(iii)(A)(*1*) through (*3*) of this section, to be available to Customs upon request).

(c) *Action on application*—(1) *Customs review*. The drawback office shall review and verify the information submitted on and with the application. Customs will notify the applicant in writing within 90 days of receipt of the application of its decision to approve or deny the application, or of Customs inability to approve, deny, or act on the application and the reason therefor. In order for Customs to evaluate the application, Customs may request any of the information listed in paragraph (b)(2)(iii)(A)(*1*) through (*3*) of this section. Based on the information submitted on and with the application and any information so requested, and based on the applicant's record of transactions with Customs, the drawback office will approve or deny the application. The criteria to be considered in reviewing the applicant's record with Customs include, but are not limited to (as applicable):

(i) The presence or absence of unresolved Customs charges (duties, taxes, or other debts owed Customs);

(ii) The accuracy of the claimant's past drawback claims;

(iii) Whether waiver of prior notice was previously revoked or suspended; and

(iv) The presence or absence of any failure to present merchandise to Customs for examination after Customs had timely notified the party filing a Notice of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback of Customs intent to examine the merchandise (see § 191.35 of this part).

(2) *Approval*. The approval of an application for waiver of prior notice of intent to export, under this section, shall operate prospectively, applying only to those export shipments occurring after the date of the waiver. It shall be subject to a stay, as provided in paragraph (d) of this section.

(3) *Denial*. If an application for waiver of prior notice of intent to export, under this section, is denied, the applicant shall be given written notice, specifying the grounds therefor, together with what corrective action may be taken, and informing the applicant that the denial may be appealed in the manner prescribed in paragraph (g) of this section. The applicant may not reapply for a waiver until the reason for the denial is resolved.

(d) *Stay*. An approval of waiver of prior notice may be stayed, for a specified reasonable period, should Customs desire for any reason to examine the merchandise being exported with drawback prior to its exportation for purposes of verification. Customs shall provide written notice, by registered or certified mail, of such a stay to the person for whom waiver of prior notice was approved. Customs shall specify the reason(s) for the stay in such written notice. The stay shall take effect 2 working days after the date the person signs the return post office receipt for the registered or certified mail. The stay shall remain in effect for the period specified in the written notice, or until such earlier date as Customs notifies the person for whom waiver of prior notice was approved in writing that the reason for the stay has been satisfied. After the stay is lifted, operation under the waiver of prior notice procedure may resume for exports on or after the date the stay is lifted.

(e) *Proposed revocation*. Customs may propose to revoke the approval of an application for waiver of prior notice of intent to export, under this section, for good cause (noncompliance with the drawback law and/or regulations). Customs shall give written notice of the proposed revocation of a waiver of prior notice of intent to export. The notice shall specify the reasons for Customs proposed action and provide information regarding the procedures for challenging Customs proposed revocation action as prescribed in paragraph (g) of this section. The written notice of proposed revocation may be included with a notice of stay of approval of waiver of prior notice as provided under paragraph (d) of this section. The revocation of the approval of waiver of prior notice shall take effect 30 days after the date of the proposed revocation if not timely challenged

under paragraph (g) of this section. If timely challenged, the revocation will take effect after completion of the challenge procedures in paragraph (g) of this section unless the challenge is successful.

(f) *Action by drawback office controlling.* Action by the appropriate drawback office to approve, deny, stay, or revoke waiver of prior notice of intent to export, unless reversed by Customs Headquarters, will govern the applicant's eligibility for this procedure in all Customs drawback offices. If the application for waiver of prior notice of intent to export is approved, the claimant shall refer to such approval in the first drawback claim filed after such approval in the drawback office approving waiver of prior notice and shall submit a copy of the approval letter with the first drawback claim filed in any drawback office other than the approving office, when the export upon which the claim is based was without prior notice, under this section.

(g) *Appeal of denial or challenge to proposed revocation.* An appeal of a denial of an application under this section, or challenge to the proposed revocation of an approved application under this section, may be made by letter to the drawback office issuing the denial or proposed revocation and must be filed within 30 days of the date of denial or proposed revocation. A denial of an appeal or challenge made to the drawback office may itself be appealed to CBP Headquarters, Office of International Trade, Trade Policy and Programs, and must be filed within 30 days of the denial date of the initial appeal or challenge. The 30-day period for appeal or challenge to the drawback office or to CBP Headquarters may be extended for good cause, upon written request by the applicant or holder for such extension filed with the appropriate office within the 30-day period.

§ 191.92 Accelerated payment.

(a) *General*—(1) *Scope.* Accelerated payment of drawback is available under this section on drawback claims under this part, unless specifically excepted from such accelerated payment. Accelerated payment of drawback consists of the payment of estimated drawback before liquidation of the drawback entry. Accelerated payment of drawback is only available when Customs review of the request for accelerated payment of drawback does not find omissions from, or inconsistencies with the requirements of the drawback law and part 191 (see, especially, subpart E of this part). Accelerated payment of a drawback claim does not constitute liquidation of the drawback entry.

(2) *Effective date for claimants with existing approval.* For claimants approved for accelerated payment of drawback as of April 6, 1998, such approval of accelerated payment shall remain in effect, under the Customs Regulations in effect as of the time of the approval of accelerated payment, for a period of 1 year after April 6, 1998. The previously approved accelerated payment of drawback shall terminate at the end of such 1-year period unless the claimant applies for accelerated payment under this section. If a claimant approved for accelerated payment of drawback as of April 6, 1998 applies for accelerated payment under this section within such 1-year period, the claimant may continue to operate under its existing approval of accelerated payment until Customs approves or denies the application for accelerated payment under this section, subject to the provisions in this section (see, in particular, paragraph (f) of this section).

(3) *Limited successorship for approval of accelerated payment.* When a claimant (predecessor) is approved for accelerated payment of drawback under this section and all of the rights, privileges, immunities, powers, duties and liabilities of the claimant are transferred by written agreement, merger, or corporate resolution to a successor, such approval of accelerated payment shall remain in effect for a period of 1 year after such transfer. The approval of accelerated payment of drawback shall terminate at the end of such 1-year period unless the successor applies for accelerated payment of drawback under this section. If such successor applies for accelerated payment of drawback under this section within such 1-year period, the successor may continue to operate under the predecessor's approval of accelerated payment until

Customs approves or denies the successor's application for accelerated payment under this section, subject to the provisions in this section (see, in particular, paragraph (f) of this section).

(b) *Application for approval; contents.* A person who wishes to apply for accelerated payment of drawback must file a written application with the drawback office where claims will be filed.

(1) *Required information.* The application must contain:

(i) Company name and address;

(ii) Internal Revenue Service (IRS) number (with suffix);

(iii) Identity (by name and title) of the person in claimant's organization who will be responsible for the drawback program;

(iv) Description of the bond coverage the applicant intends to use to cover accelerated payments of drawback (see paragraph (d) of this section), including:

(A) Identity of the surety to be used;

(B) Dollar amount of bond coverage for the first year under the accelerated payment procedure; and

(C) Procedures to ensure that bond coverage remains adequate (that is, procedures to alert the applicant when and if its accelerated payment potential liability exceeds its bond coverage);

(v) Description of merchandise and/or articles covered by the application;

(vi) Type(s) of drawback covered by the application; and

(vii) Estimated dollar value of potential drawback during the next 12-month period covered by the application.

(2) *Previous applications.* In the application, the applicant must state whether or not the applicant has previously been denied an application for accelerated payment of drawback, or had an approval of such an application revoked by any drawback office.

(3) *Certification of compliance.* In or with the application, the applicant must also submit a certification, signed by the applicant, that all applicable statutory and regulatory requirements for drawback will be met.

(4) *Description of claimant's drawback program.* With the application, the applicant must submit a description (with sample documents) of how the applicant will ensure compliance with its certification that the statutory and regulatory drawback requirements will be met. This description may be in the form of a booklet. The detail contained in this description should vary depending on the size and complexity of the applicant's accelerated drawback program (for example, if the dollar amount is great and there are several kinds of drawback involved, with differing inventory, manufacturing, and shipping methods, greater detail in the description will be required). The description must include at least:

(i) The name of the official in the claimant's organization who is responsible for oversight of the claimant's drawback program;

(ii) The procedures and controls demonstrating compliance with the statutory and regulatory drawback requirements;

(iii) The parameters of claimant's drawback record-keeping program, including the retention period and method (for example, paper, electronic, etc.);

(iv) A list of the records that will be maintained, including at least sample import documents, sample export documents, sample inventory and transportation documents (if applicable), sample laboratory or other documents establishing the qualification of merchandise or articles for substitution under the drawback law (if applicable), and sample manufacturing documents (if applicable);

(v) The procedures that will be used to notify Customs of changes to the claimant's drawback program, variances from the procedures described in this application, and violations of the statutory and regulatory drawback requirements; and

(vi) The procedures for an annual review by the claimant to ensure that its drawback program complies with the statutory and regulatory drawback requirements and that Customs is notified of any modifications from the procedures described in this application.

(c) *Sample application.* The drawback office, upon request, shall provide applicants for accelerated payment with a sample letter format to assist them in preparing their submissions.

(d) *Bond required*. If approved for accelerated payment, the claimant must furnish a properly executed bond in an amount sufficient to cover the estimated amount of drawback to be claimed during the term of the bond. If outstanding accelerated drawback claims exceed the amount of the bond, the drawback office will require additional bond coverage as necessary before additional accelerated payments are made.

(e) *Action on application*—(1) *Customs review*. The drawback office shall review and verify the information submitted in and with the application. In order for Customs to evaluate the application, Customs may request additional information (including additional sample documents) and/or explanations of any of the information provided for in paragraph (b)(4) of this section. Based on the information submitted on and with the application and any information so requested, and based on the applicant's record of transactions with Customs, the drawback office will approve or deny the application. The criteria to be considered in reviewing the applicant's record with Customs include, but are not limited to (as applicable):

(i) The presence or absence of unresolved Customs charges (duties, taxes, or other debts owed Customs);

(ii) The accuracy of the claimant's past drawback claims; and

(iii) Whether accelerated payment of drawback or waiver of prior notice of intent to export was previously revoked or suspended.

(2) *Notification to applicant*. Customs will notify the applicant in writing within 90 days of receipt of the application of its decision to approve or deny the application, or of Customs inability to approve, deny, or act on the application and the reason therefor.

(3) *Approval*. The approval of an application for accelerated payment, under this section, shall be effective as of the date of Customs written notification of approval under paragraph (e)(2) of this section. Accelerated payment of drawback shall be available under this section to unliquidated drawback claims filed before and after such date. For claims filed before such date, accelerated payment of drawback shall be paid only if the claimant furnishes a properly executed single transaction bond covering the claim, in an amount sufficient to cover the amount of accelerated drawback to be paid on the claim.

(4) *Denial*. If an application for accelerated payment of drawback under this section is denied, the applicant shall be given written notice, specifying the grounds therefor, together with what corrective action may be taken, and informing the applicant that the denial may be appealed in the manner prescribed in paragraph (i) of this section. The applicant may not reapply for accelerated payment of drawback until the reason for the denial is resolved.

(f) *Revocation*. Customs may propose to revoke the approval of an application for accelerated payment of drawback under this section, for good cause (that is, noncompliance with the drawback law and/or regulations). In case of such proposed revocation, Customs shall give written notice, by registered or certified mail, of the proposed revocation of the approval of accelerated payment. The notice shall specify the reasons for Customs proposed action and the procedures for challenging Customs proposed revocation action as prescribed in paragraph (h) of this section. The revocation shall take effect 30 days after the date of the proposed revocation if not timely challenged under paragraph (h) of this section. If timely challenged, the revocation will take effect after completion of the challenge procedures in paragraph (h) of this section unless the challenge is successful.

(g) *Action by drawback office controlling*. Action by the appropriate drawback office to approve, deny, or revoke accelerated payment of drawback will govern the applicant's eligibility for this procedure in all Customs drawback offices. If the application for accelerated payment of drawback is approved, the claimant shall refer to such approval in the first drawback claim filed after such approval in the drawback office approving accelerated payment of drawback and shall submit a copy of the approval letter with the first drawback claim filed in a drawback office other than the approving office.

(h) *Appeal of denial or challenge to proposed revocation.* An appeal of a denial of an application under this section, or challenge to the proposed revocation of an approved application under this section, may be made in writing to the drawback office issuing the denial or proposed revocation and must be filed within 30 days of the date of denial or proposed revocation. A denial of an appeal or challenge made to the drawback office may itself be appealed to CBP Headquarters, Office of International Trade, Trade Policy and Programs, and must be filed within 30 days. The 30-day period for appeal or challenge to the drawback office or to CBP Headquarters may be extended for good cause, upon written request by the applicant or holder for such extension filed with the appropriate office within the 30-day period.

(i) *Payment.* The drawback office approving a drawback claim in which accelerated payment of drawback was requested shall certify the drawback claim for payment within 3 weeks after filing, if a component for electronic filing of drawback claims, records, or entries which has been implemented under the National Customs Automation Program (NCAP) (19 U.S.C. 1411–1414) is used, and within 3 months after filing, if the claim is filed manually. After liquidation, the drawback office shall certify payment of any amount due or demand a refund of any excess amount paid. Any excess amount of duty the subject of accelerated payment that is not refunded within 30 days after the date of liquidation of the related drawback entry shall be considered delinquent (see §§ 24.3a and 113.65(b) of this chapter.)

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 27489, May 19, 1998]

§ 191.93 Combined applications.

An applicant for the procedures provided for in §§ 191.91 and 191.92 of this subpart may apply for only one procedure, both procedures separately, or both procedures in one application package (see also § 191.195 of this part regarding combined applications for certification in the drawback compliance program and waiver of prior notice and/or approval of accelerated payment of drawback). In the latter instance, the intent to apply for both procedures must be clearly stated. In all instances, all of the requirements for the procedure(s) applied for must be met (for example, in a combined application for both procedures, all of the information required for each procedure, all required sample documents for each procedure, and all required certifications must be included in and with the application).

Subpart J—Internal Revenue Tax on Flavoring Extracts and Medicinal or Toilet Preparations (Including Perfumery) Manufactured From Domestic Tax-Paid Alcohol

§ 191.101 Drawback allowance.

(a) *Drawback.* Section 313(d) of the Act, as amended (19 U.S.C. 1313(d)), provides for drawback of internal revenue tax upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from the domestic tax-paid alcohol.

(b) *Shipment to Puerto Rico, the Virgin Islands, Guam, and American Samoa.* Drawback of internal revenue tax on articles manufactured or produced under this subpart and shipped to Puerto Rico, the Virgin Islands, Guam, or American Samoa shall be allowed in accordance with § 7653(c) of the Internal Revenue Code (26 U.S.C. 7653(c)). However, there is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Wake Island, Midway Islands, Kingman Reef, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

§ 191.102 Procedure.

(a) *General.* Other provisions of this part relating to direct identification drawback (see subpart B of this part) shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Manufacturing record.* The manufacturer of flavoring extracts or medicinal or toilet preparations on which drawback is claimed shall record the products manufactured, the quantity of waste, if any, and a full description of the alcohol. These records shall be available at all times for inspection by Customs officers.

(c) *Additional information required on the manufacturer's application for a specific manufacturing drawback ruling.* The manufacturer's application for a specific manufacturing drawback ruling, under § 191.8 of this part, shall state the quantity of domestic tax-paid alcohol contained in each product on which drawback is claimed.

(d) *Variance in alcohol content*—(1) *Variance of more than 5 percent.* If the percentage of alcohol contained in a medicinal preparation, flavoring extract or toilet preparation varies by more than 5 percent from the percentage of alcohol in the total volume of the exported product as stated in a previously approved application for a specific manufacturing drawback ruling, the manufacturer shall apply for a new specific manufacturing drawback ruling pursuant to § 191.8 of this part. If the variation differs from a previously filed schedule, the manufacturer shall file a new schedule incorporating the change.

(2) *Variance of 5 percent or less.* Variances of 5 percent or less of the volume of the product shall be reported to the appropriate drawback office where the drawback entries are liquidated. In such cases, the drawback office may allow drawback without specific authorization from Customs Headquarters.

(e) *Time period for completing claims.* The 3-year period for the completion of drawback claims prescribed in 19 U.S.C. 1313(r)(1) shall be applicable to claims for drawback under this subpart.

(f) *Filing of drawback entries on duty-paid imported merchandise and tax-paid alcohol.* When the drawback claim covers duty-paid imported merchandise in addition to tax-paid alcohol, the claimant shall file one set of entries for drawback of Customs duty and another set for drawback of internal revenue tax.

(g) *Description of the alcohol.* The description of the alcohol stated in the drawback entry may be obtained from the description on the package containing the tax-paid alcohol.

§ 191.103 Additional requirements.

(a) *Manufacturer claims domestic drawback.* In the case of medicinal preparations and flavoring extracts, the claimant shall file with the drawback entry, a declaration of the manufacturer showing whether a claim has been or will be filed by the manufacturer with the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for domestic drawback on alcohol under §§ 5131, 5132, 5133 and 5134, Internal Revenue Code, as amended (26 U.S.C. 5131, 5132, 5133 and 5134).

(b) *Manufacturer does not claim domestic drawback*—(1) *Submission of statement.* If no claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback on medicinal preparations or flavoring extracts, the manufacturer shall submit a statement, in duplicate, setting forth that fact to the appropriate regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located.

(2) *Contents of the statement.* The statement shall show the:

(i) Quantity and description of the exported products;

(ii) Identity of the alcohol used by serial number of package or tank car;

(iii) Name and registry number of the warehouse from which the alcohol was withdrawn;

(iv) Date of withdrawal;

(v) Serial number of the tax-paid stamp or certificate, if any; and

(vi) Drawback office where the claim will be filed.

(3) *Verification of the statement.* The regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, shall verify receipt of this statement, forward the original of the document to the drawback office designated, and retain the copy.

§ 191.104 Alcohol, Tobacco and Firearms certificates.

(a) *Request*. The drawback claimant or manufacturer shall file a written request with the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms, in whose region the alcohol used in the manufacture was withdrawn requesting him to provide the Customs drawback office where the drawback claim will be processed, a tax-paid certificate on Alcohol, Tobacco and Firearms Form 5100.4 (Certificate of Tax-Paid Alcohol).

(b) *Contents*. The request shall state the:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp, if any;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs drawback office where the drawback claim will be processed.

(c) *Extracts of Alcohol, Tobacco and Firearms certificates*. If a certification of any portion of the alcohol described in the Bureau of Alcohol, Tobacco and Firearms Form 5100.4 is required for liquidation of drawback entries processed in another drawback office, the drawback office, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that drawback office. The drawback office shall note that the copy of the extract was prepared and transmitted.

§ 191.105 Liquidation.

The drawback office shall ascertain the final amount of drawback due by reference to the certificate of manufacture and delivery and the specific manufacturing drawback ruling under which the drawback claimed is allowable.

§ 191.106 Amount of drawback.

(a) *Claim filed with Bureau of Alcohol, Tobacco and Firearms*. If the declaration required by § 191.103 of this subpart shows that a claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, drawback under § 313(d) of the Act, as amended (19 U.S.C. 1313(d)), shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed.

(b) *Claim not filed with Bureau of Alcohol, Tobacco and Firearms*. If the declaration and verified statement required by § 191.103 show that no claim has been or will be filed by the manufacturer with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, the drawback shall be the full amount of the tax on the alcohol used.

(c) *No deduction of 1 percent*. No deduction of 1 percent shall be made in drawback claims under § 313(d) of the Act, as amended (19 U.S.C. 1313(d)).

(d) *Payment*. The drawback due shall be paid in accordance with § 191.81(f) of this part.

Subpart K—Supplies for Certain Vessels and Aircraft

§ 191.111 Drawback allowance.

Section 309 of the Act, as amended (19 U.S.C. 1309), provides for drawback on articles laden as supplies on certain vessels or aircraft of the United States or as supplies including equipment upon, or used in the maintenance or repair of, certain foreign vessels or aircraft.

§ 191.112 Procedure.

(a) *General*. The provisions of this subpart shall override other conflicting provisions of this part.

(b) *Customs forms*. The drawback claimant shall file with the drawback office the drawback entry on Customs Form 7551 annotated for 19 U.S.C. 1309, and attach thereto a notice of lading on Customs Form 7514, in quadruplicate, unless the export summary procedure, provided for in § 191.73, is used. If the export summary procedure is used, the requirements in § 191.73 shall be complied with, as applicable,

and the requirements in paragraphs (d)(1) and (f)(1) of this section shall also be complied with.

(c) *Time of filing notice of lading.* In the case of drawback in connection with 19 U.S.C. 1309(b), the drawback notice of lading on Customs Form 7514 may be filed either before or after the lading of the articles. If filed after lading, the notice shall be filed within 3 years after exportation of the articles.

(d) *Contents of notice.* The notice of lading shall show:

(1) The name of the vessel or identity of the aircraft on which articles were or are to be laden;

(2) The number and kind of packages and their marks and numbers;

(3) A description of the articles and their weight (net), gauge, measure, or number; and

(4) The name of the exporter.

(e) *Assignment of numbers and return of one copy.* The drawback office shall assign a number to each notice of lading and return one copy to the exporter for delivery to the master or authorized officer of the vessel or aircraft.

(f) *Declaration*—(1) *Requirement.* The master or an authorized representative of the vessel or aircraft having knowledge of the facts shall complete the section of the notice entitled ''Declaration of Master or Other Officer''.

(2) *Procedure if notice filed before lading.* If the notice is filed before lading of the articles, the declaration must be completed on the copy of the numbered drawback notice that was filed with the drawback office and returned to the exporter for this purpose.

(3) *Procedure if notice filed after lading.* If the drawback notice is filed after lading of the articles, the drawback claimant may file a separate document containing the declaration required on the Drawback Notice, Customs Form 7514.

(4) *Filing.* The drawback claimant shall file with the drawback office both the drawback entry and the drawback notice or separate document containing the declaration of the master or other officer or representative.

(g) *Information concerning class or trade.* Information about the class of business or trade of a vessel or aircraft is required to be furnished in support of the drawback entry if the vessel or aircraft is American.

(h) *Vessel or aircraft not required to clear or obtain a permit to proceed.* If the vessel or aircraft is not required to clear or obtain a permit to proceed to another port, the drawback office shall return to the exporter or the person designated by the exporter two copies of the notice, noting the absence of a requirement for clearance or permit to proceed, for subsequent filing with the drawback claim. The claimant shall file with the claim an itinerary of the vessel or aircraft for the immediate voyage or flight showing that the vessel or aircraft is engaged in a class of business or trade which makes it eligible for drawback.

(i) *Articles laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.* The drawback office where the drawback claim is filed shall require a declaration or other evidence showing to its satisfaction that articles have been laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.

(j) *Fuel laden on vessels or aircraft as supplies*—(1) *Composite notice of lading.* In the case of fuel laden on vessels or aircraft as supplies, the drawback claimant may file with the drawback office a composite notice of lading on the reverse side of Customs Form 7514, for each calendar month. The composite notice of lading shall describe all of the drawback claimant's deliveries of fuel supplies during the one calendar month at a single port or airport to all vessels or airplanes of one vessel owner or operator or airline. This includes fuel laden for flights or voyages between the contiguous U.S. and Hawaii, Alaska, or any U.S. possessions (see § 10.59 of this chapter).

(2) *Contents of composite notice.*omposite notice shall show for each voyage or flight, either on the reverse side of Customs Form 7514 or on a continuation sheet:

(i) The identity of the vessel or aircraft;

(ii) A description of the fuel supplies laden;

(iii) The quantity laden; and

(iv) The date of lading.

(3) *Declaration of owner or operator.* An authorized vessel or airline representative having knowledge of the facts shall complete the section ''Declaration of Master or Other Officer'' on Customs Form 7514.

(k) *Desire to land articles covered by notice of lading.* The master of the vessel or commander of the aircraft desiring to land in the United States articles covered by a notice of lading shall apply for a permit to land those articles under Customs supervision. All articles landed, except those transferred under the original notice of lading to another vessel or aircraft entitled to drawback, shall be considered imported merchandise for the purpose of § 309(c) of the Act, as amended (19 U.S.C. 1309(c)).

Subpart L—Meats Cured With Imported Salt

§ 191.121 Drawback allowance.

Section 313(f) of the Act, as amended (19 U.S.C. 1313(f)), provides for the allowance of drawback upon the exportation of meats cured with imported salt.

§ 191.122 Procedure.

(a) *General.* Other provisions of this part relating to direct identification manufacturing drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Customs form.* The forms used for other drawback claims shall be used and modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

§ 191.123 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100 and shall not be subject to the retention of 1 percent of duties paid.

Subpart M—Materials for Construction and Equipment of Vessels and Aircraft Built for Foreign Ownership and Account

§ 191.131 Drawback allowance.

Section 313(g) of the Act, as amended (19 U.S.C. 1313(g)), provides for drawback on imported materials used in the construction and equipment of vessels and aircraft built for foreign account and ownership, or for the government of any foreign country, notwithstanding that these vessels or aircraft may not be exported within the strict meaning of the term.

