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

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

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

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

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

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

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

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

§ 148.116 Claim for refund.

Any person who has filed a declaration of unaccompanied articles under §§ 148.112 and 148.113 and who is dissatisfied with the amount of duty assessed on the articles upon their arrival in the United States may file a claim for administrative review under subpart C, part 145, of this chapter if the articles arrived by mail, or under parts 173 and 174 if the articles arrived other than by mail. Any supporting documents, including a copy of Customs Form 255, should be submitted with the claim.

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

PART 149—IMPORTER SECURITY FILING

Sec.

149.1 Definitions.
149.2 Importer security filing—requirement, time of transmission, verification of information, update, withdrawal, compliance date.
149.3 Data elements.
149.4 Bulk and break bulk cargo.
149.5 Eligibility to file an Importer Security Filing, authorized agents.
149.6 Entry and entry summary documentation and Importer Security Filing submitted via a single electronic transmission.

AUTHORITY: 5 U.S.C. 301; 6 U.S.C. 943; 19 U.S.C. 66, 1624, 2071 note.

SOURCE: CBP Dec. 08–46, 73 FR 71782, Nov. 25, 2008, unless otherwise noted.

§ 149.1 Definitions.

(a) *Importer Security Filing Importer.* For purposes of this part, ''Importer Security Filing (ISF) Importer'' means the party causing goods to arrive within the limits of a port in the United States by vessel. For shipments other than foreign cargo remaining on board (FROB), immediate exportation (IE) and transportation and exportation (T&E) in-bond shipments, and goods to be delivered to a foreign trade zone (FTZ), the ISF Importer will be the goods' owner, purchaser, consignee, or agent such as a licensed customs broker. For FROB cargo, the ISF Importer will be the carrier. For IE and T&E in-bond shipments, and goods to be delivered to an FTZ, the ISF Importer will be the party filing the IE, T&E, or FTZ documentation.

(b) *Importation.* For purposes of this part, ''importation'' means the point at which cargo arrives within the limits of a port in the United States.

(c) *Bulk cargo.* For purposes of this part, ''bulk cargo'' is defined as homogeneous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described

as bulk freight. Specifically, bulk cargo is composed of either:

(1) Free flowing articles such as oil, grain, coal, ore, and the like, which can be pumped or run through a chute or handled by dumping; or

(2) Articles that require mechanical handling such as bricks, pig iron, lumber, steel beams, and the like.

(d) *Break bulk cargo*. For purposes of this part, ''break bulk cargo'' is defined as cargo that is not containerized, but which is otherwise packaged or bundled.

§ 149.2 Importer security filing—requirement, time of transmission, verification of information, update, withdrawal, compliance date.

(a) *Importer security filing required*. For cargo arriving by vessel, with the exception of any bulk cargo pursuant to § 149.4(a) of this part, the ISF Importer, as defined in § 149.1 of this part, or authorized agent (*see* § 149.5 of this part) must submit in English the Importer Security Filing elements prescribed in § 149.3 of this part within the time specified in paragraph (b) of this section via a CBP-approved electronic interchange system.

(b) *Time of transmission*. With the exception of any break bulk cargo pursuant to § 149.4(b) of this part, ISF Importers must submit:

(1) Seller, buyer, importer of record number / foreign trade zone applicant identification number, and consignee number(s) (as defined in § 149.3(a)(1) through (4) of this part) no later than 24 hours before the cargo is laden aboard the vessel at the foreign port.

(2) Manufacturer (or supplier), ship to party, country of origin, and commodity HTSUS number (as defined in § 149.3(a)(5) through (8) of this part) no later than 24 hours before the cargo is laden aboard the vessel at the foreign port.

(3) Container stuffing location and consolidator (stuffer) (as defined in § 149.3(a)(9) and (10) of this part) as early as possible, in no event later than 24 hours prior to arrival in a United States port (or upon lading at a foreign port that is less than a 24 hour voyage to the closest United States port).

(4) The data elements required under § 149.3(b) of this part for FROB, prior to lading aboard the vessel at the foreign port.

(5) The data elements required under § 149.3(b) of this part for shipments intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E), no later than 24 hours before cargo is laden aboard the vessel at the foreign port.

(c) *Verification of information*. Where the party electronically presenting to CBP the Importer Security Filing required in paragraph (a) of this section receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to verify such information, CBP will permit the party to electronically present the information on the basis of what the party reasonably believes to be true.

(d) *Update of Importer Security Filing*. The party who submitted the Importer Security Filing pursuant to paragraph (a) of this section must update the filing if, after the filing is submitted and before the goods enter the limits of a port in the United States, any of the information submitted changes or more accurate information becomes available.

(e) *Withdrawal of Importer Security Filing*. If, after an Importer Security Filing is submitted pursuant to paragraph (a) of this section, the goods associated with the Importer Security Filing are no longer intended to be imported to the United States, the party who submitted the Importer Security Filing must withdraw the Importer Security Filing and transmit to CBP the reason for such withdrawal.

