SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release No. 34-16077]

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission is amending its Rules of Organization to delegate to the Director of the Division of Market Regulation authority to exempt broker-dealers from the Commission's regulations concerning customer confirmations.

In view of the increasing number of exemptive requests, the Commission believes that it would facilitate the processing of those requests under the rule if authority to grant exemptions were delegated to the Director of the Division of Market Regulation.

EFFECTIVE DATE: August 2, 1979.

FOR FURTHER INFORMATION CONTACT: Susan P. Davis, Esq., Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202) 755-7610.

SUPPLEMENTARY INFORMATION: Securities Exchange Act Rule 10b-10 (17 CFR 240.10b-10) requires that a broker or dealer deliver to a customer, at or before the completion of a transaction in securities (other than U.S. Savings Bonds or municipal securities), a confirmation disclosing various facts concerning such transaction. Paragraph (e) of that rule allows the Commission to exempt any broker or dealer from the confirmation delivery and disclosure requirements with regard to specific transactions or specific classes of transactions. The Commission believes that it would facilitate the processing of exemptive requests under Rule 10b-10 if authority to grant exemptions were delegated to the Director of the Division of Market Regulation. Accordingly, the Commission, acting pursuant to the Act of August 20, 1962, Pub. L. No. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), hereby amends Section 200.30-3 (17 CFR 200.30-3) of the Commission's rules relating to general organization by adding a new paragraph (a)(32) to delegate to the Director of the Division of Market Regulation authority to grant exemptions from Rule 10b-10.

The Commisison finds, in accordance with 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(d) of the Administrative Procedure Act, that the foregoing action relates solely to agency organization, procedure, or practice and that notice and public procedures in accordance with 5 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness. In addition, the Commission finds that the foregoing action does not impose any burden on competition.

Part 200 of Title 17 of the Code of Federal Regulations is amended by adding paragraph (a)(32) to § 200.30-3, as follows:

§ 200.30-3 Delegation of Authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(32) Pursuant to paragraph (e) of Rule 10b-10 (240.10b-10(e) of this chapter), to grant exemptions from Rule 10b-10.

By the Commission.

Dated: August 2, 1979.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 79-24605 Filed 8-8-79; 8:45 am]

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 79-220]

Foreign Discriminating Duties of Tonnage and Impost With Respect to Vessels of and Certain Imports From Bermuda Suspended and Discontinued

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule adds Bermuda to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been obtained by the Department of State that no discriminating duties of tonnage or impost are imposed in ports of Bermuda upon vessels belonging to citizens of the United States or on their cargoes.

EFFECTIVE DATE: The exemption became effective January 12, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick J. Casey, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On March 12, 1979, the Department of State advised Customs that no discriminating duties of tonnage or imposts are imposed or levied in the ports of Bermuda upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported from the United States or from any foreign country in vessels of the United States. Consequently, there is satisfactory evidence which would permit the Secretary of the Treasury to find that vessels of Bermuda are entitled to the exemption, and the Department of State has requested that such vessels be afforded the exemption.

Declaration

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR 1959-1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101-5 (44 FR 31057), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of Bermuda and the produce, manufactures, or merchandise imported into the United States in such vessels from Bermuda or from any other foreign country.

This suspension and discontinuance shall take effect from January 12, 1979, in respect to vessels of Bermuda and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

Amendment to the Regulations

In accordance with this declaration, section 4.22, Customs Regulations (19 CFR 4.22), is amended by adding "Bermuda" in the appropriate alphabetical sequence in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

(R. S. 251, as amended, 4219, as amended, 4225, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 3, 121, 128, 141))

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this amendment merely implements a statutory requirement, notice and public procedure are unnecessary, and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

Regulation Determined To Be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, it has been determined that this amendment does not meet the Treasury Department criteria in the directive for a "significant" regulation because it is nonsubstantive, essentially procedural, does not materially change existing or establish new policy, and does not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected.

Drafting Information

The principal author of this document was Shannon McCarthy, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and the Treasury participated in its development.