§ 191.132 Procedure.

Other provisions of this part relating to direct identification manufacturing drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

§ 191.133 Explanation of terms.

(a) *Materials.* Section 313(g) of the Act, as amended (19 U.S.C. 1313(g)), applies only to materials used in the original construction and equipment of vessels and aircraft, or to materials used in a ''major conversion'', as defined in this section, of a vessel or aircraft. Section 313(g) does not apply to materials used for alteration or repair, or to materials not required for safe operation of the vessel or aircraft.

(b) *Foreign account and ownership.* Foreign account and ownership, as used in § 313(g) of the Act, as amended (19 U.S.C. 1313(g)), means only vessels or aircraft built or equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft, when completed, shall be owned and operated under the flag of a foreign country.

(c) *Major conversion.* For purposes of this subpart, a ''major conversion'' means a conversion that substantially changes the dimensions or carrying capacity of the vessel or aircraft, changes the type of the vessel or aircraft, substantially prolongs the life of the vessel or aircraft, or otherwise so changes

the vessel or aircraft that it is essentially a new vessel or aircraft, as determined by Customs (see 46 U.S.C. 2101(14a)).

Subpart N—Foreign-Built Jet Aircraft Engines Processed in the United States

§ 191.141 Drawback allowance.

Section 313(h) of the Act, as amended (19 U.S.C. 1313(h)), provides for drawback on the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts.

§ 191.142 Procedure.

Other provisions of this part shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

§ 191.143 Drawback entry.

(a) *Filing of entry*. Drawback entries covering these foreign-built jet aircraft engines shall be filed on Customs Form 7551, modified to show that the entry covers jet aircraft engines processed under § 313(h) of the Act, as amended (19 U.S.C. 1313(h)).

(b) *Contents of entry*. The entry shall show the country in which each engine was manufactured and describe the processing performed thereon in the United States.

§ 191.144 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than $100, and shall not be subject to the deduction of 1 percent of duties paid.

Subpart O—Merchandise Exported From Continuous Customs Custody

§ 191.151 Drawback allowance.

(a) *Eligibility of entered or withdrawn merchandise*—(1) *Under 19 U.S.C. 1557(a)*. Section 557(a) of the Act, as amended (19 U.S.C. 1557(a)), provides for drawback on the exportation to a foreign country, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of merchandise upon which duties have been paid which has remained continuously in bonded warehouse or otherwise in Customs custody for a period not to exceed 5 years from the date of importation.

(2) *Under 19 U.S.C. 1313*. Imported merchandise that has not been regularly entered or withdrawn for consumption, shall not satisfy any requirement for use, importation, exportation or destruction, and shall not be available for drawback, under § 313 of the Act, as amended (19 U.S.C. 1313) (see 19 U.S.C. 1313(u)).

(b) *Guantanamo Bay*. Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes under this subpart and merchandise shipped there is eligible for drawback. Imported merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation is not entitled to drawback of duty when shipped to Puerto Rico, Canton Island, Enderbury Island, or Palmyra Island.

§ 191.152 Merchandise released from Customs custody.

No remission, refund, abatement, or drawback of duty shall be allowed under this subpart because of the exportation or destruction of any merchandise after its release from Government custody, except in the following cases:

(a) When articles are exported or destroyed on which drawback is expressly provided for by law;

(b) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to statute and regulations prescribed by the Secretary of the Treasury; or

(c) When articles entered under bond are destroyed within the bonded period, as provided in § 557(c) of the Act, as amended (19 U.S.C. 1557(c)), or destroyed within the bonded period by death, accidental fire, or other casualty, and satisfactory evidence of destruction is furnished to Customs (see § 191.71), in which case any accrued duties shall be remitted or refunded and any condition in the bond that the articles shall be exported shall be deemed

to have been satisfied (see 19 U.S.C. 1558).

§ 191.153 Continuous Customs custody.

(a) *Merchandise released under an importer's bond and returned.* Merchandise released to an importer under a bond prescribed by § 142.4 of this chapter and later returned to the public stores upon requisition of the appropriate Customs office shall not be deemed to be in the continuous custody of Customs officers.

(b) *Merchandise released under Chapter 98, Subchapter XIII, Harmonized Tariff Schedule of the United States (HTSUS).* Merchandise released as provided for in Chapter 98, Subchapter XIII, HTSUS (19 U.S.C. 1202), shall not be deemed to be in the continuous custody of Customs officers.

(c) *Merchandise released from warehouse.* For the purpose of this subpart, in the case of merchandise entered for warehouse, Customs custody shall be deemed to cease when estimated duty has been deposited and the appropriate Customs office has authorized the withdrawal of the merchandise.

(d) *Merchandise not warehoused, examined elsewhere than in public stores*—(1) *General rule.* Except as stated in paragraph (d)(2) of this section, merchandise examined elsewhere than at the public stores, in accordance with the provisions of § 151.7 of this chapter, shall be considered released from Customs custody upon completion of final examination for appraisement.

(2) *Merchandise upon the wharf.* Merchandise which remains on the wharf by permission of the appropriate Customs office shall be considered to be in Customs custody, but this custody shall be deemed to cease when the Customs officer in charge accepts the permit and has no other duties to perform relating to the merchandise, such as measuring, weighing, or gauging.

§ 191.154 Filing the entry.

(a) *Direct export.* At least 6 working hours before lading the merchandise on which drawback is claimed under this subpart, the importer or the agent designated by him in writing shall file with the drawback office a direct export drawback entry on Customs Form 7551 in duplicate.

(b) *Merchandise transported to another port for exportation.* The importer of merchandise to be transported to another port for exportation shall file in triplicate with the drawback office an entry naming the transporting conveyance, route, and port of exit. The drawback office shall certify one copy and forward it to the Customs office at the port of exit. A bonded carrier shall transport the merchandise in accordance with the applicable regulations. Manifests shall be prepared and filed in the manner prescribed in § 144.37 of this chapter.

§ 191.155 Merchandise withdrawn from warehouse for exportation.

The regulations in part 18 of this chapter concerning the supervision of lading and certification of exportation of merchandise withdrawn from warehouse for exportation without payment of duty shall be followed to the extent applicable.

§ 191.156 Bill of lading.

(a) *Filing.* In order to complete the claim for drawback under this subpart, a bill of lading covering the merchandise described in the drawback entry (Customs Form 7551) shall be filed within 2 years after the merchandise is exported.

(b) *Contents.* The bill of lading shall either show that the merchandise was shipped by the person making the claim or bear an endorsement of the person in whose name the merchandise was shipped showing that the person making the claim is authorized to do so.

(c) *Limitation of the bill of lading.* The terms of the bill of lading may limit and define its use by stating that it is for Customs purposes only and not negotiable.

(d) *Inability to produce bill of lading.* When a required bill of lading cannot be produced, the person making the drawback entry may request the drawback office, within the time required for the filing of the bill of lading, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the drawback office

is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so. If the drawback office is not so satisfied, such office shall transmit the request and its accompanying evidence to the Office of International Trade, CBP Headquarters, for final determination.

(e) *Extracts of bills of lading.* Drawback offices may issue extracts of bills of lading filed with drawback claims.

§ 191.157 Landing certificates.

When required, a landing certificate shall be filed within the time prescribed in § 191.76 of this part.

§ 191.158 Procedures.

When the drawback claim has been completed and the bill of lading filed, together with the landing certificate, if required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the drawback office shall verify the importation by referring to the import records to ascertain the amount of duty paid on the merchandise exported. To the extent appropriate and not inconsistent with the provisions of this subpart, drawback entries shall be liquidated in accordance with the provisions of § 191.81 of this part.

§ 191.159 Amount of drawback.

Drawback due under this subpart shall not be subject to the deduction of 1 percent.

Subpart P—Distilled Spirits, Wines, or Beer Which Are Unmerchantable or Do Not Conform to Sample or Specifications

§ 191.161 Refund of taxes.

Section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), provides for the refund, remission, abatement or credit to the importer of internal-revenue taxes paid or determined incident to importation, upon the exportation, or destruction under Customs supervision, of imported distilled spirits, wines, or beer found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody.

§ 191.162 Procedure.

The export procedure shall be the same as that provided in § 191.42 except that the claimant must be the importer and as otherwise provided in this subpart.

§ 191.163 Documentation.

(a) *Entry.* Customs Form 7551 shall be used to claim drawback under this subpart.

(b) *Documentation.* The drawback entry for unmerchantable merchandise shall be accompanied by a certificate of the importer setting forth in detail the facts which cause the merchandise to be unmerchantable and any additional evidence that the drawback office requires to establish that the merchandise is unmerchantable.

§ 191.164 Return to Customs custody.

There is no time limit for the return to Customs custody of distilled spirits, wine, or beer subject to refund of taxes under the provisions of this subpart.

§ 191.165 No exportation by mail.

Merchandise covered by this subpart shall not be exported by mail.

§ 191.166 Destruction of merchandise.

(a) *Action by the importer.* A drawback claimant who proposes to destroy rather than export the distilled spirits, wine, or beer shall state that fact on Customs Form 7551.

(b) *Action by Customs.* Distilled spirits, wine, or beer returned to Customs custody at the place approved by the drawback office where the drawback entry was filed shall be destroyed under the supervision of the Customs officer who shall certify the destruction on Customs Form 7553.

§ 191.167 Liquidation.

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing entries under § 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

§ 191.168 Time limit for exportation or destruction.

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the importer, prior to the expiration of the 90-day period, the drawback office grants an extension of not more than 90 days.

Subpart Q—Substitution of Finished Petroleum Derivatives

§ 191.171 General; drawback allowance.

(a) *General*. Section 313(p) of the Act, as amended (19 U.S.C. 1313(p)), provides for drawback on the basis of qualified articles which consist of either petroleum derivatives that are imported, duty-paid, and qualified for drawback under the unused merchandise drawback law (19 U.S.C. 1313(j)(1)), or petroleum derivatives that are manufactured or produced in the United States, and qualified for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)).

(b) *Allowance of drawback*. Drawback may be granted under 19 U.S.C. 1313(p):

(1) In cases where there is no manufacture, upon exportation of the imported article, an article of the same kind and quality, or any combination thereof; or

(2) In cases where there is a manufacture or production, upon exportation of the manufactured or produced article, an article of the same kind and quality, or any combination thereof.

(c) *Merchandise processing fees*. In cases where the requirements of paragraph (b)(1) of this section have been met, merchandise processing fees will be eligible for drawback.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–16, 67 FR 16637, Apr. 8, 2002; CBP Dec. 04–33, 69 FR 60083, Oct. 7, 2004]

§ 191.172 Definitions.

The following are definitions for purposes of this subpart only:

(a) *Qualified article*. ''Qualified article'' means an article described in headings 2707, 2708, 2710 through 2715, 2901, 2902, 2909.19.14, or 3901 through 3914 of the Harmonized Tariff Schedule of the United States (HTSUS). In the case of an article described in headings 3901 through 3914, the definition covers the article in its primary forms as provided in Note 6 to chapter 39 of the HTSUS.

(b) *Same kind and quality article*. ''Same kind and quality article'' means an article which is commercially interchangeable with, or which is referred to under the same 8-digit classification of the HTSUS as, the article to which it is compared. (For example, unleaded gasoline and jet fuel (naphtha or kerosene-type), both falling under the same HTSUS classification (2710.00.15) would be considered same kind and quality articles because they fall under the same 8 digit HTSUS classification, even though they are not ''commercially interchangeable''.)

(c) *Exported article*. ''Exported article'' means an article which has been exported and is the qualified article, an article of the same kind and quality as the qualified article, or any combination thereof.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–16, 67 FR 16637, Apr. 8, 2002]

§ 191.173 Imported duty-paid derivatives (no manufacture).

When the basis for drawback under 19 U.S.C. 1313(p) is imported duty-paid petroleum derivatives (that is, not articles manufactured under 19 U.S.C. 1313(a) or (b)), the requirements for drawback are as follows:

(a) *Imported duty-paid merchandise*. The imported duty-paid merchandise designated for drawback must be a ''qualified article'' as defined in § 191.172(a) of this subpart;

(b) *Exported article*. The exported article on which drawback is claimed must be an ''exported article'' as defined in § 191.172(c) of this subpart;

(c) *Exporter*. The exporter of the exported article must have either:

(1) Imported the qualified article in at least the quantity of the exported article; or

(2) Purchased or exchanged (directly or indirectly) from an importer an imported qualified article in at least the quantity of the exported article;

(d) *Time of export*. The exported article must be exported within 180 days after the date of entry of the designated imported duty-paid merchandise; and

(e) *Amount of drawback*. The amount of drawback payable may not exceed the amount of drawback which would be attributable to the imported qualified article under 19 U.S.C. 1313(j)(1) which serves as the basis for drawback.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–16, 67 FR 16637, Apr. 8, 2002]

§ 191.174 Derivatives manufactured under 19 U.S.C. 1313(a) or (b).

When the basis for drawback under 19 U.S.C. 1313(p) is petroleum derivatives which were manufactured or produced in the United States and qualify for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)), the requirements for drawback are as follows:

(a) *Merchandise*. The merchandise which is the basis for drawback under 19 U.S.C. 1313(p) must:

(1) Have been manufactured or produced as described in 19 U.S.C. 1313(a) or (b) from crude petroleum or a petroleum derivative; and

(2) Be a ''qualified article'' as defined in § 191.172(a) of this subpart;

(b) *Exported article*. The exported article on which drawback is claimed must be an ''exported article'' as defined in § 191.172(c) of this subpart;

(c) *Exporter*. The exporter of the exported article must have either:

(1) Manufactured or produced the qualified article in at least the quantity of the exported article; or

(2) Purchased or exchanged (directly or indirectly) from a manufacturer or producer described in 19 U.S.C. 1313(a) or (b) the qualified article in at least the quantity of the exported article;

(d) *Manufacture in specific facility*. The qualified article must have been manufactured or produced in a specific petroleum refinery or production facility which must be identified;

(e) *Time of export*. The exported article must be exported either:

(1) During the period provided for in the manufacturer's or producer's specific manufacturing drawback ruling (see § 191.8 of this part) in which the qualified article is manufactured or produced; or

(2) Within 180 days after the close of the period in which the qualified article is manufactured or produced; and

(f) *Amount of drawback*. The amount of drawback payable may not exceed the amount of drawback which would be attributable to the article manufactured or produced under 19 U.S.C. 1313(a) or (b) which serves as the basis for drawback.

§ 191.175 Drawback claimant; maintenance of records.

(a) *Drawback claimant*. A drawback claimant under 19 U.S.C. 1313(p) must be the exporter of the exported article, or the refiner, producer, or importer of either the qualified article or the exported article. Any of these persons may designate another person to file the drawback claim.

(b) *Certificate of manufacture and delivery or delivery*—(1) *General*. A drawback claimant under 19 U.S.C. 1313(p) must provide a certificate of manufacture and delivery or a certificate of delivery, as applicable, establishing the drawback eligibility of the articles for which drawback is claimed.

(2) *Article substituted for the qualified article*. (i) Subject to paragraph (b)(2)(iii) of this section, the manufacturer, producer, or importer of a qualified article may transfer to the exporter an article of the same kind and quality as the qualified article, as so certified, respectively, in a certificate of manufacture and delivery or a certificate of delivery, in a quantity not greater than the quantity of the qualified article.

(ii) Subject to paragraph (b)(2)(iii) of this section, any intermediate party in the chain of commerce leading to the exporter from the manufacturer, producer, or importer of a qualified article may also transfer to the exporter or to another intermediate party an article

of the same kind and quality as the article purchased or exchanged from the prior transferor (whether the manufacturer, producer, importer, or another intermediate transferor), as so certified in a certificate of delivery, in a quantity not greater than the quantity of the article purchased or exchanged.

(iii) Under either paragraph (b)(2)(i) or (b)(2)(ii) of this section, the article transferred, regardless of its origin (imported, manufactured, substituted, or any combination thereof), so designated on a certificate of delivery or, in the case of the manufacturer or producer of a qualified article under 19 U.S.C. 1313(a) or (b), on a certificate of manufacture and delivery, will be the qualified article eligible for drawback for purposes of section 1313(p), provided that the following conditions are met:

(A) The party who issues the applicable certificate for the transferred article must expressly state on the certificate that the certificate is prepared pursuant to 19 U.S.C. 1313(p) (the article may not be designated for any other drawback purposes);

(B) The party must certify to the Commissioner of Customs on the certificate or an attachment that it has not, and will not, designate on that certificate and on any other such certificates issued a quantity of the article greater than the amount eligible for drawback; and

(C) The party must certify to the Commissioner of Customs on the applicable certificate or on an attachment that it will maintain appropriate records which establish that it has not designated on any such certificates issued a greater quantity than the amount eligible for drawback.

(c) *Maintenance of records*. The manufacturer, producer, importer, transferor, exporter and drawback claimant of the qualified article and the exported article must all maintain their appropriate records required by this part.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02–16, 67 FR 16637, Apr. 8, 2002]

§ 191.176 Procedures for claims filed under 19 U.S.C. 1313(p).

(a) *Applicability*. The general procedures for filing drawback claims shall be applicable to claims filed under 19 U.S.C. 1313(p) unless otherwise specifically provided for in this section.

(b) *Administrative efficiency, frequency of claims, and restructuring of claims*. The procedures regarding administrative efficiency, frequency of claims, and restructuring of claims (as applicable, see § 191.53 of this part) shall apply to claims filed under this subpart.

(c) *Imported duty-paid derivatives (no manufacture)*. When the basis for drawback under 19 U.S.C. 1313(p) is imported duty-paid petroleum (not articles manufactured under 19 U.S.C. 1313(a) or (b)), claims under this subpart may be paid and liquidated if:

(1) The claim is filed on Customs Form 7551; and

(2) The claimant provides a certification stating the basis (such as company records, or customer's written certification), for the information contained therein and certifying that:

(i) The exported merchandise was exported within 180 days of entry of the designated, imported merchandise;

(ii) The qualified article and the exported article are commercially interchangeable or both articles are subject to the same 8-digit HTSUS tariff classification;

(iii) To the best of the claimant's knowledge, the designated imported merchandise, the qualified article and the exported article have not and will not serve as the basis of any other drawback claim;

(iv) Evidence in support of the certification will be retained by the person providing the certification for 3 years after payment of the claim; and

(v) Such evidence will be available for verification by Customs.

(d) *Derivatives manufactured under 19 U.S.C. 1313(a) or (b)*. When the basis for drawback under 19 U.S.C. 1313(p) is articles manufactured under 19 U.S.C. 1313(a) or (b), claims under this section may be paid and liquidated if:

(1) The claim is filed on Customs Form 7551;

(2) All documents required to be filed with a manufacturing claim under 19 U.S.C. 1313(a) or (b) are filed with the claim;

(3) The claim identifies the specific refinery or production facility at which

the derivatives were manufactured or produced;

(4) The claim states the period of manufacture for the derivatives; and

(5) The claimant provides a certification stating the basis (such as company records or a customer's written certification), for the information contained therein and certifying that:

(i) The exported merchandise was exported during the manufacturing period for the qualified article or within 180 days after the close of that period;

(ii) The qualified article and the exported article are commercially interchangeable or both articles are subject to the same 8-digit HTSUS tariff classification;

(iii) To the best of the claimant's knowledge, the designated imported merchandise, the qualified article and the exported article have not and will not serve as the basis of any other drawback claim;

(iv) Evidence in support of the certification will be retained by the person providing the certification for 3 years after payment of the claim; and

(v) Such evidence will be available for verification by Customs.

Subpart R—Merchandise Transferred to a Foreign Trade Zone From Customs Territory

§ 191.181 Drawback allowance.

The fourth proviso of § 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), provides for drawback on merchandise transferred to a foreign trade zone for the sole purpose of exportation, storage or destruction (except destruction of distilled spirits, wines, and fermented malt liquors), provided there is compliance with the regulations of this subpart.

§ 191.182 Zone-restricted merchandise.

Merchandise in a foreign trade zone for the purposes specified in § 191.181 shall be given status as zone-restricted merchandise on proper application (see § 146.44 of this chapter).

§ 191.183 Articles manufactured or produced in the United States.

(a) *Procedure for filing documents.* Except as otherwise provided, the drawback procedures prescribed in this part shall be followed as applicable to drawback under this subpart on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol.

(b) *Notice of transfer*—(1) *Evidence of export.* The notice of zone transfer on Customs Form 214 shall be in place of the documents under subpart G of this part to establish the exportation.

(2) *Filing procedures.* The notice of transfer, in triplicate, shall be filed with the drawback office where the foreign trade zone is located prior to the transfer of the articles to the zone, or within 3 years after the transfer of the articles to the zone. A notice filed after the transfer shall state the foreign trade zone lot number.

(3) *Contents of notice.* Each notice of transfer shall show the:

(i) Number and location of the foreign trade zone;

(ii) Number and kind of packages and their marks and numbers;

(iii) Description of the articles, including weight (gross and net), gauge, measure, or number; and

(iv) Name of the transferor.

(c) *Action of foreign trade zone operator.* After articles have been received in the zone, the zone operator shall certify on a copy of the notice of transfer the receipt of the articles (see § 191.184(d)(2)) and forward the notice to the transferor or the person designated by the transferor, unless the export summary procedure, provided for in § 191.73, is used. If the export summary procedure is used, the requirements in § 191.73 shall be complied with, as applicable. The transferor shall verify that the notice has been certified before filing it with the drawback claim.

(d) *Drawback entries.* Drawback entries shall be filed on Customs Form 7551 to indicate that the merchandise was transferred to a foreign trade zone. The ''Declaration of Exportation'' shall be modified as follows:

Declaration of Transfer to a Foreign Trade Zone

I,_____ _____
(member of firm, officer representing corporation, agent, or attorney), of

_____, declare that, to the best of my knowledge and belief, the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and that the merchandise was transferred to a foreign trade zone for the sole purpose of exportation, destruction, or storage, not to be removed from the foreign trade zone for domestic consumption.

Dated: _____

_____

Transferor or agent

§ 191.184 Merchandise transferred from continuous Customs custody.

(a) *Procedure for filing claims.* The procedure described in subpart O of this part shall be followed as applicable, for drawback on merchandise transferred to a foreign trade zone from continuous Customs custody.

(b) *Drawback entry.* Before the transfer of merchandise from continuous Customs custody to a foreign trade zone, the importer or a person designated in writing by the importer for that purpose shall file with the drawback office a direct export drawback entry on Customs Form 7551 in duplicate. The drawback office shall forward one copy of Customs Form 7551 to the zone operator at the zone.

(c) *Certification by zone operator.* After the merchandise has been received in the zone, the zone operator shall certify on the copy of Customs Form 7551 the receipt of the merchandise (see paragraph (d)(2) of this section) and forward the form to the transferor or the person designated by the transferor, unless the export summary procedure, provided for in § 191.73, is used. If the export summary procedure is used, the requirements in § 191.73 shall be complied with, as applicable. After executing the declaration provided for in paragraph (d)(3) of this section, the transferor shall resubmit Customs Form 7551 to the drawback office in place of the bill of lading required by § 191.156.

(d) *Modification of drawback entry*—(1) *Indication of transfer.* Customs Form 7551 shall indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7551 as follows, for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in the entry was received from _____ on _____, 19___; in Foreign Trade Zone No._____,
(City and State)
Exceptions _____ _____
(Name and title)
By _____ _____
(Name of operator)

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7551 as follows:

Transferor's Declaration

I, _____ _____
of the firm of_____, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. _____, located at _____, (City and State) for the sole purpose of exportation, destruction, or storage, not to be removed from the foreign trade zone for domestic consumption. I further declare that to the best of my knowledge and belief, this merchandise is in the same quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by drawback or otherwise.

Dated: _____
(Transferor)

§ 191.185 Unused merchandise drawback and merchandise not conforming to sample or specification, shipped without consent of the consignee, or found to be defective as of the time of importation.

(a) *Procedure for filing claims.* The procedures described in subpart C of this part relating to unused merchandise drawback, and in subpart D of this part relating to rejected merchandise, shall be followed as applicable to drawback under this subpart for unused merchandise drawback and merchandise that does not conform to sample or specification, is shipped without consent of the consignee, or is found to be defective as of the time of importation.

(b) *Drawback entry.* Before transfer of the merchandise to a foreign trade

zone, the importer or a person designated in writing by the importer for that purpose shall file with the drawback office an entry on Customs Form 7551 in duplicate. The drawback office shall forward one copy of Customs Form 7551 to the zone operator at the zone.

(c) *Certification by zone operator*. After the merchandise has been received in the zone, the zone operator at the zone shall certify on the copy of Customs Form 7551 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor, unless the export summary procedure, provided for in § 191.73, is used. If the export summary procedure is used, the requirements in § 191.73 shall be complied with, as applicable. After executing the declaration provided for in paragraph (d)(3) of this section, the transferor shall resubmit Customs Form 7551 to the drawback office in place of the bill of lading required by § 191.156.