(f) *Flexible requirements*. For each of the four data elements required under paragraph (b)(2) of this section ISF Importers will be permitted to submit an initial response or responses based on the best available data available at the time that, in accordance with paragraph (d) of this section, ISF Importers will be required to update as soon as more precise or more accurate information is available, in no event less

than 24 hours prior to arrival at a U.S. port (or upon lading at a foreign port that is less than a 24 hour voyage to the closest U.S. port).

(g) *Compliance date of this section.* (1) *General.* Subject to paragraph (g)(2) of this section, ISF Importers must comply with the requirements of this section on and after January 26, 2010.

(2) *Delay in compliance date of section.* CBP may, at its sole discretion, delay the general compliance date set forth in paragraph (g)(1) of this section in the event that any necessary modifications to the approved electronic data interchange system are not yet in place or for any other reason. Notice of any such delay will be provided in the FEDERAL REGISTER.

[CBP Dec. 08–46, 73 FR 71782, Nov. 25, 2008, as amended by USCBP–2007–0077, 74 FR 33922, July 14, 2009]

§ 149.3 Data elements.

(a) *Shipments intended to be entered into the United States and shipments intended to be delivered to a foreign trade zone.* Except as otherwise provided for in paragraph (b) of this section, the following elements must be provided for each good listed at the six-digit HTSUS number at the lowest bill of lading level (*i.e.*, at the house bill of lading level, if applicable). The manufacturer (or supplier), country of origin, and commodity HTSUS number must be linked to one another at the line item level.

(1) *Seller.* Name and address of the last known entity *by whom* the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(2) *Buyer.* Name and address of the last known entity *to whom* the goods are sold or agreed to be sold. If the goods are to be imported otherwise than in pursuance of a purchase, the name and address of the owner of the goods must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(3) *Importer of record number/Foreign trade zone applicant identification number.* Internal Revenue Service (IRS) number, Employer Identification Number (EIN), Social Security Number (SSN), or CBP assigned number of the entity liable for payment of all duties and responsible for meeting all statutory and regulatory requirements incurred as a result of importation. For goods intended to be delivered to a foreign trade zone (FTZ), the IRS number, EIN, SSN, or CBP assigned number of the party filing the FTZ documentation with CBP must be provided.

(4) *Consignee number(s).* Internal Revenue Service (IRS) number, Employer Identification Number (EIN), Social Security Number (SSN), or CBP assigned number of the individual(s) or firm(s) in the United States on whose account the merchandise is shipped.

(5) *Manufacturer (or supplier).* Name and address of the entity that last manufactures, assembles, produces, or grows the commodity or name and address of the party supplying the finished goods in the country from which the goods are leaving. In the alternative the name and address of the manufacturer (or supplier) that is currently required by the import laws, rules and regulations of the United States (*i.e.*, entry procedures) may be provided (this is the information that is used to create the existing manufacturer identification (MID) number for entry purposes). A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(6) *Ship to party.* Name and address of the first deliver-to party scheduled to physically receive the goods after the goods have been released from customs custody. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(7) *Country of origin.* Country of manufacture, production, or growth of the article, based upon the import laws, rules and regulations of the United States.

(8) *Commodity HTSUS number.* Duty/statistical reporting number under which the article is classified in the

Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS number must be provided to the six-digit level. The HTSUS number may be provided up to the 10-digit level. This element can only be used for entry purposes if it is provided at the 10-digit level or greater by the importer of record or its licensed customs broker.

(9) *Container stuffing location*. Name and address(es) of the physical location(s) where the goods were stuffed into the container. For break bulk shipments, as defined in § 149.1 of this part, the name and address(es) of the physical location(s) where the goods were made ''ship ready'' must be provided. A widely recognized commercially accepted identification number for this element may be provided in lieu of the name and address.

(10) *Consolidator (stuffer)*. Name and address of the party who stuffed the container or arranged for the stuffing of the container. For break bulk shipments, as defined in § 149.1 of this part, the name and address of the party who made the goods ''ship ready'' or the party who arranged for the goods to be made ''ship ready'' must be provided. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(b) *FROB, IE shipments, and T&E shipments*. For shipments consisting entirely of foreign cargo remaining on board (FROB) and shipments intended to be transported in-bond as an immediate exportation (IE) or transportation and exportation (T&E), the following elements must be provided for each good listed at the six-digit HTSUS number at the lowest bill of lading level (*i.e.*, at the house bill of lading level, if applicable).

(1) *Booking party*. Name and address of the party who initiates the reservation of the cargo space for the shipment. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(2) *Foreign port of unlading*. Port code for the foreign port of unlading at the intended final destination.

(3) *Place of delivery*. City code for the place of delivery.