Dated: July 16, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-24559 Filed 8-8-79; 8:45 am]

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19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173

[T.D. 79-221]

Customs Regulations, Relating to the Entry of Merchandise, Liquidation of Entries, Warehousing Periods, and Marking of Bulk Containers of Alcoholic Beverages, Amended

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: Pub. L. 95-410, the "Custom Procedural Reform and Simplification Act of 1978", made numerous changes in laws administered by the Customs Service relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages. This document amends the Customs Regulations to establish new procedures needed to reflect these changes.

Some of the more significant changes to the regulations are:

1. To provide for a revised entry concept under which documentation necessary to obtain the release of merchandise is the "entry". Additional documentation necessary to appraise and classify the merchandise and to collect accurate statistics, designated as the "entry summary", with estimated duties attached, ordinarily will continue to be required within 10 working days after the time of entry.

2. To provide that the applicable rate of duty on merchandise is the rate in effect at the time of entry.

3. To ensure the collection of accurate and timely statistics on imported merchandise.

4. To provide time limitations for the liquidation of entries.

5. To set forth a uniform time period of 1 year after the date of liquidation for reliquidating an entry to correct a clerical error, mistake of fact, or other inadvertence not amounting to an error in the construction of law if the error is adverse to the importer.

6. To provide for preliminary review of entry summary documentation by import specialists before the arrival of the merchandise within the port limits to expedite processing.

7. To extend the Customs bonded warehousing period from 3 to 5 years.

8. To provide for the marking of bulk containers of distilled spirits, wines, and malt liquors at the discretion of the district director.

EFFECTIVE DATE: September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Legal aspects: Benjamin H. Mahoney, Entry Procedures and Penalties Division (202-566-5778); operational aspects—entry and liquidation: Herbert Geller, Duty Assessment Division (202-566-5307); operational aspects—warehousing: Alice Rigdon, Inspection and Control Division (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978", approved October 3, 1978 (the "Act"), made significant changes in the Customs laws relating to the entry of imported merchandise, the liquidation of entries, warehousing periods, and the marking of bulk containers of alcoholic beverages.

A notice of proposed rulemaking to give effect to these changes was published in the **Federal Register** on November 29, 1978 (43 FR 55774). A notice was published subsequently in the **Federal Register** to correct errors in the printing of that document (43 FR 60291, December 27, 1978).

The preamble of the document published on November 29, 1978, provided a detailed discussion of the specific changes in the Customs laws and related proposed amendments to the regulations and should be read in conjunction with this document. However, Customs believes it appropriate to highlight certain fundamental aspects of that discussion below.

Changes in Concept

Before enactment of Pub. L. 95-410, most merchandise was released under the immediate delivery procedure before entry was made. The immediate delivery procedure in fact was an "exception" to the general requirement that entry shall be made and estimated duties deposited *before* release of merchandise. The Act eliminated the general requirement and provided that the filing of documents necessary to obtain the release of merchandise under 19 U.S.C. 1484(a) is the "entry".

The entry of merchandise is a two-part process consisting of (1) filing the documents necessary to determine whether merchandise may be released from Customs custody and (2) filing the documents which contain information for duty assessment and statistical purposes.

The notice of November 29, 1978, proposed that, with certain limited exceptions, the documentation formerly filed with an application for immediate delivery will continue to be required to obtain the release of merchandise, but now will be characterized as the "entry". The act of filing that documentation similarly will be considered "entering" the merchandise.

That notice also proposed that the documentation formerly characterized as the "entry" and required to be filed, with estimated duties attached, within 10 working days after release of merchandise under the immediate delivery procedure, will be required within 10 working days after the "time of entry", as defined in proposed § 141.68, but will be designated as the "entry summary".

Specific Changes to Law and Regulations

Rate of Duty

Section 101 of the Act amended section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), by establishing the date for determining the rate of duty in those cases in which duty may be paid after filing the documents necessary to secure release of imported merchandise from Customs custody. The rate of duty is that rate in effect at the "time of entry".

Filing Entry Documents

Section 102 of the Act amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Either class of documentation may be filed at any place prescribed by regulation within the Customs district where the merchandise is released. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

The proposed notice stated that because Customs "Automated Merchandise Processing System" ("AMPS") has not been implemented fully and because of limited resources, Customs was unable to provide for entry documentation to be filed at any place in the Customs district other than where now required. Therefore, the notice stated:

1. Documents necessary to obtain release of the merchandise shall continue to be filed at the customhouse or at the Customs location, approved by the district director, where the merchandise is to be released, and

2. Documents needed to enable Customs to classify and appraise the merchandise and to collect statistics shall continue to be filed either at the customhouse at the port where the merchandise is released or, with the approval of the district director, at a Customs station.