(d) *Modification of drawback entry*—(1) *Indication of transfer*. Customs Form 7551 shall indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement*. The transferor or person designated by the transferor shall endorse Customs Form 7551 as follows, for execution by the foreign trade zone operator:

Certification of Foreign Trade Zone Operator

The merchandise described in this entry was received from _____ on _____, 19 ___, in Foreign Trade Zone No. _____, _____ (City and State).
Exceptions: _____
_____
_____
(Name of operator)
By _____
(Name and title)

(3) *Transferor's declaration*. The transferor shall declare on Customs Form 7551 as follows:

Transferor's Declaration

I, _____ _____ of the firm of _____, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. _____, located at_____ (City and State) for the sole purpose of exportation, destruction, or storage, not to be removed from the foreign trade zone for domestic consumption. I further declare that to the best of my knowledge and belief, said merchandise is the same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by drawback or otherwise.
Dated: _____
Transferor

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15289, Mar. 31, 1998]

§ 191.186 Person entitled to claim drawback.

The person named in the foreign trade zone operator's certification on the notice of transfer or the drawback entry, as applicable, shall be considered to be the transferor. Drawback may be claimed by, and paid to, the transferor.

Subpart S—Drawback Compliance Program

§ 191.191 Purpose.

This subpart sets forth the requirements for the Customs drawback compliance program in which claimants and other parties in interest, including Customs brokers, may participate after being certified by Customs. Participation in the program is voluntary. Under the program, Customs is required to inform potential drawback claimants and related parties clearly about their rights and obligations under the drawback law and regulations. Reduced penalties and/or warning letters may be issued once a party has been certified for the program, and is in general compliance with the appropriate procedures and requirements thereof.

§ 191.192 Certification for compliance program.

(a) *General*. A party may be certified as a participant in the drawback compliance program after meeting the core requirements established under the program, or after negotiating an alternative drawback compliance program suited to the needs of both the party and Customs. Certification requirements shall take into account the size

and nature of the party's drawback program, the type of drawback claims filed, and the volume of claims filed. Whether the party is a drawback claimant, a broker, or one that provides data and documentation on which a drawback claim is based, will also be considered.

(b) *Core requirements of program.* In order to be certified as a participant in the drawback compliance program or negotiated alternative drawback compliance program, the party must be able to demonstrate that it:

(1) Understands the legal requirements for filing claims, including the nature of the records that are required to be maintained and produced and the time periods involved;

(2) Has in place procedures that explain the Customs requirements to those employees involved in the preparation of claims, and the maintenance and production of required records;

(3) Has in place procedures regarding the preparation of claims and maintenance of required records, and the production of such records to Customs;

(4) Has designated a dependable individual or individuals who will be responsible for compliance under the program, and maintenance and production of required records;

(5) Has in place a record maintenance program approved by Customs regarding original records, or if approved by Customs, alternative records or recordkeeping formats for other than the original records; and

(6) Has procedures for notifying Customs of variances in, or violations of, the drawback compliance or other alternative negotiated drawback compliance program, and for taking corrective action when notified by Customs of violations and problems regarding such program.

(c) *Broker certification.* A Customs broker may be certified as a participant in the drawback compliance program only on behalf of a given claimant (see §191.194(b)). To do so, a Customs broker who is employed to assist a claimant in filing for drawback must be able to demonstrate, for and on behalf of such claimant, conformity with the core requirements of the drawback compliance program as set forth in paragraph (b) of this section. The broker shall ensure that the claimant has the necessary documentation and records to support the drawback compliance program established on its behalf, and that claims to be filed under the program are reviewed by the broker for accuracy and completeness.

§ 191.193 Application procedure for compliance program.

(a) *Who may apply.* Claimants and other parties in interest may apply for participation in the drawback compliance program. This includes any person, corporation or business entity that provides supporting information or documentation to one who files drawback claims, as well as Customs brokers who assist claimants in filing for drawback. Program participants may further consist of importers, manufacturers or producers, agent-manufacturers, complementary recordkeepers, subcontractors, intermediate parties, and exporters.

(b) *Place of filing.* An application in letter format containing the information as prescribed in paragraphs (c) and (d) of this section shall be submitted to any drawback office. However, in the event the applicant is a claimant for drawback, the application shall be submitted to the drawback office where the claims will be filed.

(c) *Letter of application; contents.* A party requesting certification to become a participant in the drawback compliance program shall file with the applicable drawback office a written application in letter format, signed by an authorized individual (see §191.6(c) of this part). The detail required in the application shall take into account the size and nature of the applicant's drawback program, the type of drawback claims filed, and the dollar value and volume of claims filed. However, the application shall contain at least the following information:

(1) Name of applicant, address, IRS number (with suffix), and the type of business in which engaged, as well as the name(s) of the individual(s) designated by the applicant to be responsible for compliance under the program;

(2) A description of the nature of the applicant's drawback program, including the type of drawback in which involved (such as, manufacturing, or unused or rejected merchandise), and the applicant's particular role(s) in the drawback claims process (such as claimant and/or importer, manufacturer or producer, agent-manufacturer, complementary recordkeeper, subcontractor, intermediate party (possessor or purchaser), or exporter (destroyer)); and

(3) Size of applicant's drawback program. (For example, if the applicant is a claimant, the number of claims filed over the previous 12-month period should be included, along with the number estimated to be filed over the next 12-month period, and the estimated amount of drawback to be claimed annually. Other parties should describe the extent to which they are involved in drawback activity, based upon their particular role(s) in the drawback process; for example, manufacturers should explain how much manufacturing they are engaged in for drawback, such as the quantity of drawback product produced on an annual basis, as established by the certificates of manufacture and delivery they have executed.)

(d) *Application package*. Along with the letter of application as prescribed in paragraph (c) of this section, the application package must include a description of how the applicant will ensure compliance with statutory and regulatory drawback requirements. This description may be in the form of a booklet or set forth otherwise. The description must include at least the following:

(1) The name and title of the official in the applicant's organization who is responsible for oversight of the applicant's drawback program, and the name and title, with mailing address and, if available, fax number and e-mail address, of the person[s] in the applicant's organization responsible for the actual maintenance of the applicant's drawback program;

(2) If the applicant is a manufacturer and the drawback involved is manufacturing drawback, a copy of the letter of notification of intent to operate under a general manufacturing drawback ruling or the application for a specific manufacturing drawback ruling (see §§ 191.7 and 191.8 of this part), as appropriate;

(3) A description of the applicant's drawback record-keeping program, including the retention period and method (for example, paper, electronic, etc.);

(4) A list of the records that will be maintained, including at least sample import documents, sample export documents, sample inventory and transportation documents (if applicable), sample laboratory or other documents establishing the qualification of merchandise or articles for substitution under the drawback law (if applicable), and sample manufacturing documents (if applicable);

(5) A description of the applicant's specific procedures for:

(i) How drawback claims are prepared (if the applicant is a claimant); and

(ii) How the applicant will fulfill any requirements under the drawback law and regulations applicable to its role in the drawback program;

(6) A description of the applicant's procedures for notifying Customs of variances in, or violations of, its drawback compliance program or negotiated alternative drawback compliance program, and procedures for taking corrective action when notified by Customs of violations or other problems in such program; and

(7) A description of the applicant's procedures for annual review to ensure that its drawback compliance program meets the statutory and regulatory drawback requirements and that Customs is notified of any modifications from the procedures described in this application.

§ 191.194 Action on application to participate in compliance program.

(a) *Review by applicable drawback office*—(1) *General*. It is the responsibility of the drawback office where the drawback compliance application package is filed to coordinate its decision making on the package both with CBP Headquarters and with the other field drawback offices as appropriate. CBP processing of the package will consist of the review of the information contained therein as well as any additional

information requested (see paragraph (a)(2) of this section).

(2) *Criteria for CBP review*. The drawback office shall review and verify the information submitted in and with the application. In order for CBP to evaluate the application, CBP may request additional information (including additional sample documents) and/or explanations of any of the information provided for in § 191.193(c) and (d) of this subpart. Based on the information submitted on and with the application and any information so requested, and based on the applicant's record of transactions with CBP, the drawback office will approve or deny the application. The criteria to be considered in reviewing the applicant's record with CBP shall include (as applicable):

(i) The presence or absence of unresolved customs charges (duties, taxes, or other debts owed CBP);

(ii) The accuracy of the claimant's past drawback claims; and

(iii) Whether accelerated payment of drawback or waiver of prior notice of intent to export was previously revoked or suspended.

(b) *Approval*. Certification as a participant in the drawback compliance program will be given to applicants whose applications are approved under the criteria in paragraph (a)(2) of this section. The applicable drawback office will give written notification to an applicant of its certification as a participant in the drawback compliance program. A Customs broker obtaining certification for a drawback claimant will be sent written notification on behalf of such claimant, with a copy of the notification also being sent to the claimant.

(c) *Benefits of participation in program*. When a party that has been certified as a participant in the drawback compliance program and is generally in compliance with the appropriate procedures and requirements of the program commits a violation of 19 U.S.C. 1593a(a) (see § 191.62(b) of this part), CBP shall, in the absence of fraud or repeated violations, and in lieu of a monetary penalty as otherwise provided under § 1593a, issue a written notice of the violation to the party. Repeated violations by a participant, including a CBP broker, may result in the issuance of penalties and the removal of certification under the program until corrective action, satisfactory to CBP, is taken.

(d) *Denial*. If certification as a participant in the drawback compliance program is denied to an applicant, the applicant shall be given written notice by the applicable drawback office, specifying the grounds for such denial, together with any action that may be taken to correct the perceived deficiencies, and informing the applicant that such denial may be appealed to the appropriate drawback office and then appealed to CBP Headquarters.

(e) *Certification removal*—(1) *Grounds for removal*. The certification for participation in the drawback compliance program by a party may be removed when any of the following conditions are discovered:

(i) The certification privilege was obtained through fraud or mistake of fact;

(ii) The program participant is no longer in compliance with the customs laws and CBP regulations, including the requirements set forth in § 191.192;

(iii) The program participant repeatedly files false drawback claims or false or misleading documentation or other information relating to such claims; or

(iv) The program participant is convicted of any felony or has committed acts which would constitute a misdemeanor or felony involving theft, smuggling, or any theft-connected crime.

(2) *Removal procedure*. If CBP determines that the certification of a program participant should be removed, the applicable drawback office will serve the program participant with written notice of the removal. Such notice will inform the program participant of the grounds for the removal and will advise the program participant of its right to file an appeal of the removal in accordance with paragraph (f) of this section.

(3) *Effect of removal*. The removal of certification will be effective immediately in cases of willfulness on the part of the program participant or when required by public health, interest, or safety. In all other cases, the removal of certification will be effective

when the program participant has received notice under paragraph (e)(2) of this section and either no appeal has been filed within the time limit prescribed in paragraph (f)(2) of this section or all appeal procedures have been concluded by a decision that upholds the removal action. Removal of certification may subject the affected person to penalties.

(f) *Appeal of certification denial or removal*—(1) *Appeal of certification denial.* A party may challenge a denial of an application for certification as a participant in the drawback compliance program by filing a written appeal, within 30 days of issuance of the notice of denial, with the applicable drawback office. A denial of an appeal may itself be appealed to CBP Headquarters, Trade Policy and Programs, Office of International Trade, within 30 days after issuance of the applicable drawback office's appeal decision. CBP Headquarters will review the appeal and will respond with a written decision within 30 days after receipt of the appeal unless circumstances require a delay in issuance of the decision. If the decision cannot be issued within the 30-day period, CBP Headquarters will advise the appellant of the reasons for the delay and of any further actions which will be carried out to complete the appeal review and of the anticipated date for issuance of the appeal decision.

(2) *Appeal of certification removal.* A party who has received a CBP notice of removal of certification for participation in the drawback compliance program may challenge the removal by filing a written appeal, within 30 days after issuance of the notice of removal, with the applicable drawback office. A denial of an appeal may itself be appealed to CBP Headquarters, Trade Policy and Programs, Office of International Trade, within 30 days after issuance of the applicable drawback office's appeal decision. CBP Headquarters will consider the allegations upon which the removal was based and the responses made to those allegations by the appellant and will render a written decision on the appeal within 30 days after receipt of the appeal.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 00–5, 65 FR 3812, Jan. 25, 2000]

§ 191.195 Combined application for certification in drawback compliance program and waiver of prior notice and/or approval of accelerated payment of drawback.

An applicant for certification in the drawback compliance program may also, in the same application, apply for waiver of prior notice of intent to export and accelerated payment of drawback, under subpart I of this part. Alternatively, an applicant may separately apply for certification in the drawback compliance program and either or both waiver of prior notice and accelerated payment of drawback. In the former instance, the intent to apply for certification and waiver of prior notice and/or approval of accelerated payment of drawback must be clearly stated. In all instances, all of the requirements for certification and the procedure applied for must be met (for example, in a combined application for certification in the drawback compliance program and both procedures, all of the information required for certification and each procedure, all required sample documents for certification and each procedure, and all required certifications must be included in and with the application).

APPENDIX A TO PART 191—GENERAL MANUFACTURING DRAWBACK RULINGS

TABLE OF CONTENTS

I. General Instructions
II. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) (T.D. 81–234; T.D. 83–123)
III. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) or 1313(b) for Agents (T.D. 81–181)
IV. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) for Burlap or Other Textile Material (T.D. 83–53)
V. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Component Parts (T.D. 81–300)
VI. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) for Flaxseed (T.D. 83–80)
VII. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) for Fur Skins or Fur Skin Articles (T.D. 83–77)

VIII. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Orange Juice (T.D. 85–110)
IX. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Petroleum or Petroleum Derivatives (T.D. 84–49)
X. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Piece Goods (T.D. 83–73)
XI. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Raw Sugar (T.D. 83–59)
XII. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Steel (T.D. 81–74)
XIII. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Sugar (T.D. 81–92)
XIV. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) for Woven Piece Goods (T.D. 83–84)

I. General Instructions

A. There follow various general manufacturing drawback rulings which have been designed to simplify drawback procedures. Any person who can comply with the conditions of any one of these rulings may notify a Customs drawback office in writing of its intention to operate under the ruling (see §191.7 of this part). Such a letter of notification shall include the following information:

1. Name and address of manufacturer or producer;
2. IRS (Internal Revenue Service) number (with suffix) of manufacturer or producer;
3. Location[s] of factory[ies] which will operate under the general ruling;
4. If a business entity, names of persons who will sign drawback documents (see §191.6 of this part);
5. Identity (by T.D. number and title, as stated in this Appendix) of general manufacturing drawback ruling under which the manufacturer or producer intends to operate;
6. Description of the merchandise and articles, unless specifically described in the general manufacturing drawback ruling;
7. Only for General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Petroleum or Petroleum Derivatives, the name of each article to be exported or, if the identity of the product is not clearly evident by its name, what the product is, and the abstract period to be used for each refinery (monthly or other specified period (not to exceed 1 year)), subject to the conditions in the General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Petroleum or Petroleum Derivatives, I. Procedures and Records Maintained, 4(a) or (b);
8. Basis of claim used for calculating drawback; and
9. Description of the manufacturing or production process, unless specifically described in the general manufacturing drawback ruling.

For the General Manufacturing Drawback Ruling under §1313(a), the General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b) for Component Parts, and the General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) or 1313(b) for Agents, if the drawback office has doubts as to whether there is a manufacture or production, as defined in §191.2(q) of this part, the manufacturer or producer will be asked to provide details of the operation purported to be a manufacture or production.

B. These general manufacturing drawback rulings supersede general ''contracts'' previously published under the following Treasury Decisions (T.D.'s): 81–74, 81–92, 81–181, 81–234, 81–300, 83–53, 83–59, 83–73, 83–77, 83–80, 83–84, 83–123, 84–49, and 85–110.

Anyone currently operating under any of the above-listed Treasury Decisions will automatically be covered by the superseding general ruling, including all privileges of the previous ''contract''.

II. General Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) (T.D. 81–234; T.D. 83–123)

A. Imported Merchandise or Drawback Products[1] Used

Imported merchandise or drawback products are used in the manufacture of the exported articles upon which drawback claims will be based.

B. Exported Articles on which Drawback will be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process Of Manufacture Or Production

The imported merchandise or drawback products will be used to manufacture or produce articles in accordance with §191.2(q) of this part.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations.

E. Multiple Products

1. Relative Values

Drawback law mandates the assignment of relative values when two or more products necessarily are produced concurrently in the same operation. If multiple products are produced records will be maintained of the market value of each product at the time it is first separated in the manufacturing process.

2. Appearing-in method

The appearing in basis may not be used if multiple products are produced.

F. Loss or Gain

Records will be maintained showing the extent of any loss or gain in net weight or measurement of the imported merchandise, caused by atmospheric conditions, chemical reactions, or other factors.

G. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that is of the same kind and quality as the imported merchandise, meeting specifications set forth in the application by the manufacturer or producer for a determination of same kind and quality (see §191.11(c)), shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings (see 19 CFR 191.11).

H. Stock In Process

Stock in process does not result; or if it does result, details will be given in claims as filed, and it will not be included in the computation of the merchandise used to manufacture the finished articles on which drawback is claimed.

I. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, records will be maintained to establish the value, the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records will be maintained to establish that fact.

J. Procedures And Records Maintained

Records will be maintained to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise, and

2. The quantity of imported merchandise[2] used in producing the exported articles.

(To obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance).

K. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(a) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

L. Basis of Claim for Drawback

Drawback will be claimed on the quantity of merchandise used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible merchandise that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles less the amount of that merchandise which the value of the waste would replace.

M. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9)

[2] If claims are to be made on an ''appearing in'' basis, the remainder of the sentence should read ''appearing in the exported articles.''

or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

III. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) OR 1313(b) FOR AGENTS (T.D. 81–181)

Manufacturers or producers operating under this general manufacturing drawback ruling must comply with T.D.s 55027(2), 55207(1), and 19 U.S.C. 1313(b), if applicable, as well as 19 CFR part 191 (see particularly, § 191.9).

A. Name and Address of Principal

B. Process of Manufacture or Production

The imported merchandise or drawback products or other substituted merchandise will be used to manufacture or produce articles in accordance with § 191.2(q) of this part.

C. Procedures and Records Maintained

Records will be maintained to establish:

1. Quantity, kind and quality of merchandise transferred from the principal to the agent;

2. Date of transfer of the merchandise from the principal to the agent;

3. Date of manufacturing or production operations performed by the agent;

4. Total quantity and description of merchandise appearing in or used in manufacturing or production operations performed by the agent;

5. Total quantity and description of articles produced in manufacturing or production operations performed by the agent;

6. Quantity, kind and quality of articles transferred from the agent to the principal; and

7. Date of transfer of the articles from the agent to the principal.

D. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when manufacturing or producing articles for account of the principal under the principal's general manufacturing drawback ruling or specific manufacturing drawback ruling, as appropriate;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates the claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

IV. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) FOR BURLAP OR OTHER TEXTILE MATERIAL (T.D. 83–53)

Drawback may be allowed under 19 U.S.C. 1313(a) upon the exportation of bags or meat wrappers manufactured with the use of imported burlap or other textile material, subject to the following special requirements:

A. Imported Merchandise or Drawback Products[1] Used

Imported merchandise or drawback products (burlap or other textile material) are used in the manufacture of the exported articles upon which drawback claims will be based.

B. Exported Articles on Which Drawback Will Be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.s 55027(2) and 55207(1) (see § 191.9 of this part).

D. Process of Manufacture or Production

The imported merchandise or drawback products will be used to manufacture or produce articles in accordance with § 191.2(q) of this part.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations.

E. Multiple Products

Not applicable.

F. Loss or Gain

Not applicable.

G. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, records will be maintained to establish the value, the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records will be maintained to establish that fact.

H. Procedures and Records Maintained

Records will be maintained to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise; and

2. The quantity of imported merchandise[2] used in producing the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

I. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(a) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures and Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

Each lot of imported material received by a manufacturer or producer shall be given a lot number and kept separate from other lots until used. The records of the manufacturer or producer shall show, as to each manufacturing lot or period of manufacture, the quantity of material used from each import lot and the number of each kind and size of bags or meat wrappers obtained. If applicable, a certificate of manufacture and delivery shall be filed covering each manufacturing lot or period of manufacture.

All bags or meat wrappers manufactured or produced for the account of the same exporter during a specified period may be designated as one manufacturing lot and, as applicable, covered by one certificate of manufacture and delivery. All exported bags or meat wrappers shall be identified by the exporter with the certificate of manufacture and delivery covering their manufacture, if applicable.

J. Basis of Claim for Drawback

Drawback will be claimed on the quantity of merchandise used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible merchandise that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles, less the amount of that merchandise which the value of the waste would replace.

K. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation.

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with 19, United States Code, §1313, part 191 of the CBP Regulations and this general ruling.

V. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR COMPONENT PARTS (T.D. 81–300)

A. SAME KIND AND QUALITY (PARALLEL COLUMNS)

Imported Merchandise or Drawback Products[1] to be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as that Designated which will be Used in the Production of the Exported Products.
Component parts identified by individual part numbers.	Component parts identified with the same individual part numbers as those in the column immediately to the left hereof.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

The designated[2] components will have been manufactured in accordance with the same specifications and from the same materials, and identified by the same part number as the substituted components. Further, the designated and substituted components are used interchangeably in the manufacture of the exported articles upon which drawback will be claimed. Specifications or drawings will be maintained and made available for Customs officers. The imported merchandise designated on drawback claims will be so similar to the merchandise used in producing the exported articles on which drawback is claimed that the merchandise used would, if imported, be subject to the same rate of duty as the imported designated merchandise. Fluctuations in market value resulting from factors other than quality will not affect the drawback.

B. Exported Articles on Which Drawback Will Be Claimed

The exported articles will have been manufactured in the United States using components described in the parallel columns above.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process of Manufacture or Production

The components described in the parallel columns will be used to manufacture or produce articles in accordance with §191.2(q) of this part.

[2] If claims are to be made on an ''appearing in'' basis, the remainder of the sentence should read ''appearing in the exported articles.''

E. Multiple Products

Not applicable.

F. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of components appearing in the exported articles, records will be maintained to establish the value (or the lack of value), the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records will be maintained to establish that fact.

G. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

H. Procedures and Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] used to produce the exported articles;

3. That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used the merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced[3] the exported articles. To obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles produced.''

[3] The date of production is the date an article is completed.

merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

I. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

J. Basis of Claim for Drawback

Drawback will be claimed on the quantity of eligible components used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible components that appear in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible components used to produce the exported articles less the amount of those components which the value of the waste would replace.

K. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;
2. Open its factory and records for examination at all reasonable hours by authorized Government officers;
3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;
4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;
5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and
6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

VI. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) FOR FLAXSEED (T.D. 83–80)

Drawback may be allowed under the provision of 19 U.S.C. 1313(a) upon the exportation of linseed oil, linseed oil cake, and linseed oil meal, manufactured or produced with the use of imported flaxseed, subject to the following special requirements:

A. Imported Merchandise or Drawback Products[1] Used

Imported merchandise or drawback products (flaxseed) are used in the manufacture of the exported articles upon which drawback claims will be based.

B. Exported Articles on Which Drawback Will Be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see § 191.9 of this part).

D. Process of Manufacture or Production

The imported merchandise or drawback products will be used to manufacture or produce articles in accordance with § 191.2(q) of this part.

E. Multiple Products

Drawback law mandates the assignment of relative values when two or more products necessarily are produced concurrently in the same operation. If multiple products are produced records will be maintained of the market value of each product at the time it is first separated in the manufacturing process (when a claim covers a manufacturing period, the entire period covered by the claim is the time of separation of the products and the value per unit of product is the market value for the period (see §§ 191.2(u), 191.22(e)). The ''appearing in'' basis may not be used if multiple products are produced.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations.

F. Loss or Gain

Records will be maintained showing the extent of any loss or gain in net weight or measurement of the imported merchandise, caused by atmospheric conditions, chemical reactions, or other factors.

G. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, records will be maintained to establish the value, the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records will be maintained to establish that fact.

H. Procedures and Records Maintained

Records will be maintained to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise; and

2. The quantity of imported merchandise[2] used in producing the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

I. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(a) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures and Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

The inventory records of the manufacturer or producer shall show the inclusive dates of manufacture; the quantity, identity, and value of the imported flaxseed or screenings, scalpings, chaff, or scourings used; the quantity by actual weight and value, if any, of the material removed from the foregoing by screening prior to crushing; the quantity and kind of domestic merchandise added, if any; the quantity by actual weight or gauge and value of the oil, cake, and meal obtained; and the quantity and value, if any, of the waste incurred. The quantity of imported flaxseed, screenings, scalpings, chaff, or scourings used or of material removed shall not be estimated nor computed on the basis of the quantity of finished products obtained, but shall be determined by actually weighing the said flaxseed, screenings, scalpings, chaff, scourings, or other material; or, at the option of the crusher, the quantities of imported materials used may be determined from Customs weights, as shown by the import entry covering such imported materials, and the Government weight certificate of analysis issued at the time of entry. The entire period covered by an abstract shall be deemed the time of separation of the oil and cake covered thereby.