(4) *Ship to party*. Name and address of the first deliver-to party scheduled to physically receive the goods after the goods have been released from customs custody. A widely recognized commercially accepted identification number for this party may be provided in lieu of the name and address.

(5) *Commodity HTSUS number*. Duty/statistical reporting number under which the article is classified in the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS number must be provided to the six-digit level. The HTSUS number may be provided to the 10-digit level.

§ 149.4 Bulk and break bulk cargo.

(a) *Bulk cargo exempted from filing requirement*. For bulk cargo that is exempt from the requirement set forth in § 4.7(b)(2) of this chapter that a cargo declaration be filed with Customs and Border Protection (CBP) 24 hours before such cargo is laden aboard the vessel at the foreign port, ISF Importers, as defined in § 149.1 of this part, of bulk cargo are also exempt from filing an Importer Security Filing with respect to that cargo.

(b) *Break bulk cargo exempted from time requirement*. For break bulk cargo that is exempt from the requirement set forth in § 4.7(b)(2) of this chapter for carriers to file a cargo declaration with Customs and Border Protection (CBP) 24 hours before such cargo is laden aboard the vessel at the foreign port, ISF Importers, as defined in § 149.1 of this part, of break bulk cargo are also exempt with respect to that cargo from the requirement set forth in § 149.2 of this part to file an Importer Security Filing with CBP 24 hours before such cargo is laden aboard the vessel at the foreign port. Any importers of break bulk cargo that are exempted from the filing requirement of § 149.2 of this part must present the Importer Security Filing to CBP 24 hours prior to the cargo's arrival in the United States. These ISF Importers must still report 24 hours in advance of loading any containerized or non-qualifying break bulk cargo they will be importing.

§ 149.5 Eligibility to file an Importer Security Filing, authorized agents.

(a) *Eligibility*. To be qualified to file Importer Security Filing information electronically, a party must establish the communication protocol required by Customs and Border Protection for properly presenting the Importer Security Filing through the approved data interchange system. If the Importer Security Filing and entry or entry summary are provided via a single electronic transmission to CBP pursuant to §149.6(b) of this part, the party making the transmission must be an importer acting on its own behalf or a licensed customs broker.

(b) *Bond required*. The ISF Importer must possess a basic importation and entry bond containing all the necessary provisions of §113.62 of this chapter, a basic custodial bond containing all the necessary provisions of §113.63 of this chapter, an international carrier bond containing all the necessary provisions of §113.64 of this chapter, a foreign trade zone operator bond containing all the necessary provisions of §113.73 of this chapter, or an importer security filing bond as provided in Appendix D to part 113 of this chapter. If an ISF Importer does not have a required bond, the agent submitting the Importer Security Filing on behalf of the ISF Importer may post the agent's bond.

(c) *Powers of attorney*. Authorized agents must retain powers of attorney in English until revoked. Revoked powers of attorney and letters of revocation must be retained for five years after the date of revocation. Authorized agents must make powers of attorney and letters of revocation available to representatives of Customs and Border Protection upon request.

§ 149.6 Entry and entry summary documentation and Importer Security Filing submitted via a single electronic transmission.

If the Importer Security Filing is filed pursuant to §149.2 of this part via the same electronic transmission as entry or entry/entry summary documentation pursuant to §142.3 of this chapter, the importer is only required to provide the following fields once to be used for Importer Security Filing, entry, or entry/entry summary purposes, as applicable:

(a) Importer of record number;

(b) Consignee number;

(c) Country of origin; and

(d) Commodity HTSUS number if this number is provided at the 10-digit level.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

Sec.

151.0 Scope.

Subpart A—General

151.1 Merchandise to be examined.
151.2 Quantities to be examined.
151.3 Disclosure of examination packages.
151.4 Time of examination.
151.5 Conditions for examination prior to entry.
151.6 Place of examination.
151.7 Examination elsewhere than at place of arrival or public stores.
151.8 Examination after assembly.
151.9 Immediate transportation entry delivered outside port limits.
151.10 Sampling.
151.11 Request for samples or additional examination packages after release of merchandise.
151.12 Accreditation of commercial laboratories.
151.13 Approval of commercial gaugers.
151.14 Use of commercial laboratory tests in liquidation.
151.15 Movement of merchandise to a centralized examination station.
151.16 Detention of merchandise.

Subpart B—Sugars, Sirups, and Molasses

151.21 Definitions.
151.22 Estimated duties on raw sugar.
151.23 Allowance for moisture in raw sugar.
151.24 Unlading facilities for bulk sugar.
151.25 Mixing classes of sugar.
151.26 Molasses in tank cars.
151.27 Weighing and sampling done at time of unlading.
151.28 Gauging of sirup or molasses discharged into storage tanks.
151.29 Expense of unlading and handling.
151.30 Sugar closets.
151.31 [Reserved]

Subpart C—Petroleum and Petroleum Products

151.41 Information on entry summary.
151.42 Controls on unlading and gauging.
151.43 [Reserved]