Deposit of Estimated Duties

Section 103 of the Act amended section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), to permit the payment of estimated duties either at the time of making entry or at a time prescribed by regulation, not later than 30 days after making entry.

For most entries, estimated duties now must be deposited within 10 days after release of the merchandise. Because the Act equates the filing of documents necessary to obtain release of the merchandise with "entry", the notice stated Customs will continue to permit the deposit of estimated duties within 10 working days after the "time of entry".

Proposed Amendments to Part 142

The notice stated that Part 142 would be revised completely and divided into 3 subparts entitled "Entry Documentation", "Entry Summary Documentation", and "Special Permit for Immediate Delivery". The first 2 subparts would contain provisions relating to the release of merchandise under 19 U.S.C. 1484(a), and the third would contain provisions relating to the release of merchandise under a special permit for immediate delivery under 19 U.S.C. 1448(b).

Proposed Subpart A, relating to entry documentation, specified the entry documentation required to secure release of merchandise. The importer would be required to file the following:

(1) Customs Form 3461, appropriately modified, or Customs Form 7533, in duplicate, appropriately modified,

(2) Evidence of the right to make entry,

(3) A commercial invoice or a substitute as authorized under proposed § 141.83(d),

(4) A packing list, where appropriate, and

(5) Other documents required by Federal, state, or local agencies on particular shipments.

It also was proposed that when the entry summary is filed at time of entry, that document would serve as both the entry and the entry summary, and Customs Form 3461 or Customs Form 7533 would not be required.

Proposed Subpart B, relating to entry summary documentation, prescribed the use of Customs Form 7501 as the "entry summary" unless a different form is prescribed elsewhere in the regulations. The notifce stated that in most instances, the importer would have the option to file the entry summary at the "time of entry" or within 10 working days after the "time of entry". Estimated duties ordinarily would be requird to be deposited when the entry summary is filed and would be separated from the entry summary immediately after filing and deposited in the appropriate depository by Customs no later than the following business day.

However, the importer could submit the entry summary for preliminary review before arrival of the merchandise, or could be required to file the entry summary and deposit any estimated duties before release of the merchandise in certain specified circumstances.

If the entry documentation were filed before the entry summary, one copy of the entry document and the commercial invoice or its substitute would be returned to the importer after Customs authorizes release of the merchandise and would be required to be filed with the entry summary. In addition, Customs Form 5101, the Entry Record, and any documents required for the particular shipment also would be filed with the entry summary. If the entry summary were filed at time of entry, Customs Form 5101 and any documents required for the particular shipment would be required to accompany the entry summary, which would serve as both the entry and the entry summary.

Proposed Subpart C provided for the following circumstances in which a special permit for immediate delivery may be used:

1. An application for a special permit for immediate delivery may be filed for merchandise arriving from Canada or Mexico.

2. An application for a special permit also may be filed for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but

removed from the area immediately contiguous to the border.

3. The only other merchandise eligible for release under the immediate delivery procedure would be (1) merchandise released from warehouse to be followed by a warehouse withdrawal for consumption, and (2) merchandise for which Customs Headquarters specifically gives its approval.

It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota.

Proposed Amendments to Part 141

Proposed Part 141 defined "entry" "entry summary", "submission", "filing", and "presentation".

"Entry" would mean the documentation required to secure release of merchandise from Customs custody, or the act of filing that documentation.

"Entry summary" would mean the documentation needed by Customs to assess duties and collect statistics on merchandise and to determine whether other requirements of law and regulation are met.

"Submission" would mean the voluntary delivery to the appropriate Customs officer of entry summary documentation for preliminary review, or of entry documentation for other purposes, including the scheduling of examination of the merchandise to secure expeditious release.

"Filing" would mean:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain release of the merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs of the entry summary which would serve as both the entry and the entry summary, together with the deposit of estimated duties.