If the records of the manufacturer or producer do not show the quantity of oil cake used in the manufacture or production of the exported oil meal and the quantity of oil meal obtained, the net weight of the oil meal exported shall be regarded as the weight of the oil cake used in the manufacture thereof.

If various tanks are used for the storage of imported flaxseed, the mill records shall establish the tank or tanks in which each lot or cargo is stored. If raw or processed oil manufactured or produced during different periods of manufacture is intermixed in storage, a record shall be maintained showing the quantity, identity, and kind of oil so intermixed. Identity of merchandise or articles in either instance shall be in accordance with §191.14 of this part.

J. Basis of Claim for Drawback

Drawback will be claimed on the quantity of merchandise used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible merchandise that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles, less the amount of that merchandise which the value of the waste would replace.

K. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current

[2] If claims are to be made on an ''appearing in'' basis, the remainder of the sentence should read ''appearing in the exported articles.''

by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation.

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with 19, United States Code, §1313, part 191 of the CBP Regulations and this general ruling.

VII. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) FOR FUR SKINS OR FUR SKIN ARTICLES (T.D. 83–77)

Drawback may be allowed under 19 U.S.C. 1313(a) upon the exportation of dressed, redressed, dyed, redyed, bleached, blended, or striped fur skins or fur skin articles manufactured or produced by any one or a combination of the foregoing processes with the use of fur skins or fur skin articles, such as plates, mats, sacs, strips, and crosses, imported in a raw, dressed, or dyed condition, subject to the following special requirements:

A. Imported Merchandise or Drawback Products[1] Used

Imported merchandise or drawback products (fur skins or fur skin articles) are used in the manufacture of the exported articles upon which drawback claims will be based.

B. Exported Articles on Which Drawback Will Be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process of Manufacture or Production

The imported merchandise or drawback products will be used to manufacture or produce articles in accordance with §191.2(q) of this part.

Drawback shall not be allowed under this general manufacturing drawback ruling when the process performed results only in the restoration of the merchandise to its condition at the time of importation.

E. Multiple Products

Not applicable.

F. Loss or Gain

Records will be maintained showing the extent of any loss or gain in net weight or measurement of the imported merchandise, caused by atmospheric conditions, chemical reactions, or other factors.

G. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, records will be maintained to establish the value, the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records will be maintained to establish that fact.

H. Procedures and Records Maintained

Records will be maintained to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise; and

2. The quantity of imported merchandise[2] used in producing the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

I. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(a) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures and Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

The records of the manufacturer or producer shall show, as to each lot of fur skins and/or fur skin articles used in the manufacture or production of articles for exportation

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations.

[2] If claims are to be made on an ''appearing in'' basis, the remainder of the sentence should read ''appearing in the exported articles.''

with benefit of drawback, the lot number and date or inclusive dates of manufacture or production, the quantity, identity, and description of the imported merchandise used, the condition in which imported, the process or processes applied thereto, the quantity and description of the finished articles obtained, and the quantity of imported pieces rejected, if any, or spoiled in manufacture or production.

J. Basis of Claim for Drawback

Drawback will be claimed on the quantity of merchandise used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible merchandise that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles, less the amount of that merchandise which the value of the waste would replace. (If rejects and/or spoilage are incurred, the quantity of imported merchandise used shall be determined by deducting from the quantity of fur skins or fur skin articles put into manufacture or production the quantity of such rejects and/or spoilage.)

K. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation.

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with 19, United States Code, §1313, part 191 of the CBP Regulations and this general ruling.

VIII. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR ORANGE JUICE (T.D. 85–110)

A. SAME KIND AND QUALITY (PARALLEL COLUMNS)

Imported Merchandise or Drawback Products[1] To Be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as That Designated Which Will Be Used in the Production of the Exported Products
Concentrated orange juice for manufacturing (of not less than 55° Brix) as defined in the standard of identity of the Food and Drug Administration (21 CFR 146.53) which meets the Grade A standard of the U.S. Dept. of Agriculture (7 CFR 52.1557, Table IV).	Concentrated orange juice for manufacturing as described in the left-hand parallel column.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

The imported merchandise designated on drawback claims will be so similar in quality to the merchandise used in producing the exported articles on which drawback is claimed that the merchandise used would, if imported, be subject to the same rate of duty as the imported designated merchandise. Fluctuations in the market value resulting from factors other than quality will not affect the drawback.

B. Exported Articles on Which Drawback Will Be Claimed

1. Orange juice from concentrate (reconstituted juice).

2. Frozen concentrated orange juice.

3. Bulk concentrated orange juice.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account

of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process of Manufacture or Production

1. Orange juice from concentrate (reconstituted juice). Concentrated orange juice for manufacturing is reduced to a desired 11.8° Brix by a blending process to produce orange juice from concentrate. The following optional blending processes may be used:

i. The concentrate is blended with fresh orange juice (single strength juice); or

ii. The concentrate is blended with essential oils, flavoring components, and water; or

iii. The concentrate is blended with water and is heat treated to reduce the enzymatic activity and the number of viable microorganisms.

2. Frozen concentrated orange juice. Concentrated orange juice for manufacturing is reduced to a desired degree Brix of not less than 41.8° Brix by the following optional blending processes:

i. The concentrate is blended with fresh orange juice (single strength juice); or

ii. The concentrate is blended with essential oils and flavoring components and water.

3. Bulk concentrated orange juice. Concentrated orange juice for manufacturing is blended with essential oils and flavoring components which would enable another processor such as a dairy to prepare finished frozen concentrated orange juice or orange juice from concentrate by merely adding water to the (intermediate) bulk concentrated orange juice.

E. Multiple Products, Waste, Loss or Gain

Not applicable.

F. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

G. Procedures and Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] used to produce the exported articles;

3. That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used the designated merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced[3] the exported articles.

To obtain drawback it must be established that the completed articles were exported within 5 years after the importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. No drawback is payable without proof of compliance.

H. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained'', and will show what components were blended with the concentrated orange juice for manufacturing. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

I. Basis of Claim for Drawback

The basis of claim for drawback will be the quantity of concentrated orange juice for manufacturing used in the production of the exported articles. It is understood that when fresh orange juice is used as ''cutback'', it will not be included in the ''pound solids'' when computing the drawback due.

J. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles produced.''

[3] The date of production is the date an article is completed.

all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

IX. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR PETROLEUM OR PETROLEUM DERIVATIVES (T.D. 84–49)

A. PARALLEL COLUMNS—"SAME KIND AND QUALITY"

Imported Merchandise or Drawback Products[1] To Be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as That Designated Which Will Be Used in the Production of the Exported Products.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have "dual status" under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

The manufacturer or producer will substitute crude petroleum for crude petroleum and a petroleum derivative for the same petroleum derivative on a class-for-class basis only.

Class Designations:

Class I—API Gravity 0—11.9
Class II—API Gravity 12.0—24.9
Class III—API Gravity 25.0—44.9
Class IV—API Gravity 45—up

The imported merchandise which the manufacturer or producer will designate on its claims will be so similar in quality to the merchandise used in producing the exported articles on which drawback is claimed that the merchandise used would, if imported, be subject to the same rate of duty as the imported designated merchandise.

B. Exported Articles Produced From Fractionation

1. Motor Gasoline
2. Aviation Gasoline
3. Special Naphthas
4. Jet Fuel
5. Kerosene & Range Oils
6. Distillate Oils
7. Residual Oils
8. Lubricating Oils
9. Paraffin Wax
10. Petroleum Coke
11. Asphalt
12. Road Oil
13. Still Gas
14. Liquified Petroleum Gas
15. Petrochemical Synthetic Rubber
16. Petrochemical Plastics & Resins
17. All Other Petrochemical Products

C. Exported Articles on Which Drawback Will Be Claimed

See the General Instructions, I.A.7., for this general drawback ruling. Each article to be exported must be named. When the identity of the product is not clearly evident by its name, there must be a statement as to what the product is, e.g., a herbicide.

D. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.s 55027(2) and 55207(1) (see §191.9 of this part).

E. Process of Manufacture or Production

Heated crude oil is charged to an atmospheric distillation tower where it is subjected to fractionation. The charge to the distillation tower consists of a single crude oil, or of commingled crudes which are fed to the tower simultaneously or after blending in a tank. During fractionation, components of different boiling ranges are separated.

F. Multiple Products

1. Relative Values

Fractionation results in 17 products. In order to insure proper distribution of drawback to each of these products, the manufacturer or producer agrees to record the relative values as the time of separation. The entire period covered by an abstract is to be treated at the time of separation. The value per unit of each product shall be the average market value for the abstract period.

2. Producibility

The manufacturer or producer can vary the proportionate quantity of each product. The manufacturer or producer understands that drawback is payable on exported products only to the extent that these products could have been produced from the designated merchandise. The records of the manufacturer or producer will show that all of the products exported for which drawback will be claimed under this general manufacturing drawback

ruling could have been produced concurrently on a practical operating basis from the designated merchandise.

The manufacturer or producer agrees to establish the amount to be designated by reference to the Industry Standards of Potential Production published in T.D. 66–16.[2]

There are no valuable wastes as a result of the processing.

G. Loss or Gain

Because the manufacturer or producer keeps records on a volume basis rather than a weight basis, it is anticipated that the material balance will show a volume gain. For the same reason, it is possible that occasionally the material balance will show a volume loss. Fluctuations in type of crude used, together with the type of finished product desired make an estimate of an average volume gain meaningless. However, records will be kept to show the amount of loss or gain with respect to the production of export products.

H. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

I. Procedures and Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the merchandise designated;

2. The quantity of merchandise of the same kind and quality as the designated merchandise used to produce the exported articles.

3. That, within 3 years after receiving it at its refinery, the manufacturer or producer used the designated merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced the exported articles.

4(a). The manufacturer or producer agrees to use a 28–31 day period (monthly) abstract period for each refinery covered by this general manufacturing drawback ruling, or

(b). The manufacturer or producer agrees to use an abstract period (not to exceed 1 year) for each refinery covered by this general manufacturing drawback ruling. The manufacturer or producer certifies that if it were to file abstracts covering each manufacturing period of not less than 28 days and not more than 31 days (monthly) within the longer period, in no such monthly abstract would the quantity of designated merchandise exceed, for the same class of designated merchandise, the material introduced into the manufacturing process during that monthly period. (Select (a) or (b), and state which is selected in the application, and, if (b) is selected, specify the length of the particular abstract period chosen (not to exceed 1 year (see General Instruction I.A.7.)).)

5. On each abstract of production the manufacturer or producer agrees to show the value per barrel to five decimal places.

6. The manufacturer or producer agrees to file claims in the format set forth in exhibits A through F which are attached to this general manufacturing drawback ruling. The manufacturer or producer realizes that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. It is understood that drawback is not payable without proof of compliance. Records will be kept in accordance with T.D. 84–49, as amended by T.D. 95–61.

J. Residual Rights

It is understood that the refiner can reserve as the basis for future payment the right to drawback only on the number of barrels of raw material computed by subtracting from Line E the larger of Lines A or B, of a given Exhibit E. It is further understood that this right to future payment can be claimed only against products concurrently producible with the products listed in Column 21, in the quantities shown in Column 22 of such Exhibit E. Such residual right can be transferred to another refinery of the same refiner only when Line B of Exhibit E is larger than Line A. Unless the number of residual barrels is specifically computed and rights thereto are expressly reserved on Exhibit E, such residual rights shall be deemed waived. The procedure the manufacturer or producer shall follow in preparing drawback entries claiming this residual right is illustrated in the attached sample Exhibit E–1. It is understood that claims involving residual rights shall be filed only at the port where the Exhibit E reserving such right was filed.

K. Inventory Procedures

The manufacturer or producer realizes that inventory control is of major importance. In accordance with the normal accounting procedures of the manufacturer or producer, each refinery prepares a monthly stock and yield report, which accounts for inventories,

[2] A manufacturer who proposes to use standards other than those in T.D. 66–16 must state the proposed standards and provide sufficient information to the Customs Service in order for those proposed standards to be verified in accordance with T.D. 84–49.

production and disposals from time of receipt to time of disposition. This provides an audit trail of all products.

The above-noted records will provide the required audit trail from the initial source documents to the drawback claims of the manufacturer or producer and will support adherence with the requirements discussed under the heading PROCEDURES AND RECORDS MAINTAINED.

L. Basis of Claim for Drawback

The amount of raw material on which drawback may be based shall be computed by multiplying the quantity of each product exported by the drawback factor for that product. The amount of any one type and class of raw material which may be designated as the basis for drawback on the exported products produced at a given refinery and covered by a drawback entry shall not exceed the quantity of such raw material used at the refinery during the abstract period or periods from which the exported products were produced. The quantity of raw material to be designated as the basis for drawback on exported products must be at least as great as the quantity of raw material of the same type and class which would be required to produce the exported products in the quantities exported.

M. Agreements

The manufacturer or producer specifically agrees that it will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its refinery and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this application;

4. Keep this application current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

EXHIBIT A

ABSTRACT OF MANUFACTURING RECORDS
ABC OIL CO. INC. - BEAUMONT, TEXAS REFINERY
PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

Material Used (in Bbls. at 60°)

	TOTALS	CRUDES				DERIVATIVES	
		CLASS I	CLASS II	CLASS III	CLASS IV	CRUDE TOPS CLASS IV	UNFINISHED NAPHTHA CLASS IV
1) Opening Inventory	4,007,438						
2) Material Introduced*	7,450,732	- 0 -	619,473	6,367,991	-0-	101,224	362,044
3) Closing Inventory	3,671,005						
4) Total Consumption	7,787,165						

Line (1) - Stock in process at beginning of manufacturing period.

Line (2) - Raw material introduced into manufacturing process during the period. The amount, by type and class, shown hereon, shall be the maximum that may be designated under T.D. 84-49.

Line (3) - Stock in process at end of period.

Line (4) - Total Consumed, namely, line 1 plus line 2 less line 3.

* All raw materials of a type and class not to be designated may be shown as a total.

EXHIBIT B

ABSTRACT OF PRODUCTION
ABC OIL CO., INC. - BEAUMONT, TEXAS REFINERY
PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

(5) Product	(6) Quantity in Bbls.	(7) Value per Bbl.	(8) Value of Product	(9) Drawback Factor per Bbl.
1. Motor Gasoline	2,699,934	$ 6.14333	$16,586,586	1.06678
2. Aviation Gasoline	108,269	5.83363	631,601	1.01300
3. Special Naphthas	372,676	8.06356	3,005,095	1.40023
4. Jet Fuel	249,386	3.95698	986,815	.68712
5. Kerosine and Range Oil	321,263	4.69857	1,509,477	.81590
6. Distillate Oils	2,567,975	4.45713	11,445,798	.77398
7. Residual Oils	308,002	2.51322	774,077	.43642
8. Lubricating Oils	292,492	26.72296	7,816,252	4.64041
9. Paraffin Wax	19,063	10.49642	200,093	1.82269
10. Petroleum Coke	122,353	1.24291	152,074	.21583
11. Asphalt	75,231	3.59105	270,158	.62358
12. Road Oil	- 0 -	- 0 -	- 0 -	- 0 -
13. Still Gas	245,784	1.00530	247,087	.17457
14. Liquified Refinery Gas	524,423	2.23013	1,169,531	.38726
15. Petrochemical Synthetic Rubber	- 0 -	- 0 -	- 0 -	- 0 -
16. Petrochemical Plastics & Resins	- 0 -	- 0 -	- 0 -	- 0 -
17. All Other Petrochemical Products	7,996	6.21343	49,683	1.07895
Loss (or Gain)	(127,682)			
TOTAL	7,787,165		$ 44,844,327	

Col. (6) Products are shown in the net quantities realized in the refining process and do not include non-petroleum additives.

Col. (7) Weighted average realization for the period covered.

Col. (8) Column 6 multiplied by column 7.

Col. (9) Quantity of raw materials allowable per barrel of product. (Formula for obtaining drawback factors: $44,844,327 ÷ 7,787,165 bbls. = $5.75875 divided into product values per barrel equals drawback factor.)

EXHIBIT C—INVENTORY CONTROL SHEET: ABC OIL CO., INC.; BEAUMONT, TEXAS REFINERY, PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

[All quantities exclude non-petroleum additives]

	Aviation gasoline		Residual oils		Lubricating oils		Petrochemicals, all other	
	Bbls.	Drawback factor	Bbls.	Drawback factor	Bbls.	Drawback factor	Bbls.	Drawback factor
(10) Opening Inventory	11,218	1.00126	21,221	.45962	9,242	4.52178	891	1.00244
(11) Production	108,269	1.01300	308,002	.43642	292,492	4.64041	7,996	1.07895
(11–A) Receipts.								
(12) Exports	11,218	1.00126	21,221	.45962	8,774	4.52178	195	1.00244
	176	1.01300	104,397	.43642				
(13) Drawback Deliveries							696	1.00244
							319	1.07895
(14) Domestic Shipments	97,863	1.01300	180,957	.43642	468	4.52178	6,867	1.07895
					278,286	4.64041		
(15) Closing Inventory	10,230	1.01300	22,648	.43642	14,206	4.64041	810	1.07895

Line (10)—Opening inventory from previous period's closing inventory.
Line (11)—From production period under consideration.
Line (11–A)—Product received from other sources.
Line (12)—From earliest on hand (inventory or production). Totals from drawback entry or entries recapitulated (see column 18).
Line (13)—Deliveries for export or for designation against further manufacture—earliest on hand after exports are deducted.
Line (14)—From earliest on hand after lines (12) and (13) are deducted.
Line (15)—Balance on hand.

EXHIBIT D

RECAPITULATION OF DRAWBACK ENTRY
ABC OIL CO., INC. - BEAUMONT, TEXAS REFINERY
PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

(16) Product	(17) Quantity in Bbls. Exported	(18) Quantity in Bbls. in the Terms of the Abstract	(19) Drawback Factor per Bbl.	(20) Crude Allowed for Drawback in Bbls.	(20a) Crude to be Allowed for Drawback Deliveries in Bbls.
Aviation Gasoline	11,410	11,218 176	1.00126 1.01300	11,232 178	
Residual Oils	125,618	21,221 104,397	.45962 .43642	9,754 45,561	
Lubricating Oils	8,875	8,774	4.52178	39,674	
Petrochemicals - Other	 195	696 319 195	1.00244 1.07895 1.00244	 195	698 344
TOTAL	146,098	146,996		106,594	1,042

Duty paid on raw material selected for designation - $.1050 per bbl. (class III crude)
Amount of drawback claimed - gross - 106,594 x .1050 = $11,192
Less 1% - 112
Amount of drawback claimed - net $11,080

Col. (16) Lists only products exported.
Col. (17) Quantities in condition as shown on the notices of exportation and notices of lading.
Col. (18) Quantities in condition as shown on the abstract (i.e., less additives if any). These quantities will appear in line 12.
Col. (19) The drawback factor(s) shown on line 12.
Col. (20) Raw materials (crude or derivatives) allowable, determined by multiplying column 18 by column 19.
Col. (20a) Raw materials (crude or derivatives) allowable, for drawback deliveries determined by multiplying column 18 by column 19.

EXHIBIT E

PRODUCIBILITY TEST FOR PRODUCTS EXPORTED (INCLUDING DRAWBACK DELIVERIES)
ABC OIL CO., INC. - BEAUMONT, TEXAS REFINERY
PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

Type and Class of Raw Material Designated -- Crude, Class III

(21) Product	(22) Quantity In Barrels	(23) Industry Standard	(24) Quantity of Raw Material Of Type and Class Designated Needed To Produce Product
Aviation Gasoline	11,394	40%	28,485
Residual Oils	125,618	83%	151,347
Lubricating Oils	8,774	50%	17,548
Petrochemicals, other	(195)		
Petrochemicals, other (drawback deliveries)	(1,015)		
Petrochemicals, other (Total)	1,210	29%	4,172
Total	146,996		

A - Crude allowed (column 20: 106,594 plus column 20a: 1,042 — 107,636 bbls.
B - Total quantity exported (including drawback deliveries)(column 22): — 146,996 "
C - Largest quantity of raw material needed to produce an individual exported product (see column 24): — 151,347 "
D - The excess of raw material over the largest of lines A, B, or C, required to produce concurrently on a practical operating basis, using the most efficient processing equipment existing within the domestic industry, the exported articles (including drawback deliveries) in the quantities exported (or delivered). — **NONE**
E - Minimum quantity of raw material required to be designated (which is A, B, or C, whichever is largest, plus D, if applicable): — 151,347 "

I hereby certify that all the above drawback deliveries and products exported by the Beaumont Refinery of ABC Oil Co., Inc. during the period from January 1, 1995 to January 31, 1995 could have been produced concurrently on a practical operating basis from 151,347 barrels of imported Class III crude against which drawback is claimed.

Signature

EXHIBIT E - 1

PRODUCIBILITY TEST FOR PRODUCTS ON WHICH RESIDUAL RIGHT TO DRAWBACK IS NOW CLAIMED AND PRODUCTS COVERED BY ABSTRACTS ON WHICH RAW MATERIALS COVERED WERE PREVIOUSLY DESIGNATED

ABC OIL CO., INC. - TULSA, OKLAHOMA REFINERY

PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

Type and Class of Raw Material Designated - Crude, Class III

(21) Product	(22) Quantity in Barrels	(23) Industry Standard	(24) Quantity of Raw Material Of Type & Class Designated Needed to Produce Product: Separate	Combined	Covered by: 1. Period 2. Refinery	(19) Drawback Factor per Barrel	(20) Crude allowed for drawback
Aviation Gasoline	11,394	40%	28,485	29,125		1.00126	11,232
						1.01300	178
Residual Oils	125,618	83%	151,347	151,347	1. Jan. 1995	.45962	9,754
						.43642	45,561
Lubricating Oils	8,774	50%	17,548	17,932	2. Beaumont	4.52178	39,674
Petrochemicals, Other	(195)					1.00244	195
Petrochemicals, Other (Drawback Deliveries)	(1,015)						
Petrochemicals, other (Total)	1,210	29%	4,172	4,503			
[Residual Rights]							
Aviation Gasoline	256	40%	640	29,125		1.01265	259
Lubricating Oils	192	50%	384	17,932	1. Jan. 1995	4.59006	881
Petrochemicals, Other	96	29%	331	4,503	2. Tulsa	1.12412108	108
Distillate Oils	3807	89%	4,278	4,278		.76624	2,917
	151,347					Subtotal	4,165
						Total	110,759

A - Crude allowed (column 20: 110,759; plus crude allowed for drawback deliveries: 1,042) 111,801 bbls.

B - Total quantity exported (including drawback deliveries)(column 22): 151,347 "

C - Largest quantity of raw material needed to produce an individual exported product (see col. 24): 151,347

D - The excess of raw material over the largest of line A, B, or C, required to produce concurrently on a practical operating basis, using the most efficient processing equipment existing within $432.96 the domestic industry, the exported articles (including drawback deliveries) in the quantities exported (or delivered): NONE

E - Minimum quantity of raw material required to be designated (which is A, B, or C, whichever is largest, plus D, if applicable): See subtotal, col.20, for Residual Rights above 151,347

Drawback Computation

4,165*bbls. @10½ = $437.33

Less 1% 4.37

Amount of Drawback Claim - Net

CERTIFICATE

I hereby certify that all the above drawback deliveries and products exported by the Tulsa, Oklahoma refinery of ABC Oil Co., Inc., during the period from January 1, 1995 to January 31, 1995, could have been produced concurrently on a practical operating basis together with all drawback deliveries and products exported covered by Exhibit E of the abstract for the period January 1, 1995 to January 31, 1995, filed by the Beaumont, Texas refinery of the company from 151,347 barrels of imported Class III crude against which drawback is claimed.

Signature

EXHIBIT E (COMBINATION)—PRODUCIBILITY TEST FOR PRODUCTS EXPORTED (INCLUDING DRAWBACK DELIVERIES) ABC OIL CO., INC.; BEAUMONT, TEXAS REFINERY, PERIOD FROM JANUARY 1, 1995 TO JANUARY 31, 1995

[Type and Class of Raw Material Designated—Crude, Class III]

(21) Product	(22) Quantity in barrels	(23) Industry standard (%)	(24) Quantity of raw material of type and class designated needed to produce product per barrel	(19) Drawback factor	(20) Crude allowed for drawback
Aviation Gasoline [1]	[1] 11,218	40	28,045	1.00126	11,232
	[1] 176	40	440	1.01300	178
Residual Oils [1]	[1] 21,221	83	25,567	.45962	9,754
	[1] 104,397	83	125,780	.43642	45,561
Lubricating Oils [1]	[1] 8,774	50	17,548	4.52178	39,674
Petrochemicals, Other [1]	[1] 195	29	672	1.00244	195
Petrochemicals, Other [2]	[2] 696	29	2,400	1.00244	698
Petrochemicals, Other [2]	[2] *319*	29	1,100	1.07895	344
Total	146,996				107,636

[1] Exports.