"Presentation" would be used only in connection with quota-class merchandise and was defined in proposed § 132.1(d), Customs Regulations.

The "Time of Entry"

Paragraph (a) of proposed § 141.68 set forth the circumstances when the entry documentation is filed without an entry summary. In that case, the time of entry would be:

(1) The time the appropriate Customs officer authorizes release of merchandise covered by the entry documentation filed in proper form;

(2) The time the entry documentation is filed in proper form, if requested by the importer on the entry documentation at the time of filing, and if the merchandise already has arrived within the port limits, or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

Paragraph (b) set forth the time of entry when the entry summary serves as both entry and entry summary. In that case, the time of entry would be the time the entry summary is filed in proper form, with estimated duties attached. Paragraph (c) set forth the time of entry for quota-class merchandise as the time of presentation of the entry summary in proper form, together with the deposit of estimated duties. Paragraph (d) provided that merchandise shall not be released, and the entry documentation or entry summary shall not be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade. Paragraphs (e) through (g) continued the present rules as time of entry for these special categories of entries: informal mail entry, withdrawal from warehouse for consumption, appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.

Proposed Amendments to Part 132

The notice of November 29, 1978, proposed in part to revise Part 132, relating to import quotas. It was proposed to eliminate the use of the immediate delivery procedure for merchandise subject to tariff-rate quota by requiring (1) the presentation of the entry summary documentation and (2) the deposit of estimated duties, before the merchandise may be released. Similarly, it was proposed that quota-class merchandise would not be released under an entry before the presentation of an entry summary, with estimated duties attached.

Warehouse and General Order Merchandise

Section 491, Tariff Act of 1930, as amended (19 U.S.C. 1491), provides a time limitation of 1 year from the date of importation for merchandise in "general order" before it is considered as unclaimed and abandoned to the Government.

Sections 557 and 559, Tariff Act of 1930, as amended (19 U.S.C. 1557, 1559), formerly permitted merchandise to be kept in a Customs bonded warehouse at the owner's expense for a period up to 3 years after arrival of the merchandise in the United States.

Presidential Proclamation No. 2948, 64 Stat. c41 (1951), which declared a national emergency because of the Korean War and authorized the 1-year general order period and the 3-year warehouse period to be extended for an unlimited number of successive 1-year periods was terminated as of September 14, 1978, by the National Emergencies Act (90 Stat. 1255).

Section 108 of the Act amended 19 U.S.C. 1557 and 1559 to permit merchandise to remain in a Customs bonded warehouse at the owner's expense for a period up to 5 years. There is no provision for an extension of this period. Merchandise in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95-410, may remain in the warehouse for up to 5 years from that date.

To conform the Customs Regualtions to the Act in this respect, it was proposed to delete the references to extensions of the general order and warehousing periods which appear in Parts 127 and 144 and to change the reference to a 3-year warehousing period in Part 127 to 5 years.

Under 19 U.S.C. 1557, it formerly was provided that estimated duties shall be deposited before merchandise could be withdrawn from warehouse for consumption. Section 108 amended 19 U.S.C 1557 to authorize the withdrawal for consumption, without the payment of duties, of merchandise entered for warehouse, if the consignee or transferee is permitted to pay duties at a later time under the regulations to be prescribed pursuant to section 505, Tariff Act of 1930 (19 U.S.C. 1505), as amended by section 103 of the Act. However, until AMPS is fully operational, Customs will continue to require that estimated duties be deposited at the time of filing the warehouse withdrawal when merchandise is withdrawn for consumption. Therefore, no amendment to the Customs Regulations was proposed regarding this provision.

Marking of Bulk Containers of Distilled Spirits, Wines, and Malt Liquors

Section 201 of the Act eliminated the mandatory inspection, marking, and stamping requirements of section 11 of the Act of March 1, 1897 (19 U.S.C. 467). The Act permits the Secretary to require by regulation any marks, brands, and stamps, or devices to be placed on any bulk container of imported distilled spirits, wines, and malt liquors as he determines to be necessary in the administration of the Federal laws applicable to those products.

It was proposed to amend § 11.6, Customs Regulations, to provide that the district director, in his discretion, (1) may require that bulk containers be marked or stamped in accordance with 19 U.S.C. 1467, and (2) shall determine the acceptability of any marks, brands, and stamps, or devices he requires, based on the nature, surface, and composition of the container.

Time for Liquidation

Prior to enactment of Pub. L. 95–410, there was no requirement that liquidation be completed within a specific time period.

Section 209 of the Act adds a new section 504 to the Tariff Act of 1930. Subsection (a) of section 504 provides that an entry is deemed to be liquidated (i.e., liquidated by operation of law) if not actually liquidated within 1 year from:

1. The date of entry of the merchandise,
2. The date of final withdrawal of all the merchandise covered by a warehouse entry, or
3. The date of withdrawal from warehouse of merchandise for consumption if duties may be deposited after the filing of an entry or withdrawal from warehouse.

An entry deemed liquidated by operation of law is liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer, his consignee, or agent at the time of entry.

Subsection (b) permits extensions of the 1-year period for liquidation if Customs needs further information or at the request of the importer for good cause shown. Customs is required to give notice of the extension to the importer, his consignee, or agent.

Subsection (b) also provides for extensions if liquidation is suspended as required by statute or court order. Subsection (c) requires Customs to give notice of any suspension of liquidation required by statute or court order to the importer or consignee and to his authorized agent and surety.

Subsection (d) provides that an entry not liquidated at the expiration of 4 years from the applicable date set forth in subsection (a) shall be deemed liquidated unless the liquidation continues to be suspended as required by statute or court order. When the suspension is removed, the entry shall be liquidated within 90 days.

These amendments are limited to entries or withdrawals of merchandise for consumption made on or after April 1, 1979, 180 days after enactment, and do not include vessel repair entries or drawback entries.

The notice stated that the proposed regulations set forth 2 of the 3 circumstances the Act specifies for entries deemed liquidated—1 year from date of entry or 1 year from the date of final withdrawal of all merchandise covered by a warehouse entry.

Comment Period

Pursuant to the notice of proposed rulemaking published in the **Federal Register** on November 29, 1978, interested parties were given until December 29, 1978, to submit relevant data, views, or arguments.

Discussion of Major Comments

The following is a section-by-section analysis to the major comments received, presented in ascending numerical order:

1. *Section 10.1(d).* Two commenters object to the deletion of the word "reasonably" before "satisfied" from the proposed amendment on the basis that this would change the standard of the district director's discretion in determining whether to waive certain documentation establishing that merchandise is American goods returned.

No change in meaning was intended. However, to avoid any confusion, the word "reasonably" is being retained.

2. *Section 10.31.* One commenter suggests that a new § 10.31(a)(3)(iv) be added to require that an importer declare the approximate length of time, up to the 1-year limit, that an article imported under a temporary importation bond is to remain in the United States.

Customs does not believe such a requirement is necessary to reflect the importer's understanding of the time period during which the merchandise may remain in the United States, as suggested. Schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202; footnote 34 to section 10.31, Customs Regulations), and § 10.37, Customs Regulations, set forth the time limitations.

3. *Section 10.91(b).* One commenter notes that the last sentence of proposed § 10.91(b) should not be in the same typeface as the endorsement.

Customs agrees and has changed the typeface for the last sentence, so that it differs from the endorsement.

4. *Parts 132 and 142 (in general).* Many commenters object to the proposal to eliminate the use of the immediate delivery procedure for merchandise subject to a tariff-rate quota. Commenters object to the proposed requirements that the "consumption entry" (now the "entry summary") be presented before the merchandise is released and that estimated duties be deposited when this documentation is presented. It is claimed that adoption of the proposal would result in delays in transporting the merchandise, increased transportation expenses, spoilage, demurrage charges, and increased inflation.

Under the notice, the procedures for the release of both absolute and tariff-rate quota merchandise were the same. However, based upon the comments received and Customs internal review, it was determined to provide for the use of the immediate delivery procedure for merchandise subject to absolute and tariff-rate quota in specified circumstances.

Accordingly, a new § 142.21(e)(1) has been added to provide that merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery at the discretion of the district director, provided the importer has on file one of the types of bonds described in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in section 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duty at the over-quota rate.

A new § 142.21(e)(2) has been added to provide that at the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented the entry summary, with estimated duties attached, he either may present an entry summary for warehouse, or under Customs supervision, export or destroy the merchandise.