[2] Drawback deliveries.

A—Crude allowed (column 20: 107,636 bbls. (106,594 for export, plus 1,042 for drawback deliveries)).

B—Total quantity exported (including drawback deliveries) (column 22): 146,996.

C—Largest quantity of raw material needed to produce an individual exported product (see column 24): 151,347.

D—The excess of raw material over the largest of lines A, B, or C, required to produce concurrently on a practical operating basis, using the most efficient processing equipment existing within the domestic industry, the exported articles (including drawback deliveries) in the quantities exported (or delivered): None.

E—Minimum quantity of raw material required to be designated (which is A, B, or C, whichever is largest, plus D, if applicable): 151,347 bbs.

I hereby certify that all the above drawback deliveries and products exported by the Beaumont refinery of ABC Oil Co., Inc. during the period from January 1, 1995 to January 31, 1995, could have been produced concurrently on a practical operating basis from 151,347 barrels of imported Class III crude against which drawback is claimed.

The attached sample, **EXHIBIT E (COMBINATION)**, illustrates the procedures to be followed when two classes or types of raw material are designated on a given abstract. For purposes of illustration it is assumed that the refiner has only 100,000 barrels of Class III crude to designate, but adequate supplies of Class II to designate.

In addition, please note that the computation of drawback on **EXHIBIT D** will be as follows:

Duty paid on raw material selected for designation:

$.1050	per barrel	(Class III crude)
$.0525	per barrel	(Class II crude)

Amount of drawback claimed-	gross: 81,638 x .1050=	$8,571.99
	24,956 x .0525=	$1,310.19
		$9,882.18
	(Rounded Off)	9,882
	Less 1%	-99
Amount of drawback claimed-	net:	$9,783

EXHIBIT F—DESIGNATIONS FOR DRAWBACK CLAIM, ABC OIL CO., INC.; BEAUMONT, TEXAS REFINERY

[Period From January 1, 1995 to January 31, 1995]

Certificate of delivery No.	Entry No.	Date of importation	Kind of materials	Quantity of materials in barrels	Date received	Date consumed	Rate of duty
	26192	04/13/93	Class III Crude	75,125	04/13/93	May 1993	$.1050
	23990	08/04/94	.....do	37,240	08/04/94	Oct. 1994	.1050
3155	22517	10/05/94	.....do	38,982	10/05/94	Nov. 1994	.1050

X. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR PIECE GOODS (T.D. 83–73)

A. SAME KIND AND QUALITY (PARALLEL COLUMNS)

Imported Merchandise or Drawback Products[1] to be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as that Designated which will be Used in the Production of the Exported Products.
Piece goods	Piece goods.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under 19 U.S.C. 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

The piece goods used in manufacture will be the same kind and quality as the piece goods designated as the basis of claim for drawback, and are used interchangeably without change in manufacturing processes or resultant products (including, if applicable, multiple products), or wastes. Some tolerances between imported-designated piece goods and the used-exported piece goods will be permitted to accommodate variations which are normally found in piece goods. These tolerances are no greater than the tolerances generally allowed in the industry for piece goods of the same kind and quality as follows:

1. A 4% weight tolerance so that the piece goods used in manufacture will be not more than 4% lighter or heavier than the imported piece goods which will be designated;

2. A tolerance of 4% in the aggregate thread count per square inch so that the piece goods used in manufacture will have an aggregate thread count within 4%, more or less of the aggregate thread count of the imported piece goods which will be designated. In each case, the average yarn number of the domestic piece goods will be the same or greater than the average yarn number of the imported piece goods designated, and in each case, the substitution and tolerance will be employed only within the same family of fabrics, *i.e.*, print cloth for print cloth, gingham for gingham, greige for greige, dyed for dyed, bleached for bleached, etc. The piece goods used in manufacture of the exported articles will be designated as containing the identical percentage of identical fibers as the piece goods designated as the basis for allowance of drawback; for example, piece goods containing 65% cotton and 35% dacron will be designated against the use of piece goods shown to contain 65% cotton and 35% dacron. The actual fiber composition may vary slightly from that described on the invoice or other acceptance of the fabric as having the composition described on documents in accordance with trade practices. The substituted piece goods used in the manufacture of articles for exportation with drawback will be so similar in quality to the imported piece goods designated for the basis of allowance of drawback, that the piece goods used, if imported, would have been subject to the same or greater amount of duty as was paid on the imported designated piece goods. Differences in value resulting from factors other than quality, as for example, price fluctuations, will not preclude an allowance of drawback.

B. Exported Articles on Which Drawback Will Be Claimed

Finished piece goods.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s. 55027(2) and 55207(1) (see § 191.9 of this part).

D. Process of Manufacture or Production

Piece goods are subject to any one of the following finishing productions:

1. Bleaching,
2. Mercerizing,
3. Dyeing,
4. Printing,

5. A combination of the above, or
6. Any additional finishing processes.

E. Multiple Products

Not applicable.

F. Waste

Rag waste may be incurred. No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, the records of the manufacturer or producer will show the quantity of rag waste, if any, and its value. If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such waste records will also be kept. In instances where rag waste occurs and it is impractical to account for the actual quantity of rag waste incurred, it may be assumed that such rag waste constituted 2% of the piece goods put into the finishing processes.

G. Shrinkage, Gain, and Spoilage

Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, the records of the manufacturer or producer will show the yardage lost by shrinkage or gained by stretching during manufacture or production, and the quantity of remnants resulting and of spoilage incurred, if any. If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such records for shrinkage, gain and spoilage will also be kept.

H. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

I. Procedures and Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;
2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] used to produce the exported articles;
3. That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used the merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced[3] the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

J. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

K. Basis of Claim for Drawback

Drawback will be claimed on the quantity of eligible piece goods used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible piece goods that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste from each lot of piece goods, drawback may be claimed on the quantity of eligible piece goods used to produce the exported articles less the amount of piece goods which the value of the waste would replace.

L. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;
2. Open its factory and records for examination at all reasonable hours by authorized Government officers;
3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;
4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9)

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles produced.''

[3] The date of production is the date an article is completed.

or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

XI. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR RAW SUGAR (T.D. 83–59)

Drawback may be allowed under 19 U.S.C. 1313(b) upon the exportation of hard or soft refined sugars and sirups manufactured from raw sugar, subject to the following special requirements:

A. The drawback allowance shall not exceed 99 percent of the duty paid on a quantity of raw sugar designated by the refiner which contains a quantity of sucrose not in excess of the quantity required to manufacture the exported sugar or sirup, ascertained as provided in this general rule.

B. The refined sugars and sirups shall have been manufactured with the use of duty-paid, duty-free, or domestic sugar, or combinations thereof, within 3 years after the date on which designated sugar was received by the refiner, and shall have been exported within 5 years from the date of importation of the designated sugar.

C. All granulated sugar testing by the polariscope 99.5° and over shall be deemed hard refined sugar. All refined sugar testing by the polariscope less than 99.5° shall be deemed soft refined sugar. All ''blackstrap,'' ''unfiltered sirup,'' and ''final molasses'' shall be deemed sirup.

D. The imported duty-paid sugar selected by the refiner as the basis for the drawback claim (designated sugar) shall be of the same kind and quality as that used in the manufacture of the exported refined sugar or sirup and shall have been used within 3 years after the date on which it was received by the refiner. Duty-paid sugar which has been used at a plant of a refiner within 3 years after the date on which it was received by such refiner may be designated as the basis for the allowance of drawback on refined sugars or sirups manufactured at another plant of the same refiner.

E. For the purpose of distributing the drawback, relative values shall be established between hard refined (granulated) sugar, soft refined (various grades) sugar, and sirups at the time of separation. The entire period covered by an abstract shall be deemed the time of separation of the sugars and sirups covered by such abstract.

F. The sucrose allowance per pound on hard refined (granulated) sugar established by an abstract, as provided for in this general ruling, shall be applied to hard refined sugar commercially known as loaf, cut loaf, cube, pressed, crushed, or powdered sugar manufactured from the granulated sugar covered by the abstract.

G. The sucrose allowance per gallon on sirup established by an abstract, as provided for in this general ruling, shall be applied to sirup further advanced in value by filtration or otherwise, unless such sirup is the subject of a special manufacturing drawback ruling.

H. As to each lot of imported or domestic sugar used in the manufacture of refined sugar or sirup on which drawback is to be claimed, the raw stock records shall show the refiner's raw lot number, the number and character of the packages, the settlement weight in pounds, and the settlement polarization. Such records covering imported sugar shall show, in addition to the foregoing, the import entry number, date of importation, name of importing carrier, country of origin, the Government weight, and the Government polarization.

I. The melt records shall show the date of melting, the number of pounds of each lot of raw sugar melted, and the full analysis at melting.

J. There shall be kept a daily record of final products boiled showing the date of the melt, the date of boiling, the magma filling serial number, the number of the vacuum pan or crystallizer filling, the date worked off, and the sirup filling serial number.

K. The sirup manufacture records shall show the date of boiling, the period of the melt, the sirup filling serial number, the number of barrels in the filling, the magma filling serial number, the quantity of sirup, its disposition in tanks or barrels and the refinery serial manufacture number.

L. The refined sugar stock records shall show the refinery serial manufacture number, the period of the melt, the date of manufacture, the grade of sugar produced, its polarization, the number and kind of packages, and the net weight. When soft sugars are manufactured, the commercial grade number and quantity of each shall be shown.

M. Each lot of hard or soft refined sugar and each lot of sirup manufactured, regardless of the character of the containers or vessels in which it is packed or stored, shall be marked immediately with the date of manufacture and the refinery manufacture number applied to it in the refinery records provided for and shown in the abstract, as provided for in this general ruling, from such records. If all the sugar or sirup contained in any lot manufactured is not intended for exportation, only such of the packages as are intended for exportation need be marked as prescribed above, provided there is filed with the drawback office immediately after such marking a statement showing the date of manufacture, the refinery manufacture number, the number of packages marked, and the

quantity of sugar or sirup contained therein. No drawback shall be allowed in such case on any sugar or sirup in excess of the quantity shown on the statement as having been marked. If any packages of sugar or sirup so marked are repacked into other containers, the new containers shall be marked with the marks which appeared on the original containers and a revised statement covering such repacking and remarking shall be filed with the drawback office. If sirups from more than one lot are stored in the same tank, the refinery records shall show the refinery manufacture number and the quantity of sirup from each lot contained in such tank.

N. An abstract from the foregoing records covering manufacturing periods of not less than 1 month nor more than 3 months, unless a different period shall have been authorized, shall be filed when drawback is to be claimed on any part of the refined sugar or sirup manufactured during such period. Such abstract shall be filed by each refiner with the drawback office where drawback claims are filed on the basis of this general ruling. Such abstract shall consist of: (1) A raw stock record (accounting for Refiner's raw lot No., Import entry No., Packages No. and kind, Pounds, Polarization, By whom imported or withdrawn, Date of importation, Date of receipt by refiner, Date of melt, Importing carrier, Country of origin); (2) A melt record [number of pounds in each lot melted] (accounting for Lot No. Pounds, and Polarization degrees and pounds sucrose); (3) Sirup stock records (accounting for Date of boiling, Refinery serial manufacture No., Quantity of sirup in gallons, and Pounds sucrose contained therein); (4) Refined sugar stock record (accounting for Refinery serial production No., Date of manufacture, Hard or soft refined, Polarization and No., Net weight in pounds); (5) Recapitulation (consisting of (in pounds): (a) sucrose in process at beginning of period, (b) sucrose melted during period, (c) sucrose in process at end of period, (d) sucrose used in manufacture, and (e) sucrose contained in manufacture, in which item (a) plus item (b), minus item (c), should equal item (d)); and (6) A statement as follows:

I, _____, the _____ refiner at the _____ refinery of _____, located at _____, do solemnly and truly declare that each of the statements contained in the foregoing abstract is true to the best of my knowledge and belief and can be verified by the refinery records, which have been kept in accordance with Treasury Decision 83–59 and Appendix A of 19 CFR Part 191 and which are at all times open to the inspection of Customs.

. Date _____

. Signature _____

O. The refiner shall file with each abstract a statement, showing the average market values of the products specified in the abstract and including a statement as follows:

I, _____, (Official capacity) of the _____ (Refinery), do solemnly and truly declare that the values shown above are true to the best of my knowledge and belief, and can be verified by our records.

Date _____

Signature _____

P. At the end of each calendar month the refiner shall furnish to the drawback office a statement showing the actual sales of sirup and the average market values of refined sugars for the calendar month.

Q. The sucrose allowance to be applied to the various products based on the abstract and statement provided for in this general ruling shall be in accordance with the example set forth in Treasury Decision 83–59.

R. Certificates of manufacture and delivery under this general ruling shall be in the following form:

Certificate of manufacture and delivery—Sugar and Sirup No. _____

Certificate of manufacture and delivery of _____ manufactured by _____ under abstract No. _____ filed at the port of _____.

Description	Quantity	Polarization

DESIGNATION OF IMPORTED SUGAR

Import entry No.	By whom imported or withdrawn from warehouse	Name of importing carrier	When imported	Where imported	Quantity of raw sugar (pounds)	Polarization	Sucrose (pounds)

I, _____, the _____ of _____, located at _____, declare that the sugar (or sirup) described in the within certificate of manufacture and delivery was manufactured by said company at its refinery at _____ and is part of the sugar (or sirup) covered by abstract No. _____, filed at the port of _____ and was delivered to _____ on or about _____, _____, and that no other certificate of manufacture and delivery has been issued covering the above merchandise; that, subject to 19 U.S.C. 1508 and 1313(t), the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by Customs.

I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on _____ and was used in the manufacture of sugar and sirup on _____.

. Date _____

. Signature _____

S. Drawback entries under this general ruling shall be on Customs Form 7551 and, in addition to the information required thereon, shall state the polarization in degrees and the sucrose in pounds for the designated imported sugar. Drawback claims under this general ruling shall include a statement as follows:

I, _____, the _____ of _____, located at _____ declare that the sugar (or sirup) described in this entry, was manufactured by said company at its refinery at _____ [or, if the claim is based on a certificate of manufacture and delivery, was manufactured by _____ at its refinery at _____ for which the accompanying certificate of manufacture and delivery was received by this company] and is part of the sugar (or sirup) covered by abstract No. _____, filed at the port of _____; that, subject to 19 U.S.C. 1508 and 1313(t), the refinery and other records of the company verifying the statements contained in said abstract are now and at all times hereafter will be open to inspection by Customs. I further declare that the above-designated imported sugar (upon which the duties have been paid) was received by said company on _____ and was used in the manufacture of sugar and sirup during the period covered by abstract No. _____, Customs No. _____, on file with the port director at _____.

I further declare that the sugar or sirup specified therein was exported as stated in the entry.

. Date _____

. Signature _____

T. General Statement. The refiner manufactures or produces for its own account. The refiner may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the refiner's account under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see §191.9 of this part).

U. Waste. No drawback is payable on any waste which results from the manufacturing operation. Unless drawback claims are based on the ''appearing in'' method, records will be maintained to establish the value (or the lack of value), the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records to establish that fact will be maintained.

V. Loss or Gain. The refiner will maintain records showing the extent of any loss or gain in net weight or measurement of the sugar caused by atmospheric conditions, chemical reactions, or other factors.

W. Tradeoff. The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality requirements provided for in this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

X. Procedures And Records Maintained. Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[1] used to produce the exported articles; and

3. That, within 3 years after receiving the designated merchandise at its factory, the refiner used the designated merchandise to produce articles. During the same 3-year period, the refiner produced[2] the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

Y. General requirements. The refiner will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

[1] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles produced.''

[2] The date of production is the date an article is completed.

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

XII. General Manufacturing Drawback Ruling under 19 U.S.C. 1313(b) for Steel (T.D. 81–74)

A. Same Kind and Quality (Parallel Columns)

Imported Merchandise or Drawback Products[1] to be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as that Designated which will be Used in the Production of the Exported Products.
Steel of one general class, e.g., an ingot, falling within one SAE, AISI, or ASTM[2] specification and, if the specification contains one or more grades, falling within one grade of the specification.	Steel of the same general class, specification, and grade as the steel in the column immediately to the left hereof.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

[2] Standards set by the Society of Automotive Engineers (SAE), the American Iron and Steel Institute (AISI), or the American Society for Testing and Materials (ASTM).

1. The duty-paid, duty-free, or domestic steel used instead of the imported, duty-paid steel (or drawback products) will be interchangeable for manufacturing purposes with the duty-paid steel. To be interchangeable a steel must be able to be used in place of the substituted steel without any additional processing step in the manufacture of the article on which drawback is to be claimed.

2. Because the duty-paid steel (or drawback products) that is to be designated as the basis for drawback is dutiable according to its value, the amount of duty can vary with its size (gauge, width, or length) or composition (e.g., chrome content). If such variances occur, designation will be by ''price extra'', and in no case will drawback be claimed in a greater amount than that which would have accrued to that steel used in manufacture of or appearing in the exported articles. Price extra is not available for coated or plated steel, covered in paragraph 5, *infra,* insofar as the coating or plating is concerned.

3. The duty-paid steel (or drawback products) will be so similar in quality to the steel used to manufacture the articles on which drawback will be claimed that the steel so used, if imported, would be classifiable in the same tariff subheading number and at the same rate of duty as the duty-paid imported steel.

4. Any fluctuation in market value caused by a factor other than quality does not affect drawback.

5. If the steel is coated or plated with a base metal, in addition to meeting the requirements for uncoated or unplated steel set forth in the parallel columns, the base-metal coating or plating on the duty-paid, duty-free, or domestic steel used in place of the duty-paid steel (or drawback products) will have the same composition and thickness as the coating or plating on the duty-paid steel. If the coated or plated duty-paid steel is within a SAE, AISI, ASTM specification, any duty-paid, duty-free, or domestic coated or plated steel covered by the same specification and grade (if two or more grades are in the specification) is considered to meet this criterion for ''same kind and quality.''

B. Exported Articles on Which Drawback Will Be Claimed

The exported articles will have been manufactured in the United States using steels described in the parallel columns above.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see § 191.9 of this part).

D. Process of Manufacture or Production

The steel described in the parallel columns will be used to manufacture or produce articles in accordance with § 191.2(q) of this part.

E. Multiple Products

Not applicable.

F. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of steel appearing in the exported articles, records will be maintained to establish the value (or the lack of value), the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records to establish that fact will be maintained.

G. Loss or Gain

The manufacturer or producer will maintain records showing the extent of any loss or gain in net weight or measurement of the steel caused by atmospheric conditions, chemical reactions, or other factors.

H. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

I. Procedures and Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[3] used to produce the exported articles;

3. That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used the merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced[4] the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

J. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

K. Basis of Claim for Drawback

Drawback will be claimed on the quantity of steel used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible steel that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste from each lot of steel, drawback may be claimed on the quantity of eligible steel used to produce the exported articles less the amount of that steel which the value of the waste would replace.

L. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code,

[3] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles produced.''

[4] The date of production is the date an article is completed.

section 1313, part 191 of the CBP Regulations and this general ruling.

XIII. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b) FOR SUGAR (T.D. 81–92)

A. SAME KIND AND QUALITY (PARALLEL COLUMNS)

Imported Merchandise or Drawback Products[1] to be Designated as the Basis for Drawback on the Exported Products.	Duty-Paid, Duty-Free or Domestic Merchandise of the Same Kind and Quality as that Designated which will be Used in the Production of the Exported Products.
1. Granulated or liquid sugar for manufacturing, containing sugar solids of not less than 99.5 sugar degrees.	1. Granulated or liquid sugar for manufacturing, containing sugar solids of not less than 99.5 sugar degrees.
2. Granulated or liquid sugar for manufacturing, containing sugar solids of less than 99.5 sugar degrees.	2. Granulated or liquid sugar for manufacturing, containing sugar solids of less than 99.5 sugar degrees.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

The sugars listed above test within three-tenths of a degree on the polariscope. Sugars in each column are completely interchangeable with the sugars directly opposite and designation will be made on this basis only. The designated sugar on which claims for drawback will be based will be so similar in quality to the sugar used in manufacture of the products exported with drawback that the sugar used in manufacture would, if imported, be subject to the same amount of duty paid on a like quantity of designated sugar. Differences in value resulting from factors other than quality, such as market fluctuation, will not affect the allowance of drawback.

B. Exported Articles on Which Drawback Will Be Claimed

Edible substances (including confectionery) and/or beverages and/or ingredients therefor.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.'s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process of Manufacture or Production

The sugars are subjected to one or more of the following operations to form the desired product(s):

1. Mixing with other substances,
2. Cooking with other substances
3. Boiling with other substances,
4. Baking with other substances,
5. Additional similar processes

E. Multiple Products

Not applicable.

F. Waste

No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of sugar appearing in the exported articles, records will be maintained to establish the value (or the lack of value), the quantity, and the disposition of any waste that results from manufacturing the exported articles. If no waste results, records to establish that fact will be maintained.

G. Loss or Gain

The manufacturer or producer will maintain records showing the extent of any loss or gain in net weight or measurement of the sugar caused by atmospheric conditions, chemical reactions, or other factors.

H. Tradeoff

The use of any domestic merchandise acquired in exchange for imported merchandise that meets the same kind and quality specifications contained in the parallel columns of this general ruling shall be treated as use of the imported merchandise if no certificate of delivery is issued covering the imported merchandise (19 U.S.C. 1313(k)) upon compliance with the applicable regulations and rulings.

I. Procedures And Records Maintained

Records will be maintained to establish:

1. The identity and specifications of the designated merchandise;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] used to produce the exported articles;

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence

3. That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used the merchandise to produce articles. During the same 3-year period, the manufacturer or producer produced[3] the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

J. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures And Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

K. Basis of Claim for Drawback

Drawback will be claimed on the quantity of sugar used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible sugar that appears in the exported articles regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles less the amount of that sugar which the value of the waste would replace.

L. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation;

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this general ruling.

XIV. GENERAL MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) FOR WOVEN PIECE GOODS (T.D. 83–84)

Drawback may be allowed under 19 U.S.C. 1313(a) upon the exportation of bleached, mercerized, printed, dyed, or redyed piece goods manufactured or produced by any one or a combination of the foregoing processes with the use of imported woven piece goods, subject to the following special requirements:

A. Imported Merchandise or Drawback Products[1] Used

Imported merchandise or drawback products (woven piece goods) are used in the manufacture of the exported articles upon which drawback claims will be based.

B. Exported Articles on Which Drawback Will Be Claimed

Exported articles on which drawback will be claimed will be manufactured in the United States using imported merchandise or drawback products.

C. General Statement

The manufacturer or producer manufactures or produces for its own account. The manufacturer or producer may manufacture or produce articles for the account of another or another manufacturer or producer may manufacture or produce for the account of the manufacturer or producer under contract within the principal and agency relationship outlined in T.D.s 55027(2) and 55207(1) (see §191.9 of this part).

D. Process of Manufacture or Production

The imported merchandise or drawback products will be used to manufacture or produce articles in accordance with §191.2(q) of this part.

The piece goods used in manufacture or production under this general manufacturing drawback ruling may also be subjected to one or more finishing processes. Drawback

should read ''appearing in the exported articles produced.''

[3]The date of production is the date an article is completed.

[1]Drawback products are those produced in the United States in accordance with the drawback law and regulations.

shall not be allowed under this general manufacturing drawback ruling when the process performed results only in the restoration of the merchandise to its condition at the time of importation.

E. Multiple Products

Not applicable.

F. Waste

Rag waste may be incurred. No drawback is payable on any waste which results from the manufacturing operation. Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, the records of the manufacturer or producer will show the quantity of rag waste, if any, its value, and its disposition. If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such waste records will also be kept. If no waste results, records will be maintained to establish that fact. In instances where rag waste occurs and it is impractical to account for the actual quantity of rag waste incurred, it may be assumed that such rag waste constituted 2% of the woven piece goods put into process.

G. Shrinkage, Gain, and Spoilage

Unless the claim for drawback is based on the quantity of merchandise appearing in the exported articles, the records of the manufacturer or producer will show the yardage lost by shrinkage or gained by stretching during manufacture, and the quantity of remnants resulting and of spoilage incurred, if any. If necessary to establish the quantity of merchandise (eligible piece goods) appearing in the exported articles, such records for shrinkage, gain, and spoilage will also be kept.

H. Procedures and Records Maintained

Records will be maintained to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise; and

2. The quantity of imported merchandise[2] used in producing the exported articles.

To obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. Records establishing compliance with these requirements will be available for audit by Customs during business hours. Drawback is not payable without proof of compliance.

[2] If claims are to be made on an ''appearing in'' basis, the remainder of the sentence should read ''appearing in the exported articles.''

I. Inventory Procedures

The inventory records of the manufacturer or producer will show how the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(a) and part 191 of the CBP Regulations will be met, as discussed under the heading ''Procedures and Records Maintained''. If those records do not establish satisfaction of those legal requirements, drawback cannot be paid.