Part 132 has been revised to reflect these changes. The last sentence of proposed § 132.12(c)(2)(ii) (stating that the importer shall not take delivery before he deposits estimated duties) has been deleted.

Proposed § 132.13(a)(1) has been separated into 2 paragraphs. Paragraph (a)(1)(i), relating to tariff-rate quota merchandise when the quota is nearing fulfillment, provides that when instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate until Headquarters has determined the quantity, if any, of the merchandise entitled to the quota rate of duty. The paragraph also provides that the importer may request his merchandise not be released until Headquarters has determined the quantity entitled to the quota rate of duty. It further provides for a refund in the case of merchandise entitled to a quota rate of duty which was entered at the over-quota rate.

Paragraph (a)(1)(ii), relating to absolute quota merchandise when the quota is nearing fulfillment, provides that except in emergency cases, absolute quota merchandise shall not be released under the immediate delivery procedure. The importer shall present the entry summary, with estimated duties attached, and await Customs determination of the quantity of merchandise entitled to absolute quota status and priority.

Section 132.14(a)(1) has been revised to state that quota-class merchandise shall not be released upon filing entry documentation before presentation of an entry summary for consumption, or a warehouse withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e). A new § 132.14(a)(2) has been added to state that release under the immediate delivery procedure before presentation of an entry summary for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

Additional Specific Comments Relating to Part 132

5. *Section 132.3.* One commenter notes that although the proposal provides for the presentation of an entry summary for consumption and warehouse withdrawal for consumption for quota-class merchandise during official office hours of 8:30 a.m. to 5:00 p.m. in all time zones, many Customs districts observe an 8:00 a.m. to 4:30 p.m. day. He notes that the establishment of official office hours for quota purposes outside the normal working day would require customhouses at those locations to remain open an extra half an hour per day solely to administer quotas. The commenter suggests the official office hours for quota purposes be from 8:30 a.m. to 4:30 p.m.

Customs agrees with this suggestion and has changed the official office hours for quota purposes. Although official working hours are generally from 8:30 a.m. to 5:00 p.m., local conditions may dictate that different but equivalent hours be established (See 19 CFR 101.6(b)). In this regard, certain districts have established the hours of 8:00 a.m. to 4:30 p.m. as their official office hours. Therefore, (1) so that ports normally opening at 8:30 a.m. will not be required to open one-half hour earlier, and ports normally closing at 4:30 p.m. will not be required to remain open one-half hour later merely to receive entry summaries or warehouse withdrawals for quota-class merchandise, and (2) to prevent any importer from achieving an unfair advantage over another importer by filing the entry summary at a port which remains open for administering quotas while others are closed, official office hours for quota purposes are from 8:30 a.m. to 4:30 p.m. in all time zones. Section 132.3 reflects this change. These restrictions on office hours are applicable to the time when the entry summary shall be presented for purposes of determining priority and status and not necessarily when quota-class merchandise may be released from Customs custody.

6. *Section 132.11(a).* Two commenters, in addition to urging the use of the immediate delivery procedure for release of quota-class merchandise, suggest that the time of release of the merchandise serve as the time of entry.

Customs is not adopting this suggestion. Under the immediate delivery procedure as provided for in 19 U.S.C. 1448(b), the special permit for immediate delivery is issued before entry. Additional classification and appraisement information provided by the entry summary documentation is essential for determining quota priority and status.

7. *Section 132.11(b).* Two commenters believe that when an entry summary is not presented in proper form, the merchandise should be regarded as not entered only when there are material errors rather than clerical and *de minimis* errors.

Customs disagrees and believes the present and proposed rule should be retained. A "clerical" error such as understating the quantity of merchandise could cause inequitable treatment in administering quotas if Customs accepted the time of first presentation while allowing the entry summary to be corrected and subsequently presented.

8. *Section 132.12(c).* One commenter objects to the provision that if a quota is prorated, entry summaries shall be returned to the importer for adjustment. The commenter believes that this will require the retyping of each entry summary.

Customs believes it is necessary that the entry summary be returned to the importer so that it can be adjusted to reflect the amount the importer may bring in under the quota. This could be accomplished by making pen and ink changes. The importer may designate the quantity to be entered under the quota and the respective duty determination, as well as the remaining quantity to be entered and the respective over-quota duty rate (for tariff-rate quota merchandise).