The records of the manufacturer or producer shall show, as to each lot of piece goods manufactured or produced for exportation with benefit of drawback, the lot number and the date or inclusive dates of manufacture or production, the quantity, identity, and value of the imported (or drawback product) piece goods used, the condition in which imported or received (whether in the gray, bleached, dyed, or mercerized), the working allowance specified in the contract under which they are received, the process or processes applied thereto, and the quantity and description of the piece goods obtained. The records shall also show the yardage lost by shrinkage or gained by stretching during manufacture or production, and the quantity of remnants resulting and of spoilage incurred.

J. Basis of Claim for Drawback

Drawback will be claimed on the quantity of merchandise used in producing the exported articles only if there is no waste or valueless or unrecovered waste in the manufacturing operation. Drawback may be claimed on the quantity of eligible merchandise that appears in the exported articles, regardless of whether there is waste, and no records of waste need be maintained. If there is valuable waste recovered from the manufacturing operation and records are kept which show the quantity and value of the waste, drawback may be claimed on the quantity of eligible material used to produce the exported articles, less the amount of that merchandise which the value of the waste would replace. (If remnants and/or spoilage occur during manufacture or production, the quantity of imported merchandise used shall be determined by deducting from the quantity of piece goods received and put into manufacture or production the quantity of such remnants and/or spoilage. The remaining quantity shall be reduced by the quantity thereof which the value of the rag waste, if any, would replace.)

K. General Requirements

The manufacturer or producer will:

1. Comply fully with the terms of this general ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this general ruling;

4. Keep its letter of notification of intent to operate under this general ruling current by reporting promptly to the drawback office which liquidates its claims any changes in the information required by the General Instructions of this Appendix to be included therein (I. General Instructions, 1 through 9) or the corporate name or corporate organization by succession or reincorporation.

5. Keep a copy of this general ruling on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this general ruling; and

6. Issue instructions to insure proper compliance with 19, United States Code, §1313, part 191 of the CBP Regulations and this general ruling.

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 13105, Mar. 17, 1998; 63 FR 15291, Mar. 31, 1998; 63 FR 65060, Nov. 25, 1998; T.D. 02–16, 67 FR 16638, Apr. 8, 2002]

APPENDIX B TO PART 191—SAMPLE FORMATS FOR APPLICATIONS FOR SPECIFIC MANUFACTURING DRAWBACK RULINGS

TABLE OF CONTENTS

I. General.
II. Format for Application for Specific Manufacturing Drawback Ruling Under 19 U.S.C. 1313(a) and 1313(b) (Combination).
III. Format for Application for Specific Manufacturing Drawback Ruling Under 19 U.S.C. 1313(b).
IV. Format for Application for Specific Manufacturing Drawback Ruling Under 19 U.S.C. 1313(d).
V. Format for Application for Specific Manufacturing Drawback Ruling Under 19 U.S.C. 1313(g).

I. GENERAL

These sample formats for applications for specific manufacturing drawback rulings must be submitted to and reviewed and approved by CBP Headquarters. A specific manufacturing drawback ruling consists of the letter of approval that CBP issues to the applicant, a synopsis of which is published in the Customs Bulletin, as provided in 19 CFR 191.8. In these application formats, remarks in parentheses and footnotes are for explanatory purposes only and should not be copied. Other material should be quoted directly in the applications.

II. FORMAT FOR APPLICATION FOR SPECIFIC MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(a) AND 1313(b) (COMBINATION)

COMPANY LETTERHEAD (Optional)

U.S. Customs and Border Protection, Entry Process and Duty Refunds, Regulations and Rulings, Office of International Trade, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dear Sir: We, (Applicant's Name), a (State, e.g., Delaware) corporation (or other described entity) submit this application for a specific manufacturing drawback ruling that our manufacturing operations qualify for drawback under title 19, United States Code, §§1313 (a) & (b), and part 191 of the CBP Regulations. We request that the Customs Service authorize drawback on the basis of this application.

NAME AND ADDRESS AND IRS NUMBER (WITH SUFFIX) OF APPLICANT

(Section 191.8(a) of the CBP Regulations provides that each manufacturer or producer of articles intended for exportation with the benefit of drawback shall apply for a specific manufacturing drawback ruling, unless operating under a general manufacturing drawback ruling under §191.7 of the CBP Regulations. Customs will not approve an application which shows an unincorporated division or company as the applicant (see §191.8(a)).)

LOCATION OF FACTORY

(Give the address of the factory(s) where the process of manufacture or production will take place. If the factory is a different legal entity from the applicant, so state and indicate if operating under an Agent's general manufacturing drawback ruling.)

PERSONS WHO WILL SIGN DRAWBACK DOCUMENTS

(List persons legally authorized to bind the corporation who will sign drawback documents. Section 191.6 of the CBP Regulations permits only the president, vice-president, secretary, treasurer, or any employee legally authorized to bind the corporation to sign for a corporation. In addition, a person within a business entity with a Customs power of attorney for the company may sign. A Customs power of attorney may also be given to a licensed Customs broker. This heading should be changed to Names of Partners or Proprietor in the case of a partnership or sole proprietorship, respectively (see footnote at end of this sample format for persons who may sign applications for specific manufacturing drawback rulings).)

CBP OFFICE WHERE DRAWBACK CLAIMS WILL BE FILED

(The 8 offices where drawback claims can be filed are located at: Boston, MA; New York, NY; Miami, FL; New Orleans, LA; Houston, TX; Long Beach, CA; Chicago, IL; San Francisco, CA)

(An original application and two copies must be filed. If the applicant intends to file drawback claims at more than one drawback office, one additional copy of the application must be furnished for each additional office indicated.)

GENERAL STATEMENT

(The following questions must be answered:)

1. Who will be the importer of the designated merchandise?

(If the applicant will not always be the importer of the designated merchandise, does the applicant understand its obligations to obtain the appropriate certificates of delivery (19 CFR 191.10), certificates of manufacture and delivery (19 CFR 191.24), or both?)

2. Will an agent be used to process the designated or the substituted merchandise into articles?

(If an agent is to be used, the applicant must state it will comply with T.D.'s 55027(2) and 55207(1) and §191.9, as applicable, and that its agent will submit a letter of notification of intent to operate under the general manufacturing drawback ruling for agents (see §191.7 and Appendix A) or an application for a specific manufacturing drawback ruling (see §191.8 and this Appendix B).)

3. Will the applicant be the exporter?

(If the applicant will not be the exporter in every case but will be the claimant, the manufacturer must state that it will reserve the right to claim drawback with the knowledge and written consent of the exporter (19 CFR 191.82).)

(Since the permission to grant use of the accelerated payment procedure rests with the Customs office with which claims will be filed, do not include any reference to that procedure in this application.)

PROCEDURES UNDER SECTION 1313(B) (PARALLEL COLUMNS—"SAME KIND AND QUALITY")

IMPORTED MERCHANDISE OR DRAWBACK PRODUCTS[1] TO BE DESIGNATED AS THE BASIS FOR DRAWBACK ON THE EXPORTED PRODUCTS	DUTY-PAID, DUTY-FREE OR DOMESTIC MERCHANDISE OF THE SAME KIND AND QUALITY AS THAT DESIGNATED WHICH WILL BE USED IN THE PRODUCTION OF THE EXPORTED PRODUCTS.
1.	1.
2.	2.
3.	3.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have "dual status" under section 1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.)

(Following the items listed in the parallel columns, a statement will be made, by the applicant, that affirms the "same kind and quality" of the merchandise. This statement should be included in the application exactly as it is stated below:)

The imported merchandise which we will designate on our claims will be so similar in quality to the merchandise used in producing the exported articles on which we claim drawback that the merchandise used would, if imported, be subject to the same rate of duty as the imported designated merchandise.

Fluctuations in the market value resulting from factors other than quality will not affect the drawback.

(In order to successfully claim drawback it is necessary to prove that the duty-paid, duty-free or domestic merchandise which is to be substituted for the imported merchandise is the "same kind and quality". "Same kind and quality" does not necessarily mean that the merchandise is identical. It does mean that the merchandise is of the same nature or character ("same kind") and that the merchandise to be substituted is interchangeable with the imported merchandise with little or no change in the manufacturing process to produce the same exported article ("same quality"). In order to enable Customs to rule on "same kind and quality", the application must include a detailed description of the designated imported merchandise and of the substituted duty-paid, duty-free or domestic merchandise to be used to produce the exported articles.)

(It is essential that all the characteristics which determine the quality of the merchandise are provided in the application in order to substantiate that the merchandise meets the "same kind and quality" statutory requirement. These characteristics should clearly distinguish merchandise of different qualities. For example, USDA standards; FDA standards; industry standards, e.g., ASTM; concentration; specific gravity; purity; luster; melting point, boiling point; odor; color; grade; type; hardness; brittleness; etc. Note that these are only a few examples of characteristics and that each kind of merchandise has its own set of specifications that characterizes its quality. If specifications are given with a minimum value,

be sure to include a maximum value. The converse is also true. Often characteristics are given to Customs on attached specification sheets. These specifications should not include Material Safety Data sheets or other descriptions of the merchandise that do not contribute to the ''same kind and quality'' determination. When the merchandise is a chemical, state the chemical's generic name as well as its trade name plus any generally recognized identifying number, e.g., CAS number; Color Index Number, etc.)

(In order to expedite the specific manufacturing drawback ruling process, it will be helpful if you provide copies of technical standards/specifications (particularly industry standards such as ASTM standards) referred to in your application.)

(The descriptions of the ''same kind and quality'' merchandise should be formatted in the parallel columns. The left-hand column will consist of the name and specifications of the designated imported merchandise under the heading set forth above. The right-hand column will consist of the name and specifications for the duty-paid, duty-free or domestic merchandise under the heading set forth above.)

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

(Name each article to be exported. When the identity of the product is not clearly evident by its name state what the product is, e.g., a herbicide. There must be a match between each article described under the PROCESS OF MANUFACTURE OR PRODUCTION section below and each article listed here.)

PROCESS OF MANUFACTURE OR PRODUCTION

(Drawback under §1313(b) is not allowable except where a manufacture or production exists. Manufacture or production is defined, for drawback purposes, in §191.2(q). In order to obtain drawback under §1313(b), it is essential for the applicant to show use in manufacture or production by giving a thorough description of the manufacturing process. This description should include the name and exact condition of the merchandise listed in the Parallel Columns, a complete explanation of the processes to which it is subjected in this country, the effect of such processes, the name and exact description of the finished article, and the use for which the finished article is intended. When applicable, give equations of the chemical reactions. The attachment of a flow chart in addition to the description showing the manufacturing process is an excellent means of illustrating whether or not a manufacture or production has occurred. Flow charts can clearly illustrate if and at what point during the manufacturing process by-products and wastes are generated.)

(This section should contain a description of the process by which each item of merchandise listed in the parallel columns above is used to make or produce every article that is to be exported.)

MULTIPLE PRODUCTS

1. Relative Values

(Some processes result in the separation of the merchandise used in the same operation into two or more products. List all of the products. State that you will record the market value of each product at the time it is first separated in the manufacturing process. If this section is not applicable to you, then state so.)

Drawback law mandates the assignment of relative values when two or more products necessarily are produced concurrently in the same operation. For instance, the refining of flaxseed necessarily produces linseed oil and linseed husks (animal feed), and drawback must be distributed to each product in accordance with its relative value. However, the voluntary election of a steel fabricator, for instance, to use part of a lot of imported steel to produce automobile doors and part of the lot to produce automobile fenders does not call for relative value distribution.)

(The relative value of a product is its value divided by the total value of all products, whether or not exported. For example, 100 gallons of drawback merchandise are used to produce 100 gallons of products, including 60 gallons of product A, 20 gallons of product B, and 20 gallons of product C. At the time of separation, the unit values of products A, B, and C are $5, $10, and $50 respectively. The relative value of product A is $300 divided by $1500 or ⅕. The relative value of B is 2/15 and of product C is ⅔, calculated in the same manner. This means that ⅕ of the drawback product payments will be distributed to product A, 2/15 to product B, and ⅔ to product C.)

(Drawback is allowable on exports of any of multiple products, but is not allowable on exports of valuable waste. In making this distinction between a product and valuable waste, the applicant should address the following significant elements: (1) the nature of the material of which the residue is composed; (2) the value of the residue as compared to the value of the principal manufactured product and the raw material; (3) the use to which it is put; (4) its status under the tariff laws, if imported; (5) whether it is a commodity recognized in commerce; (6) whether it must be subjected to some process to make it saleable.)

2. Producibility

(Some processes result in the separation of fixed proportions of each product, while other processes afford the opportunity to increase or decrease the proportion of each

product. An example of the latter is petroleum refining, where the refiner has the option to increase or decrease the production of one or more products relative to the others. State under this heading whether you can or cannot vary the proportionate quantity of each product.)

(The MULTIPLE PRODUCTS section consists of two sub-sections: Relative Values and Producibility. If multiple products do not result from your operation state ''Not Applicable'' for the entire section. If multiple products do result from your operation Relative Values will always apply. However, Producibility may or may not apply. If Producibility does not apply to your multiple product operation state ''Not Applicable'' for this sub-section.)

WASTE

(Many processes result in residue materials which, for drawback purposes, are treated as wastes. Describe any residue materials which you believe should be so treated. If no waste results, include a positive statement to that effect under this heading.)

(If waste occurs, state: (1) whether or not it is recovered, (2) whether or not it is valueless, and (3) what you do with it. This information is required whether claims are made on a ''used in'' or ''appearing in'' basis and regardless of the amount of waste incurred.)

(Irrecoverable wastes are those consisting of materials which are lost in the process. Valueless wastes are those which may be recovered but have no value. These irrecoverable and valueless wastes do not reduce the drawback claim provided the claim is based on the quantity of imported material used in manufacturing. If the claim is based upon the quantity of imported merchandise appearing in the exported article, irrecoverable and valueless waste will cause a reduction in the amount of drawback.)

(Valuable wastes are those recovered wastes which have a value either for sale or for use in a different manufacturing process. However, it should be noted that this standard applies to the entire industry and is not a selection on your part. An option by you not to choose to sell or use the waste in some different operation does not make it valueless if another manufacturer can use the waste. State what you do with the waste. If you have to pay someone to get rid of it, or if you have buyers for the waste, you must state so in your application regardless of what ''Basis'' you are using.)

(If you recover valuable waste and if you choose to claim on the basis of the quantity of imported or substituted merchandise used in producing the exported articles (less valuable waste), state that you will keep records to establish the quantity and value of the waste recovered. See ''Basis of Claim for Drawback'' section below.)

STOCK IN PROCESS

(Some processes result in another type of residual material, namely, stock in process, which affects the allowance of drawback. Stock in process may exist when residual material resulting from a manufacturing or processing operation is reintroduced into a subsequent manufacturing or processing operation; e.g., trim pieces from a cast article. The effect of stock in process on a drawback claim is that the amount of drawback for the period in which the stock in process was withdrawn from the manufacturing or processing operation (or the manufactured article, if manufacturing or processing periods are not used) is reduced by the quantity of merchandise or drawback products used to produce the stock in process if the ''used in'' or ''used in less valuable waste'' methods are used (if the ''appearing in'' method is used, there will be no effect on the amount of drawback), and the quantity of merchandise or drawback products used to produce the stock in process is added to the merchandise or drawback products used in the subsequent manufacturing or production period (or the subsequently produced article)).

(If stock in process occurs and claims are to be based on stock in process, the application must include a statement to that effect. The application must also include a statement that merchandise is considered to be used in manufacture at the time it was originally processed so that the stock in process will not be included twice in the computation of the merchandise used to manufacture the finished articles on which drawback is claimed.)

TRADEOFF

(If an applicant proposes to use tradeoff (19 CFR 191.11), the applicant should so state and the applicant should describe the contractual arrangement between the applicant and its partner for tradeoff. The person claiming drawback under the tradeoff provision has the burden of establishing compliance with the law and regulations. In this regard, the terms of a written contract are always easier to establish than those of an oral contract.)

LOSS OR GAIN (Separate and distinct from WASTE)

(Some manufacturing processes result in an intangible loss or gain of the net weight or measurement of the merchandise used. This loss or gain is caused by atmospheric conditions, chemical reactions, or other factors. State the approximate usual percentage or quantity of such loss or gain. Note that percentage values will be considered to be measured ''by weight'' unless otherwise specified. Loss or gain does not occur during all manufacturing processes. If loss or gain does not

apply to your manufacturing process, state ''Not Applicable.'')

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. The identity and specifications of the merchandise we designate;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] we used to produce the exported articles;

3. That, within 3 years after receiving it at our factory, we used the designated merchandise to produce articles. During the same 3-year period, we produced[3] the exported articles.

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance.

INVENTORY PROCEDURES

(Describe your inventory records and state how those records will meet the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations as discussed under the heading PROCEDURES AND RECORDS MAINTAINED. To insure compliance the following areas, as applicable, should be included in your discussion:)

RECEIPT AND STORAGE OF DESIGNATED MERCHANDISE

RECORDS OF USE OF DESIGNATED MERCHANDISE

BILLS OF MATERIALS

MANUFACTURING RECORDS

WASTE RECORDS

RECORDS OF USE OF DUTY-PAID, DUTY-FREE OR DOMESTIC MERCHANDISE OF THE REQUIRED SAME KIND AND QUALITY WITHIN 3 YEARS AFTER THE RECEIPT OF THE DESIGNATED MERCHANDISE

FINISHED STOCK STORAGE RECORDS

SHIPPING RECORDS

(Proof of time frames may be specific or inclusive, e.g. within 120 days, but specific proof is preferable. Separate storage and identification of each article or lot of merchandise usually will permit specific proof of exact dates. Proof of inclusive dates of use, production or export may be acceptable, but in such cases it is well to describe very specifically the data you intend to use to establish each legal requirement, thereby avoiding misunderstandings at the time of audit.)

(If you do not describe the inventory records that you will use, a statement that the legal requirements will be met by your inventory procedures is acceptable. However, it should be noted that without a detailed description of the inventory procedures set forth in the application a judgement as to the adequacy of such a statement cannot be made until a drawback claim is verified. Approval of this application for a specific manufacturing drawback ruling merely constitutes approval of the ruling application as submitted; it does not constitute approval of the applicant's record keeping procedures if, for example, those procedures are merely described as meeting the legal requirements, without specifically stating how the requirements will be met. Drawback is not payable without proof of compliance.)

BASIS OF CLAIM FOR DRAWBACK

(There are three different bases that may be used to claim drawback: (1) Used in; (2) Appearing In; and (3) Used less Valuable Waste.)

(The ''Used In'' basis may be employed only if there is either no waste or valueless or unrecovered waste in the operation. Irrecoverable or valueless waste does not reduce the amount of drawback when claims are based on the ''Used In'' basis. Drawback is payable in the amount of 99 percent of the duty paid on the quantity of imported material designated as the basis for the allowance of drawback on the exported articles. The designated quantity may not exceed the quantity of material actually used in the manufacture of the exported articles.)

(For example, if 100 pounds of material, valued at $1.00 per pound, were used in manufacture resulting in 10 pounds of irrecoverable or valueless waste, the 10 pounds of irrecoverable or valueless waste would not reduce the drawback. In this case drawback would be payable on 99% of the duty paid on the 100 pounds of designated material used to produce the exported articles.)

(The ''Appearing In'' basis may be used regardless of whether there is waste. If the ''Appearing in'' basis is used, the claimant does not need to keep records of waste and its value. However, the manufacturer must establish the identity and quantity of the merchandise appearing in the exported product and provide this information. Waste reduces the amount of drawback when claims are made on the ''Appearing In'' basis. Drawback is payable on 99 percent of the duty paid on the quantity of material designated, which may not exceed the quantity of eligible material that appears in the exported articles. ''Appearing In'' may not be used if multiple products are involved.)

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles we produce.''

[3] The date of production is the date an article is completed.

(Based on the previous example, drawback would be payable on the 90 pounds of merchandise which actually went into the exported product (appearing in) rather than the 100 pounds used in as set forth previously.)

(The ''Used Less Valuable Waste'' basis may be employed when the manufacturer recovers valuable waste, and keeps records of the quantity and value of waste from each lot of merchandise. The value of the waste reduces the amount of drawback when claims are based on the ''Used Less Valuable Waste'' basis. When valuable waste is incurred, the drawback allowance on the exported article is based on the duty paid on the quantity of merchandise used in the manufacture, reduced by the quantity of such merchandise which the value of the waste would replace. Thus in this case, drawback is claimed on the quantity of eligible material actually used to produce the exported product, less the amount of such material which the value of the waste would replace. Note section 191.26(c) of the CBP Regulations.)

(Based on the previous examples, if the 10 pounds of waste had a value of $.50 per pound, then the 10 pounds of waste, having a total value of $5.00, would be equivalent in value to 5 pounds of the designated material. Thus the value of the waste would replace 5 pounds of the merchandise used, and drawback is payable on 99 percent of the duty paid on the 95 pounds of imported material designated as the basis for the allowance of drawback on the exported article rather than on the 100 pounds ''Used In'' or the 90 pounds ''Appearing In'' as set forth in the above examples.)

(Two methods exist for the manufacturer to show the quantity of material used or appearing in the exported article: (1) Schedule or (2) Abstract.)

(A ''schedule'' shows the quantity of material used in producing each unit of product. The schedule method is usually employed when a standard line of merchandise is being produced according to fixed formulas. Some schedules will show the quantity of merchandise used to manufacture or produce each article and others will show the quantity appearing in each finished article. Schedules may be prepared to show the quantity of merchandise either on the basis of percentages or by actual weights and measurements. A schedule determines the amount that will be needed to produce a unit of product before the material is actually used in production;)

(An ''abstract'' is the summary of the records (which may be set forth on Customs Form 7551) which shows the total quantity used in producing all products during the period covered by the abstract. The abstract looks at a duration of time, for instance 3 months, in which the quantity of material has been used. An abstract looks back on how much material was actually used after a production period has been completed.)

(An applicant who fails to indicate the ''schedule'' choice must base his claims on the ''abstract'' method. State which Basis and Method you will use. An example of Used In by Schedule follows:)

We shall claim drawback on the quantity of (specify material) used in manufacturing (exported article) according to the schedule set forth below.

(Section 191.8(f) of the CBP Regulations requires submission of the schedule with the application for a specific manufacturing drawback ruling. An applicant who desires to file supplemental schedules with the drawback office whenever there is a change in the quantity or material used should state:)

We request permission to file supplemental schedules with the drawback office covering changes in the quantities of material used to produce the exported articles, or different styles or capacities of containers of such exported merchandise.

(Neither the ''Appearing In'' basis nor the ''schedule'' method for claiming drawback may be used where the relative value procedure is required.)

PROCEDURES UNDER SECTION 1313(a)

IMPORTED MERCHANDISE OR DRAWBACK PRODUCTS USED UNDER 1313(a)

(List the imported merchandise or drawback products)

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

(Name each article to be exported. When the identity of the product is not clearly evident by its name state what the product is, e.g., a herbicide. There must be a match between each article described under the PROCESS OF MANUFACTURE AND PRODUCTION section below and each article listed here.)

(If the merchandise used under §1313(a) is not also used under §1313(b), the sections entitled PROCESS OF MANUFACTURE OR PRODUCTION, BY-PRODUCTS, LOSS OR GAIN, and STOCK IN PROCESS should be included here to cover merchandise used under §1313(a). However, if the merchandise used under §1313(a) is also used under §1313(b) these sections need not be repeated unless they differ in some way from the §1313(b) descriptions.)

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. That the exported articles on which drawback is claimed were produced with the use of the imported merchandise, and

2. The quantity of imported merchandise[4] we used in producing the exported articles

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after importation of the imported merchandise. We understand that drawback is not payable without proof of compliance.

INVENTORY PROCEDURES

(This section must be completed separately from that set forth under the §1313(b) portion of your application. The legal requirements under §1313(a) differ from those under §1313(b).) (Describe your inventory procedures and state how you will identify the imported merchandise from the time it is received at your factory until it is incorporated in the articles to be exported. Also describe how you will identify the finished articles from the time of manufacture until shipment.)

BASIS OF CLAIM FOR DRAWBACK

(See section with this title for procedures under §1313(b). Either repeat the same basis of claim or use a different basis of claim, as described above, specifically for drawback claimed under §1313(a).)

AGREEMENTS

The Applicant specifically agrees that it will:

1. Operate in full conformance with the terms of this application for a specific manufacturing drawback ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this application;

4. Keep this application current by reporting promptly to the drawback office which liquidates its claims any changes in the number or locations of its offices or factories, the corporate name, the persons who will sign drawback documents, the basis of claim used for calculating drawback, the decision to use or not to use an agent under §191.9 or the identity of an agent under that section, the drawback office where claims will be filed under the ruling, or the corporate organization by succession or reincorporation;

5. Keep this application current by reporting promptly to the Headquarters, U.S. Customs Service all other changes affecting information contained in this application;

6. Keep a copy of this application and the letter of approval by Customs Headquarters on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this application and that letter of approval; and

7. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this application and letter of approval.

DECLARATION OF OFFICIAL

I declare that I have read this application for a specific manufacturing drawback ruling; that I know the averments and agreements contained herein are true and correct; and that my signature on this _____ day of _____ 19___, makes this application binding on

_____

(Name of Applicant Corporation, Partnership, or Sole Proprietorship)

By[5] _____

(Signature and Title)

_____

(Print Name)

III. FORMAT FOR APPLICATION FOR SPECIFIC MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(b)

COMPANY LETTERHEAD (Optional)

U.S. Customs and Border Protection, Commercial and Trade Facilitation Division, Regulations and Rulings, Office of International Trade, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dear Sir: We, (Applicant's Name), a (State, e.g., Delaware) corporation (or other described entity) submit this application for a specific manufacturing drawback ruling that our manufacturing operations qualify for drawback under title 19, United States Code, section 1313(b), and part 191 of the Customs

[4] If claims are to be made on an ''appearing In'' basis, the remainder of the sentence should read ''appearing in the exported articles we produce.''

[5] Section 191.6(a) requires that applications for specific manufacturing drawback rulings be signed by any individual legally authorized to bind the person (or entity) for whom the application is signed or the owner of a sole proprietorship, a full partner in a partnership, or, if a corporation, the president, a vice president, secretary, treasurer or employee legally authorized to bind the corporation. In addition, any employee of a business entity with a customs power of attorney filed with the Customs port for the drawback office which will liquidate your drawback claims may sign such an application, as may a licensed Customs broker with a Customs power of attorney. You should state in which Customs port your Customs power(s) of attorney is/are filed.

Regulations. We request that the Customs Service authorize drawback on the basis of this application.

NAME AND ADDRESS AND IRS NUMBER (WITH SUFFIX) OF APPLICANT

(Section 191.8(a) of the CBP Regulations provides that each manufacturer or producer of articles intended for exportation with the benefit of drawback shall apply for a specific manufacturing drawback ruling, unless operating under a general manufacturing drawback ruling under §191.7 of the CBP Regulations. Customs will not approve an application which shows an unincorporated division or company as the applicant (see §191.8(a)).)

LOCATION OF FACTORY

(Give the address of the factory(ies) where the process of manufacture or production will take place. If the factory is a different legal entity from the applicant, so state and indicate if operating under an Agent's general manufacturing drawback ruling.)

PERSONS WHO WILL SIGN DRAWBACK DOCUMENTS

(List persons legally authorized to bind the corporation who will sign drawback documents. Section 191.6 of the CBP Regulations permits only the president, vice-president, secretary, treasurer, or any employee legally authorized to bind the corporation to sign for a corporation. In addition, a person within a business entity with a Customs power of attorney for the company may sign. A Customs power of attorney may also be given to a licensed Customs broker. This heading should be changed to NAMES OF PARTNERS or PROPRIETOR in the case of a partnership or sole proprietorship, respectively (see footnote at end of this sample format for persons who may sign applications for specific manufacturing drawback rulings).)

CBP OFFICE WHERE DRAWBACK CLAIMS WILL BE FILED

(The 8 offices where drawback claims can be filed are located at: Boston, MA; New York, NY; Miami, FL; New Orleans, LA; Houston, TX; Long Beach, CA; Chicago, IL; San Francisco, CA)

(An original application and two copies must be filed. If the applicant intends to file drawback claims at more than one drawback office, one additional copy of the application must be furnished for each additional office indicated.)

GENERAL STATEMENT

(The following questions must be answered:

1. Who will be the importer of the designated merchandise?

(If the applicant will not always be the importer of the designated merchandise, does the applicant understand its obligations to obtain the appropriate certificates of delivery (19 CFR 191.10), certificates of manufacture and delivery (19 CFR 191.24), or both?)

2. Will an agent be used to process the designated or the substituted merchandise into articles?

(If an agent is to be used, the applicant must state it will comply with T.D.'s 55027(2) and 55207(1), and §191.9, as applicable, and that its agent will submit a letter of notification of intent to operate under the general manufacturing drawback ruling for agents (see §191.7 and Appendix A), or an application for a specific manufacturing drawback ruling (see §191.8 and this Appendix B).)

3. Will the applicant be the exporter?

(If the applicant will not be the exporter in every case but will be the claimant, the manufacturer must state that it will reserve the right to claim drawback with the knowledge and written consent of the exporter (19 CFR 191.82).)

(Since the permission to grant use of the accelerated payment procedure rests with the Drawback office with which claims will be filed, do not include any reference to that procedure in this application.)

(PARALLEL COLUMNS—"SAME KIND AND QUALITY")

IMPORTED MERCHANDISE OR DRAWBACK PRODUCTS[1] TO BE DESIGNATED AS THE BASIS FOR DRAWBACK ON THE EXPORTED PRODUCTS.	DUTY-PAID, DUTY-FREE OR DOMESTIC MERCHANDISE OF THE SAME KIND AND QUALITY AS THAT DESIGNATED WHICH WILL BE USED IN THE PRODUCTION OF THE EXPORTED PRODUCTS.
1.	1.
2.	2.
3.	3.

[1] Drawback products are those produced in the United States in accordance with the drawback law and regulations. Such products have ''dual status'' under §1313(b). They may be designated as the basis for drawback and also may be deemed to be domestic merchandise.

(Following the items listed in the parallel columns, a statement will be made, by the applicant, that affirms the ''same kind and quality'' of the merchandise. This statement should be included in the application exactly as it is stated below:)

The imported merchandise which we will designate on our claims will be so similar in quality to the merchandise used in producing the exported articles on which we claim drawback that the merchandise used would, if imported, be subject to the same rate of duty as the imported designated merchandise.

Fluctuations in the market value resulting from factors other than quality will not affect the drawback.

(In order to successfully claim drawback it is necessary to prove that the duty-paid, duty-free or domestic merchandise which is to be substituted for the imported merchandise is the ''same kind and quality''. ''Same kind and quality'' does not necessarily mean that the merchandise is identical. It does mean that the merchandise is of the same nature or character (''same kind'') and that the merchandise to be substituted is interchangeable with the imported merchandise with little or no change in the manufacturing process to produce the same exported article (''same quality''). In order to enable Customs to rule on ''same kind and quality'', the application must include a detailed description of the designated imported merchandise and of the substituted duty-paid, duty-free or domestic merchandise to be used to produce the exported articles.)

(It is essential that all the characteristics which determine the quality of the merchandise are provided in the application in order to substantiate that the merchandise meets the ''same kind and quality'' statutory requirement. These characteristics should clearly distinguish merchandise of different qualities. For example, USDA standards; FDA standards; industry standards, e.g., ASTM; concentration; specific gravity; purity; luster; melting point, boiling point; odor; color; grade; type; hardness; brittleness; etc. Note that these are only a few examples of characteristics and that each kind of merchandise has its own set of specifications that characterizes its quality. If specifications are given with a minimum value, be sure to include a maximum value. The converse is also true. Often characteristics are given to Customs on attached specification sheets. These specifications should not include Material Safety Data sheets or other descriptions of the merchandise that do not contribute to the ''same kind and quality'' determination. When the merchandise is a chemical, state the chemical's generic name as well as its trade name plus any generally recognized identifying number, e.g., CAS number; Color Index Number, etc.)

(In order to expedite the specific manufacturing drawback ruling review process, it will be helpful if you provide copies of technical standards/specifications (particularly industry standards such as ASTM standards) referred to in your application.)

(The descriptions of the ''same kind and quality'' merchandise should be formatted in the parallel columns. The left-hand column will consist of the name and specifications of the designated imported merchandise under the heading set forth above. The right-hand column will consist of the name and specifications for the duty-paid, duty-free or domestic merchandise under the heading set forth above.)

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

(Name each article to be exported. When the identity of the product is not clearly evident by its name state what the product is, e.g., a herbicide. There must be a match between each article described under the PROCESS OF MANUFACTURE AND PRODUCTION section below and each article listed here.)

PROCESS OF MANUFACTURE OR PRODUCTION

(Drawback under §1313(b) is not allowable except where a manufacture or production exists. Manufacture or production is defined, for drawback purposes, in §191.2(q). In order to obtain drawback under §1313(b), it is essential for the applicant to show use in manufacture or production by giving a thorough description of the manufacturing process. This description should include the name and exact condition of the merchandise listed in the Parallel Columns, a complete explanation of the processes to which it is subjected in this country, the effect of such processes, the name and exact description of the finished article, and the use for which the finished article is intended. When applicable, give equations of the chemical reactions. The attachment of a flow chart in addition to the description showing the manufacturing process is an excellent means of illustrating whether or not a manufacture or production has occurred. Flow charts can clearly illustrate if and at what point during the manufacturing process by-products and wastes are generated.)

(This section should contain a description of the process by which each item of merchandise listed in the parallel columns above is used to make or produce every article that is to be exported.)

MULTIPLE PRODUCTS

1. Relative Values

(Some processes result in the separation of the merchandise used in the same operation into two or more products. List all of the products. State that you will record the market value of each product or by-product at the time it is first separated in the manufacturing process. If this section is not applicable to you, then state so.)

(Drawback law mandates the assignment of relative values when two or more products necessarily are produced concurrently in the same operation. For instance, the refining of flaxseed necessarily produces linseed oil and linseed husks (animal feed), and drawback must be distributed to each product in accordance with its relative value. However, the voluntary election of a steel fabricator, for instance, to use part of a lot of imported steel to produce automobile doors and part of the lot to produce automobile fenders does not call for relative value distribution.)

(The relative value of a product is its value divided by the total value of all products, whether or not exported. For example, 100 gallons of drawback merchandise are used to produce 100 gallons of products, including 60 gallons of product A, 20 gallons of product B, and 20 gallons of product C. At the time of separation, the unit values of products A, B, and C are $5, $10, and $50 respectively. The relative value of product A is $300 divided by $1500 or 1/5. The relative value of B is 2/15 and of product C is 2/3, calculated in the same manner. This means that 1/5 of the drawback product payments will be distributed to product A, 2/15 to product B, and 2/3 to product C.)

(Drawback is allowable on exports of any of multiple products, but is not allowable on exports of valuable waste. In making this distinction between a product and valuable waste, the applicant should address the following significant elements: (1) the nature of the material of which the residue is composed; (2) the value of the residue as compared to the value of the principal manufactured product and the raw material; (3) the use to which it is put; (4) its status under the tariff laws, if imported; (5) whether it is a commodity recognized in commerce; (6) whether it must be subjected to some process to make it saleable.)

2. Producibility

(Some processes result in the separation of fixed proportions of each product, while other processes afford the opportunity to increase or decrease the proportion of each product. An example of the latter is petroleum refining, where the refiner has the option to increase or decrease the production of one or more products relative to the others. State under this heading whether you can or cannot vary the proportionate quantity of each product.)

(The MULTIPLE PRODUCTS section consists of two sub-sections: Relative Values and Producibility. If multiple products do not result from your operation state ''Not Applicable'' for the entire section. If multiple products do result from your operation Relative Values will always apply. However, Producibility may or may not apply. If Producibility does not apply to your multiple product operation state ''Not Applicable'' for this sub-section.)

WASTE

(Many processes result in residue materials which, for drawback purposes, are treated as wastes. Describe any residue materials which you believe should be so treated. If no waste results, include a positive statement to that effect under this heading.)

(If waste occurs, state: (1) whether or not it is recovered, (2) whether or not it is valueless, and (3) what you do with it. This information is required whether claims are made on a ''used in'' or ''appearing in'' basis and regardless of the amount of waste incurred.)

(Irrecoverable wastes are those consisting of materials which are lost in the process. Valueless wastes are those which may be recovered but have no value. These irrecoverable and valueless wastes do not reduce the drawback claim provided the claim is based on the quantity of imported material used in manufacturing. If the claim is based upon the quantity of imported merchandise appearing in the exported article, irrecoverable and valueless waste will cause a reduction in the amount of drawback.)

(Valuable wastes are those recovered wastes which have a value either for sale or for use in a different manufacturing process. However, it should be noted that this standard applies to the entire industry and is not a selection on your part. An option by you not to choose to sell or use the waste in some different operation does not make it valueless if another manufacturer can use the waste. State what you do with the waste. If you have to pay someone to get rid of it, or if you have buyers for the waste, you must state so in your application regardless of what ''Basis'' you are using.)

(If you recover valuable waste and if you choose to claim on the basis of the quantity of imported or substituted merchandise used in producing the exported articles less valuable waste, state that you will keep records to establish the quantity and value of the waste recovered. See ''Basis of Claim for Drawback'' section below.)

STOCK IN PROCESS

(Some processes result in another type of residual material, namely, stock in process, which affects the allowance of drawback. Stock in process may exist when residual material resulting from a manufacturing or processing operation is reintroduced into a subsequent manufacturing or processing operation; e.g., trim pieces from a cast article. The effect of stock in process on a drawback claim is that the amount of drawback for the period in which the stock in process was withdrawn from the manufacturing or processing operation (or the manufactured article, if manufacturing or processing periods

are not used) is reduced by the quantity of merchandise or drawback products used to produce the stock in process if the ''used in'' or ''used in less valuable waste'' methods are used (if the ''appearing in'' method is used, there will be no effect on the amount of drawback), and the quantity of merchandise or drawback products used to produce the stock in process is added to the merchandise or drawback products used in the subsequent manufacturing or production period (or the subsequently produced article)).

(If stock in process occurs and claims are to be based on stock in process, the application must include a statement to that effect. The application must also include a statement that merchandise is considered to be used in manufacture at the time it was originally processed so that the stock in process will not be included twice in the computation of the merchandise used to manufacture the finished articles on which drawback is claimed.)

TRADEOFF

(If an applicant proposes to use tradeoff (19 CFR 191.11), the applicant should so state and the applicant should describe the contractual arrangement between the applicant and its partner for tradeoff. The person claiming drawback under the tradeoff provisions has the burden of establishing compliance with the law and regulations. In this regard, the terms of a written contract are always easier to establish than those of an oral contract.)

LOSS OR GAIN (Separate and distinct from WASTE)

(Some manufacturing processes result in an intangible loss or gain of the net weight or measurement of the merchandise used. This loss or gain is caused by atmospheric conditions, chemical reactions, or other factors. State the approximate usual percentage or quantity of such loss or gain. Note that percentage values will be considered to be measured ''by weight'' unless otherwise specified. Loss or gain does not occur during all manufacturing processes. If loss or gain does not apply to your manufacturing process, state ''Not Applicable.'')

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. The identity and specifications of the merchandise we designate;

2. The quantity of merchandise of the same kind and quality as the designated merchandise[2] we used to produce the exported articles;

3. That, within 3 years after receiving it at our factory, we used the designated merchandise to produce articles. During the same 3-year period, we produced[3] the exported articles;

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance.

INVENTORY PROCEDURES

(Describe your inventory records and state how those records will meet the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(b) and part 191 of the CBP Regulations as discussed under the heading PROCEDURES AND RECORDS MAINTAINED. To insure compliance the following areas, as applicable, should be included in your discussion:)

RECEIPT AND STORAGE OF DESIGNATED MERCHANDISE
RECORDS OF USE OF DESIGNATED MERCHANDISE
BILLS OF MATERIALS
MANUFACTURING RECORDS
WASTE RECORDS
RECORDS OF USE OF DUTY-PAID, DUTY-FREE OR DOMESTIC
MERCHANDISE OF THE REQUIRED SAME KIND AND QUALITY
WITHIN 3 YEARS AFTER THE RECEIPT OF THE DESIGNATED MERCHANDISE
FINISHED STOCK STORAGE RECORDS
SHIPPING RECORDS

(Proof of time frames may be specific or inclusive, e.g., within 120 days, but specific proof is preferable. Separate storage and identification of each article or lot of merchandise usually will permit specific proof of exact dates. Proof of inclusive dates of use, production or export may be acceptable, but in such cases it is well to describe very specifically the data you intend to use to establish each legal requirement, thereby avoiding misunderstandings at the time of audit.)

(If you do not describe the inventory records that you will use, a statement that the legal requirements will be met by your inventory procedures is acceptable. However, it should be noted that without a detailed description of the inventory procedures set forth in the application a judgement as to the adequacy of such a statement cannot be made until a drawback claim is verified. Approval of this application for a specific manufacturing

[2] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles we produce.''

[3] The date of production is the date an article is completed.

drawback ruling merely constitutes approval of the ruling application as submitted; it does not constitute approval of the applicant's record keeping procedures if, for example, those procedures are merely described as meeting the legal requirements, without specifically stating how the requirements will be met. Drawback is not payable without proof of compliance.)

BASIS OF CLAIM FOR DRAWBACK

(There are three different bases that may be used to claim drawback: (1) Used in; (2) Appearing In; and (3) Used less Valuable Waste.)

(The ''Used In'' basis may be employed only if there is either no waste or valueless or unrecovered waste in the operation. Irrecoverable or valueless waste does not reduce the amount of drawback when claims are based on the ''Used In'' basis. Drawback is payable in the amount of 99 percent of the duty paid on the quantity of imported material designated as the basis for the allowance of drawback on the exported articles. The designated quantity may not exceed the quantity of material actually used in the manufacture of the exported articles.)

(For example, if 100 pounds of material, valued at $1.00 per pound, were used in manufacture resulting in 10 pounds of irrecoverable or valueless waste, the 10 pounds of irrecoverable or valueless waste would not reduce the drawback. In this case drawback would be payable on 99% of the duty paid on the 100 pounds of designated material used to produce the exported articles.)

(The ''Appearing In'' basis may be used regardless of whether there is waste. If the ''Appearing In'' basis is used, the claimant does not need to keep records of waste and its value. However, the manufacturer must establish the identity and quantity of the merchandise appearing in the exported product and provide this information. Waste reduces the amount of drawback when claims are made on the ''Appearing In'' basis. Drawback is payable on 99 percent of the duty paid on the quantity of material designated, which may not exceed the quantity of eligible material that appears in the exported articles. ''Appearing In'' may not be used if multiple products are involved.)

(Based on the previous example, drawback would be payable on the 90 pounds of merchandise which actually went into the exported product (appearing in) rather than the 100 pounds used in as set forth previously.)

(The ''Used Less Valuable Waste'' basis may be employed when the manufacturer recovers valuable waste, and keeps records of the quantity and value of waste from each lot of merchandise. The value of the waste reduces the amount of drawback when claims are based on the ''Used Less Valuable Waste'' basis. When valuable waste is incurred, the drawback allowance on the exported article is based on the duty paid on the quantity of merchandise used in the manufacture, reduced by the quantity of such merchandise which the value of the waste would replace. Thus in this case, drawback is claimed on the quantity of eligible material actually used to produce the exported product, less the amount of such material which the value of the waste would replace. Note section 191.26(c) of the CBP Regulations.)

(Based on the previous examples, if the 10 pounds of waste had a value of $.50 per pound, then the 10 pounds of waste, having a total value of $5.00, would be equivalent in value to 5 pounds of the designated material. Thus the value of the waste would replace 5 pounds of the merchandise used, and drawback is payable on 99 percent of the duty paid on the 95 pounds of imported material designated as the basis for the allowance of drawback on the exported article rather than on the 100 pounds ''Used In'' or the 90 pounds ''Appearing In'' as set forth in the above examples.)

(Two methods exist for the manufacturer to show the quantity of material used or appearing in the exported article: (1) Schedule or (2) Abstract.)

(A ''schedule'' shows the quantity of material used in producing each unit of product. The schedule method is usually employed when a standard line of merchandise is being produced according to fixed formulas. Some schedules will show the quantity of merchandise used to manufacture or produce each article and others will show the quantity appearing in each finished article. Schedules may be prepared to show the quantity of merchandise either on the basis of percentages or by actual weights and measurements. A schedule determines the amount that will be needed to produce a unit of product before the material is actually used in production;)

(An ''abstract'' is the summary of the records (which may be set forth on Customs Form 7551) which shows the total quantity used in producing all products during the period covered by the abstract. The abstract looks at a duration of time, for instance 3 months, in which the quantity of material has been used. An abstract looks back on how much material was actually used after a production period has been completed.)

(An applicant who fails to indicate the ''schedule'' choice must base his claims on the ''abstract'' method. State which Basis and Method you will use. An example of Used In by Schedule would read:)

We shall claim drawback on the quantity of (specify material) used in manufacturing (exported article) according to the schedule set forth below.

(Section 191.8(f) of the CBP Regulations requires submission of the schedule with the application for a specific manufacturing drawback ruling. An applicant who desires to

file supplemental schedules with the drawback office whenever there is a change in the quantity or material used should state:)

We request permission to file supplemental schedules with the drawback office covering changes in the quantities of material used to produce the exported articles, or different styles or capacities of containers of such exported merchandise.

(Neither the ''Appearing In'' basis nor the ''schedule'' method for claiming drawback may be used where the relative value procedure is required.)

AGREEMENTS

The Applicant specifically agrees that it will:

1. Operate in full conformance with the terms of this application for a specific manufacturing drawback ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this application;

4. Keep this application current by reporting promptly to the drawback office which liquidates its claims any changes in the number or locations of its offices or factories, the corporate name, the persons who will sign drawback documents, the basis of claim used for calculating drawback, the decision to use or not to use an agent under §191.9 or the identity of an agent under that section, the drawback office where claims will be filed under the ruling, or the corporate organization by succession or reincorporation;

5. Keep this application current by reporting promptly to the Headquarters, U.S. Customs Service all other changes affecting information contained in this application;

6. Keep a copy of this application and the letter of approval by Customs Headquarters on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this application and that letter of approval; and

7. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this application and letter of approval.

Declaration of Official

I declare that I have read this application for a specific manufacturing drawback ruling; that I know the averments and agreements contained herein are true and correct; and that my signature on this _____ day of _____ 19____, makes this application binding on

_____

(Name of Applicant Corporation, Partnership, or Sole Proprietorship)

By[4] _____

(Signature and Title)

_____

(Print Name)

IV. FORMAT FOR APPLICATION FOR SPECIFIC MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(d)

COMPANY LETTERHEAD (Optional)

U.S. Customs and Border Protection, Commercial and Trade Facilitation Division, Regulations and Rulings, Office of International Trade, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dear Sir: We, (Applicant's Name), a (State, e.g., Delaware) corporation (or other described entity) submit this application for a specific manufacturing drawback ruling that our manufacturing operations qualify for drawback under title 19, United States Code, section 1313(d), and part 191 of the Customs Regulations. We request that the Customs Service authorize drawback on the basis of this application.

NAME AND ADDRESS AND IRS NUMBER (WITH SUFFIX) OF APPLICANT

(Section 191.8(a) of the CBP Regulations provides that each manufacturer or producer of articles intended for exportation with the benefit of drawback shall apply for a specific manufacturing drawback ruling, unless operating under a general manufacturing drawback ruling under §191.7 of the CBP Regulations. Customs will not approve an application which shows an unincorporated division or company as the applicant (see §191.8(a)).)

LOCATION OF FACTORY

(Give the address of the factory(s) where the process of manufacture or production will take place. If the factory is a different legal

[4] Section 191.6(a) requires that applications for specific manufacturing drawback rulings be signed by any individual legally authorized to bind the person (or entity) for whom the application is signed or the owner of a sole proprietorship, a full partner in a partnership, or, if a corporation, the president, a vice president, secretary, treasurer or employee legally authorized to bind the corporation. In addition, any employee of a business entity with a customs power of attorney filed with the Customs port for the drawback office which will liquidate your drawback claims may sign such an application, as may a licensed Customs broker with a Customs power of attorney. You should state in which Customs port your Customs power(s) of attorney is/are filed.

entity from the applicant, so state and indicate if operating under an Agent's general manufacturing drawback ruling.)

PERSONS WHO WILL SIGN DRAWBACK DOCUMENTS

(List persons legally authorized to bind the corporation who will sign drawback documents. Section 191.6 of the CBP Regulations permits only the president, vice-president, secretary, treasurer, or any employee legally authorized to bind the corporation to sign for a corporation. In addition, a person within a business entity with a Customs power of attorney for the company may sign. A Customs power of attorney may also be given to a licensed Customs broker. This heading should be changed to NAMES OF PARTNERS or PROPRIETOR in the case of a partnership or sole proprietorship, respectively (see footnote at end of this sample format for persons who may sign applications for specific manufacturing drawback rulings).

CBP OFFICE WHERE DRAWBACK CLAIMS WILL BE FILED

(The 8 offices where drawback claims can be filed are located at: Boston, MA; New York, NY; Miami, FL; New Orleans, LA; Houston, TX; Long Beach, CA; Chicago, IL; San Francisco, CA)

(An original application and two copies must be filed. If the applicant intends to file drawback claims at more than one drawback office, one additional copy of the application must be furnished for each additional office indicated.)

GENERAL STATEMENT

(The exact material placed under this heading in individual cases will vary, but it should include such information as the type of business in which the manufacturer is engaged, whether the manufacturer is manufacturing for his own account or is performing the operation on a toll basis (including commission or conversion basis) for the account of others, whether the manufacturer is a direct exporter of his products or sells or delivers them to others for export, and whether drawback will be claimed by the manufacturer or by others.)

(If an agent is to be used, the applicant must state it will comply with T.D.'s 55027(2) and 55207(1), and §191.9, as applicable, and that its agent will submit a letter of notification of intent to operate under the general manufacturing drawback ruling for agents (see §191.7 and Appendix A), or an application for a specific manufacturing drawback ruling (see §191.8 and this Appendix B).)

(Regarding drawback operations conducted under §1313(d), the data may describe the flavoring extracts, medicinal, or toilet preparations (including perfumery) manufactured with the use of domestic tax-paid alcohol; and where such alcohol is obtained or purchased.)

(Since the permission to grant use of the accelerated payment procedure rests with the Drawback office with which claims will be filed, do not include any reference to that procedure in this application.)

TAX-PAID MATERIAL USED UNDER SECTION 1313(d)

(Describe or list the tax-paid material)

EXPORTED ARTICLES ON WHICH DRAWBACK WILL BE CLAIMED

(Name each article to be exported)

PROCESS OF MANUFACTURE OR PRODUCTION

(Drawback under §1313(d) is not allowable except where a manufacture or production exists. ''Manufacture or production'' is defined, for drawback purposes, in §191.2(q). In order to obtain drawback under §1313(d), it is essential for the applicant to show use in manufacture or production by giving a thorough description of the manufacturing process. Describe how the tax-paid material is processed into the export article.)

WASTE

(Many processes result in residue materials which, for drawback purposes, are treated as wastes. Describe any residue materials which you believe should be so treated. If no waste results, include a positive statement to that effect under this heading.) (If waste occurs, state: (1) whether or not it is recovered, (2) whether or not it is valueless, and (3) what you do with it. This information is required whether claims are made on a ''used in'' or ''appearing in'' basis and regardless of the amount of waste incurred.)

(Irrecoverable wastes are those consisting of materials which are lost in the process. Valueless wastes are those which may be recovered but have no value. These irrecoverable and valueless wastes do not reduce the drawback claim provided the claim is based on the quantity of domestic tax-paid alcohol used in manufacturing. If the claim is based upon the quantity of domestic tax-paid alcohol appearing in the exported article, irrecoverable and valueless waste will cause a reduction in the amount of drawback.)

(Valuable wastes are those recovered wastes which have a value either for sale or for use in a different manufacturing process. However, it should be noted that this standard applies to the entire industry and is not a selection on your part. An option by you not to choose to sell or use the waste in some different operation, does not make it valueless if another manufacturer can use the waste. State what you do with the waste. If you have to pay someone to get rid of it, or if you have buyers for the waste, you must

state so in your application regardless of what ''Basis'' you are using.)

(If you recover valuable waste and if you choose to claim on the basis of the quantity of domestic tax-paid alcohol used in producing the exported articles (less valuable waste), state that you will keep records to establish the quantity and value of the waste recovered. See ''Basis of Claim for Drawback'' section below.)

STOCK IN PROCESS

(Some processes result in another type of residual material, namely, stock in process, which affects the allowance of drawback. Stock in process may exist when residual material resulting from a manufacturing or processing operation is reintroduced into a subsequent manufacturing or processing operation; e.g., trim pieces from a cast article. The effect of stock in process on a drawback claim is that the amount of drawback for the period in which the stock in process was withdrawn from the manufacturing or processing operation (or the manufactured article, if manufacturing or processing periods are not used) is reduced by the quantity of merchandise or drawback products used to produce the stock in process if the ''used in'' or ''used in less valuable waste'' methods are used (if the ''appearing in'' method is used, there will be no effect on the amount of drawback), and the quantity of merchandise or drawback products used to produce the stock in process is added to the merchandise or drawback products used in the subsequent manufacturing or production period (or the subsequently produced article)).

(If stock in process occurs and claims are to be based on stock in process, the application must include a statement to that effect. The application must also include a statement that the domestic tax-paid alcohol is considered to be used in manufacture at the time it was originally processed so that the stock in process will not be included twice in the computation of the domestic tax-paid alcohol used to manufacture the finished articles on which drawback is claimed.)

LOSS OR GAIN (Separate and distinct from WASTE)

(Some manufacturing processes result in an intangible loss or gain of the net weight or measurement of the merchandise used. This loss or gain is caused by atmospheric conditions, chemical reactions, or other factors. State the approximate usual percentage or quantity of such loss or gain. Note that percentage values will be considered to be measured ''by weight'' unless otherwise specified. Loss or gain does not occur during all manufacturing processes. If loss or gain does not apply to your manufacturing process, state ''Not Applicable.'')

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. That the exported articles on which drawback is claimed were produced with the use of a particular lot (or lots) of domestic tax-paid alcohol, and

2. The quantity of domestic tax-paid alcohol[1] we used in producing the exported articles.

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after the tax has been paid on the domestic alcohol. Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance.

INVENTORY PROCEDURES

(Describe your inventory records and state how those records will meet the drawback recordkeeping requirements set forth in 19 U.S.C. 1313(d) and part 191 of the CBP Regulations as discussed under the heading PROCEDURES AND RECORDS MAINTAINED. To insure compliance the following areas should be included in your discussion:)

RECEIPT AND RAW STOCK STORAGE RECORDS
MANUFACTURING RECORDS
FINISHED STOCK STORAGE RECORDS

BASIS OF CLAIM FOR DRAWBACK

(There are three different bases that may be used to claim drawback: (1) Used in; (2) Appearing In; and (3) Used less Valuable Waste.)

(The ''Used In'' basis may be employed only if there is either no waste or valueless or unrecovered waste in the operation. Irrecoverable or valueless waste does not reduce the amount of drawback when claims are based on the ''Used In'' basis. Drawback is payable in the amount of 100% of the tax paid on the quantity of domestic alcohol used in the manufacture of flavoring extracts and medicinal or toilet preparation (including perfumery).)

(For example, if 100 gallons of alcohol, valued at $1.00 per gallon, were used in manufacture resulting in 10 gallons of irrecoverable or valueless waste, the 10 gallons of irrecoverable or valueless waste would not reduce the drawback. In this case drawback would be payable on 100% of the tax paid on the 100 gallons of domestic alcohol used to produce the exported articles.)

The ''Appearing In'' basis may be used regardless of whether there is waste. If the

[1] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence should read ''appearing in the exported articles we produce.''

''Appearing In'' basis is used, the claimant does not need to keep records of waste and its value. However, the manufacturer must establish the identity and quantity of the merchandise appearing in the exported product and provide this information. Waste reduces the amount of drawback when claims are made on the ''Appearing In'' basis. Drawback is payable on 100% of the tax paid on the quantity of domestic alcohol which appears in the exported articles.

(Based on the previous example, drawback would be payable on the 90 gallons of domestic alcohol which actually went into the exported product (appearing in) rather than the 100 gallons used in as set forth previously.)

(The ''Used Less Valuable Waste'' basis may be employed when the manufacturer recovers valuable waste, and keeps records of the quantity and value of waste from each lot of domestic tax-paid alcohol. The value of the waste reduces the amount of drawback when claims are based on the ''Used Less Valuable Waste'' basis. When valuable waste is incurred, the drawback allowance on the exported article is based on the quantity of tax-paid alcohol used to manufacture the exported articles, reduced by the quantity of such alcohol which the value of the waste would replace.)

(Based on the previous examples, if the 10 gallons of waste had a value of $.50 per gallon, then the 10 gallons of waste, having a total value of $5.00, would be equivalent in value to 5 gallons of the tax-paid alcohol. Thus the value of the waste would replace 5 gallons of the alcohol used, and drawback is payable on 100% of the tax paid on 95 gallons of alcohol rather than on the 100 gallons ''Used In'' or the 90 gallons ''Appearing In'' as set forth in the above examples.)

(Two methods exist for the manufacturer to show the quantity of material used or appearing in the exported article: (1) Schedule or (2) Abstract.)

(A ''schedule'' shows the quantity of material used in producing each unit of product. The schedule method is usually employed when a standard line of merchandise is being produced according to fixed formulas. Some schedules will show the quantity of merchandise used to manufacture or produce each article and others will show the quantity appearing in each finished article. Schedules may be prepared to show the quantity of merchandise either on the basis of percentages or by actual weights and measurements. A schedule determines the amount that will be needed to produce a unit of product before the material is actually used in production;)

(An ''abstract'' is the summary of the records (which may be set forth on Customs Form 7551) which shows the total quantity used in producing all products during the period covered by the abstract. The abstract looks at a duration of time, for instance 3 months, in which the quantity of material has been used. An abstract looks back on how much material was actually used after a production period has been completed.)

(An applicant who fails to indicate the ''schedule'' choice must base his claims on the ''abstract'' method. State which Basis and Method you will use. An example of Used In by schedule follows:)

We shall claim drawback on the quantity of (specify material) used in manufacturing (exported article) according to the schedule set forth below.

(Section 191.8(f) of the CBP Regulations requires submission of the schedule with the application for a specific manufacturing drawback ruling. An applicant who desires to file supplemental schedules with the drawback office whenever there is a change in the quantity or material used should state:)

We request permission to file supplemental schedules with the drawback office covering changes in the quantities of material used to produce the exported articles, or different styles or capacities of containers of such exported merchandise.

(Neither the ''Appearing In'' basis nor the ''schedule'' method for claiming drawback may be used where the relative value procedure is required.)

AGREEMENTS

The Applicant specifically agrees that it will:

1. Operate in full conformance with the terms of this application for a specific manufacturing drawback ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this application;

4. Keep this application current by reporting promptly to the drawback office which liquidates its claims any changes in the number or locations of its offices or factories, the corporate name, the persons who will sign drawback documents, the basis of claim used for calculating drawback, the decision to use or not to use an agent under §191.9 or the identity of an agent under that section, the drawback office where claims will be filed under the ruling, or the corporate organization by succession or reincorporation;

5. Keep this application current by reporting promptly to the Headquarters, U.S. Customs Service all other changes affecting information contained in this application;

6. Keep a copy of this application and the letter of approval by Customs Headquarters on file for ready reference by employees and require all officials and employees concerned

to familiarize themselves with the provisions of this application and that letter of approval; and

7. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this application and letter of approval.

DECLARATION OF OFFICIAL

I declare that I have read this application for a specific manufacturing drawback ruling; that I know the averments and agreements contained herein are true and correct; and that my signature on this _____ day of _____ 19___, makes this application binding on

_____

(Name of Applicant Corporation, Partnership, or Sole Proprietorship)

By[2] _____

(Signature and Title)

_____

(Print Name)

V. FORMAT FOR APPLICATION FOR SPECIFIC MANUFACTURING DRAWBACK RULING UNDER 19 U.S.C. 1313(g)

COMPANY LETTERHEAD (Optional)

U.S. Customs and Border Protection, Commercial and Trade Facilitation Division, Regulations and Rulings, Office of International Trade, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dear Sir: We, (Applicant's Name), a (State, e.g., Delaware) corporation (or other described entity) submit this application for a specific manufacturing drawback ruling that our manufacturing operations qualify for drawback under title 19, United States Code, section 1313(g), and part 191 of the Customs Regulations. We request that the Customs Service authorize drawback on the basis of this application.

NAME AND ADDRESS AND IRS NUMBER (WITH SUFFIX) OF APPLICANT

(Section 191.8(a) of the CBP Regulations provides that each manufacturer or producer of articles intended for exportation with the benefit of drawback shall apply for a specific manufacturing drawback ruling, unless operating under a general manufacturing drawback ruling under §191.7 of the CBP Regulations. Customs will not approve an application which shows an unincorporated division or company as the applicant (see §191.8(a).)

LOCATION OF FACTORY OR SHIPYARD

(Give the address of the factory(s) or shipyard(s) at which the construction and equipment will take place. If the factory or shipyard is a different legal entity from the applicant, so state and indicate if operating under an Agent's general manufacturing drawback ruling.)

PERSONS WHO WILL SIGN DRAWBACK DOCUMENTS

(List persons legally authorized to bind the corporation who will sign drawback documents. Section 191.6 of the CBP Regulations permits only the president, vice-president, secretary, treasurer, or any employee legally authorized to bind the corporation to sign for a corporation. In addition, a person within a business entity with a Customs power of attorney for the company may sign. A Customs power of attorney may also be given to a licensed Customs broker. This heading should be changed to NAMES OF PARTNERS or PROPRIETOR in the case of a partnership or sole proprietorship, respectively (see footnote at end of this sample format for persons who may sign applications for specific manufacturing drawback rulings).)

CBP OFFICE WHERE DRAWBACK CLAIMS WILL BE FILED

(The 8 offices where drawback claims can be filed are located at: Boston, MA; New York, NY; Miami, FL; New Orleans, LA; Houston, TX; Long Beach, CA; Chicago, IL; San Francisco, CA)

(An original application and two copies must be filed. If the applicant intends to file drawback claims at more than one drawback office, one additional copy of the application must be furnished for each additional office indicated.)

GENERAL STATEMENT

(The following questions must be answered:

1. Who will be the importer of the merchandise?

(If the applicant will not always be the importer, does the applicant understand its obligations to obtain the appropriate certificates of delivery (19 CFR 191.10), certificates

[2] Section 191.6(a) requires that applications for specific manufacturing drawback rulings be signed by any individual legally authorized to bind the person (or entity) for whom the application is signed or the owner of a sole proprietorship, a full partner in a partnership, or, if a corporation, the president, a vice president, secretary, treasurer or employee legally authorized to bind the corporation. In addition, any employee of a business entity with a customs power of attorney filed with the Customs port for the drawback office which will liquidate your drawback claims may sign such an application, as may a licensed Customs broker with a Customs power of attorney. You should state in which Customs port your Customs power(s) of attorney is/are filed.

of manufacture and delivery (19 CFR 191.24), or both?)

2. Who is the manufacturer?

(Is the applicant constructing and equipping for his own account or merely performing the operation on a toll basis for others?)

(If an agent is to be used, the applicant must state it will comply with T.D.s 55027(2) and 55207(1), and § 191.9, as applicable, and that its agent will submit a letter of notification of intent to operate under the general manufacturing drawback ruling for agents (see § 191.7 and Appendix A), or an application for a specific manufacturing drawback ruling (see § 191.8 and this Appendix B).)

3. Will the applicant be the drawback claimant?

(State how the vessel will qualify for drawback under 19 U.S.C. 1313(g). Who is the foreign person or government for whom the vessel is being made or equipped?)

(There shall be included under this heading the following statement:

We are particularly aware of the terms of § 191.76(a)(1) of and subpart M of part 191 of the Customs Regulations, and shall comply with these sections where appropriate.)

(Since the permission to grant use of the accelerated payment procedure rests with the Drawback office with which claims will be filed, do not include any reference to that procedure in this application.)

IMPORTED MERCHANDISE OR DRAWBACK PRODUCTS USED

(Describe the imported merchandise or drawback products)

ARTICLES CONSTRUCTED AND EQUIPPED FOR EXPORT

(Name the vessel or vessels to be made with imported merchandise or drawback products)

PROCESS OF CONSTRUCTION AND EQUIPMENT

(What is required here is a clear, concise description of the process of construction and equipment involved. The description should also trace the flow of materials through the manufacturing process for the purpose of establishing physical identification of the imported merchandise or drawback products and of the articles resulting from the processing.)

WASTE

(Many processes result in residue materials which, for drawback purposes, are treated as wastes. Describe any residue materials which you believe should be so treated. If no waste results, include a positive statement to that effect under this heading.)

(If waste occurs, state: (1) whether or not it is recovered, (2) whether or not it is valueless, and (3) what you do with it. This information is required whether claims are made on a ''used in'' or ''appearing in'' basis and regardless of the amount of waste incurred.)

(Irrecoverable wastes are those consisting of materials which are lost in the process. Valueless wastes are those which may be recovered but have no value. These irrecoverable and valueless wastes do not reduce the drawback claim provided the claim is based on the quantity of imported material used in manufacturing. If the claim is based upon the quantity of imported merchandise appearing in the exported article, irrecoverable and valueless waste will cause a reduction in the amount of drawback.)

(Valuable wastes are those recovered wastes which have a value either for sale or for use in a different manufacturing process. However, it should be noted that this standard applies to the entire industry and is not a selection on your part. An option by you not to choose to sell or use the waste in some different operation does not make it valueless if another manufacturer can use the waste. State what you do with the waste. If you have to pay someone to get rid of it, or if you have buyers for the waste, you must state so in your application regardless of what ''Basis'' you are using.)

(If you recover valuable waste and if you choose to claim on the basis of the quantity of imported or substituted merchandise used in producing the exported articles (less valuable waste), state that you will keep records to establish the quantity and value of the waste recovered. See ''Basis of Claim for Drawback'' section below.)

LOSS OR GAIN (Separate and distinct from WASTE)

(Some manufacturing processes result in an intangible loss or gain of the net weight or measurement of the merchandise used. This loss or gain is caused by atmospheric conditions, chemical reactions, or other factors. State the approximate usual percentage or quantity of such loss or gain. Note that percentage values will be considered to be measured ''by weight'' unless otherwise specified. Loss or gain does not occur during all manufacturing processes. If loss or gain does not apply to your manufacturing process, state ''Not Applicable.'')

PROCEDURES AND RECORDS MAINTAINED

We will maintain records to establish:

1. That the exported article on which drawback is claimed was constructed and equipped with the use of a particular lot (or lots) of imported material; and

2. The quantity of imported merchandise[1] we used in producing the exported article.

[1] If claims are to be made on an ''appearing in'' basis, the remainder of this sentence

We realize that to obtain drawback the claimant must establish that the completed articles were exported within 5 years after the importation of the imported merchandise. Our records establishing our compliance with these requirements will be available for audit by Customs during business hours. We understand that drawback is not payable without proof of compliance.

INVENTORY PROCEDURES

(Describe your inventory records and state how those records will meet the drawback recordkeeping requirements set forth in 19 U.S.C. 1313 and part 191 of the CBP Regulations as discussed under the heading PROCEDURES AND RECORDS MAINTAINED. To insure compliance the following should be included in your discussion:)

RECEIPT AND RAW STOCK STORAGE RECORDS
CONSTRUCTION AND EQUIPMENT RECORDS
FINISHED STOCK STORAGE RECORDS
SHIPPING RECORDS

BASIS OF CLAIM FOR DRAWBACK

(There are three different bases that may be used to claim drawback: (1) Used in; (2) Appearing In; and (3) Used less Valuable Waste.)
(The ''Used In'' basis may be employed only if there is either no waste or valueless or unrecovered waste in the operation. Irrecoverable or valueless waste does not reduce the amount of drawback when claims are based on the ''Used In'' basis. Drawback is payable in the amount of 99 percent of the duty paid on the quantity of imported material used to construct and equip the exported article.)
(For example, if 100 pounds of material, valued at $1.00 per pound, were used in manufacture resulting in 10 pounds of irrecoverable or valueless waste, the 10 pounds of irrecoverable or valueless waste would not reduce the drawback. In this case drawback would be payable on 99% of the duty paid on the 100 pounds of imported material used in constructing and equipping the exported articles.)
(The ''Appearing In'' basis may be used regardless of whether there is waste. If the ''Appearing In'' basis is used, the claimant does not need to keep records of waste and its value. However, the manufacturer must establish the identity and quantity of the merchandise appearing in the exported product and provide this information. Waste reduces the amount of drawback when claims are made on the ''Appearing In'' basis. Drawback is payable on 99 percent of the duty paid on the quantity of imported material which appears in the exported articles. ''Appearing In'' may not be used if multiple products are involved.)
(Based on the previous example, drawback would be payable on the 90 pounds of imported material which actually went into the exported product (appearing in) rather than the 100 pounds used in as set forth previously.)
(The ''Used Less Valuable Waste'' basis may be employed when the manufacturer recovers valuable waste, and keeps records of the quantity and value of waste from each lot of merchandise. The value of the waste reduces the amount of drawback when claims are based on the ''Used Less Valuable Waste'' basis. When valuable waste is incurred, the drawback allowance on the exported article is based on the duty paid on the quantity of imported material used to construct and equip the exported product, reduced by the quantity of such material which the value of the waste would replace. Thus in this case, drawback is claimed on the quantity of eligible material actually used to produce the exported product, less the amount of such material which the value of the waste would replace. Note section 191.26(c) of the CBP Regulations.)
(Based on the previous examples, if the 10 pounds of waste had a value of $.50 per pound, then the 10 pounds of waste, having a total value of $5.00, would be equivalent in value to 5 pounds of the imported material. Thus the value of the waste would replace 5 pounds of the merchandise used, and drawback is payable on 99 percent of the duty paid on the 95 pounds of imported material rather than on the 100 pounds ''Used In'' or the 90 pounds ''Appearing In'' as set forth in the above examples.)
(Two methods exist for the manufacturer to show the quantity of material used or appearing in the exported article: (1) Schedule or (2) Abstract.)
(A ''schedule'' shows the quantity of material used in producing each unit of product. The schedule method is usually employed when a standard line of merchandise is being produced according to fixed formulas. Some schedules will show the quantity of merchandise used to manufacture or produce each article and others will show the quantity appearing in each finished article. Schedules may be prepared to show the quantity of merchandise either on the basis of percentages or by actual weights and measurements. A schedule determines the amount that will be needed to produce a unit of product before the material is actually used in production;)
(An ''abstract'' is the summary of the records (which may be set forth on Customs Form 7551) which shows the total quantity used in producing all products during the period covered by the abstract. The abstract looks at a duration of time, for instance 3 months, in which the quantity of material has been used. An abstract looks back on

should read ''appearing in the exported articles we produce.''

how much material was actually used after a production period has been completed.)

(An applicant who fails to indicate the ''schedule'' choice must base his claims on the ''abstract'' method. State which Basis and Method you will use. An example of Used In by Schedule would read:)

We shall claim drawback on the quantity of (specify material) used in manufacturing (exported article) according to the schedule set forth below.

(Section 191.8(f) of the CBP Regulations requires submission of the schedule with the application for a specific manufacturing drawback ruling. An applicant who desires to file supplemental schedules with the drawback office whenever there is a change in the quantity or material used should state:)

We request permission to file supplemental schedules with the drawback office covering changes in the quantities of material used to produce the exported articles, or different styles or capacities of containers of such exported merchandise.

(Neither the ''Appearing In'' basis nor the ''schedule'' method for claiming drawback may be used where the relative value procedure is required.)

AGREEMENTS

The Applicant specifically agrees that it will:

1. Operate in full conformance with the terms of this application for a specific manufacturing drawback ruling when claiming drawback;

2. Open its factory and records for examination at all reasonable hours by authorized Government officers;

3. Keep its drawback related records and supporting data for at least 3 years from the date of payment of any drawback claim predicated in whole or in part upon this application;

4. Keep this application current by reporting promptly to the drawback office which liquidates its claims any changes in the number or locations of its offices or factories, the corporate name, the persons who will sign drawback documents, the basis of claim used for calculating drawback, the decision to use or not to use an agent under § 191.9 or the identity of an agent under that section, the drawback office where claims will be filed under the ruling, or the corporate organization by succession or reincorporation;

5. Keep this application current by reporting promptly to the Headquarters, U.S. Customs Service all other changes affecting information contained in this application;

6. Keep a copy of this application and the letter of approval by Customs Headquarters on file for ready reference by employees and require all officials and employees concerned to familiarize themselves with the provisions of this application and that letter of approval; and

7. Issue instructions to insure proper compliance with title 19, United States Code, section 1313, part 191 of the CBP Regulations and this application and letter of approval.

DECLARATION OF OFFICIAL

I declare that I have read this application for a specific manufacturing drawback ruling; that I know the averments and agreements contained herein are true and correct; and that my signature on this _____ day of _____ 19____, makes this application binding on

_____

(Name of Applicant Corporation, Partnership, or Sole Proprietorship)

By[2] _____

(Signature and Title)

[T.D. 98–16, 63 FR 11006, Mar. 5, 1998; 63 FR 15291, Mar. 31, 1998; 63 FR 65060, Nov. 25, 1998]

PART 192—EXPORT CONTROL

Sec.
192.0 Scope.

Subpart A—Exportation of Used Self-Propelled Vehicles, Vessels, and Aircraft

192.1 Definitions.
192.2 Requirements for exportation.
192.3 Penalties.
192.4 Liability of carriers.

Subpart B—Filing of Export Information Through the Automated Export System (AES)

192.11 Description of the AES.
192.12 Criteria for denial of applications requesting AES post-departure (Option 4) filing status; appeal procedures.

[2] Section 191.6(a) requires that applications for specific manufacturing drawback rulings be signed by any individual legally authorized to bind the person (or entity) for whom the application is signed or the owner of a sole proprietorship, a full partner in a partnership, or, if a corporation, the president, a vice president, secretary, treasurer or employee legally authorized to bind the corporation. In addition, any employee of a business entity with a Customs power of attorney filed with the Customs port for the drawback office which will liquidate your drawback claims may sign such an application, as may a licensed Customs broker with a Customs power of attorney. You should state in which Customs port your Customs power(s) of attorney is/are filed.