9. *Section 132.13(a)(1).* One commenter objects to this provision requiring Headquarters to authorize release of quota-class merchandise on the basis that it would not permit the release of tariff-rate quota merchandise unless the over-quota duty deposit were made. He believes that this requirement would result in additional work for Customs and the importer necessitated by changing the documentation.

The requirement to deposit estimated duties at the over-quota rate in the case of tariff-rate quota merchandise is applicable only when the quota is nearing fulfillment. When the quota is not nearing fulfillment, this procedure would not apply. Accordingly, the provision is retained.

10. *Section 132.14(a)(2).* One commenter objects to providing that an inadvertent release before presentation of an entry summary, with estimated duties attached, shall not accord the merchandise any quota priority, status, or other benefit. He believes this provision could be read as denying merchandise quota status and priority under any circumstances and, therefore, penalize importers unfairly. The commenter suggests that the provision be redrafted to state that "an inadvertent release shall not affect quota status or priority".

The purpose of this section is to deny any importer an unfair advantage over another as a result of an inadvertent release. Customs believes the language as expressed in the proposed notice is clear on this point and should not be revised.

11. *Section 132.14(a)(3).* Several commenters object to providing for the assessment of liquidated damages of at least $25 when, in a given situation, the Customs officer makes the inadvertent release and the importer has no responsibility. They believe the importer should not be subject to a penalty unless he has contributed directly to the inadvertent release.

Another commenter believes that if the district director demands the return to Customs custody of the merchandise inadvertently released, a notice of redelivery should be issued no later than 30 days after release. One commenter believes that the term "near fulfillment" used in this section is too vague and should be defined and that there should be a reference to the availablity of the specific "near fulfillment" level for each type of quota merchandise.

Customs has reconsidered its position and has revised this section to designate the circumstances under which the district director may cancel the claim for liquidated damages. The provision for the payment of a minimum of $25 has been deleted.

The requirement that the notice of redelivery be issued no later than 30 days after release is referenced in § 132.14(a)(3)(i)(A) by a cross-reference to § 141.113 of this chapter. The term "near fulfillment" as used in proposed Part 132 is intended to have the same meaning as the term "prior to fulfillment" in § 132.13(a) of the present regulations and proposed notice. The section heading of proposed § 132.13(a) is being changed to "Procedure when nearing fulfillment" and the word "nearing" is being substituted for "near" wherever it appears in this context, for editorial clarity only.

12. *Part 141.* Two commenters suggest that proposed Parts 141 and 142 be consolidated.

Although this suggestion may have some merit, Customs does not believe it appropriate to undertake such a project within the scope of this document, the primary purpose of which is to implement the entry and liquidation procedures necessitated by Pub. L. 95-410.

13. *Section 141.0a(b).* Five commenters object to the definition of "entry summary" in this section on the basis that it may be misunderstood and that different ports may require different documents. Two of these commenters suggest that the definition be amended to the effect that the entry summary documents not include purchase orders and resale invoices which generally are requested by Customs Form 28, "Requests for Information", unless specifically required by regulation. One commenter suggests that the words "required by the regulations" be inserted between the words "documentation" and "necessary" in the definition of "entry summary".

Customs believes that the proposed definition of "entry summary" is clear and should remain unchanged. Section 102(a) of the Act provides that the consignee shall file with the Customs officer "such other documentation as is necessary to enable such officer to assess properly the duties * * *, collect accurate statistics * * *, and determine whether any other applicable requirement of law * * * is met". To administer these other requirements of law, Customs believes that it should not be limited only to that documentation required by the Customs regulations. Also, proposed § 141.0a(b) should be read together with proposed § 142.16, which discusses the entry summary documentation. Furthermore, in some cases, a purchase order or a resale invoice may be needed when filing the entry summary documentation for classification, appraisement or statistical purposes.

14. *Section 141.19.* One commenter raises the question whether there has been any change in that part of § 141.19 relating to a nominal consignee. It appears the commenter is referring to § 141.19(b)(3) of the present regulations and the paragraph designated as "(3) * * *" under proposed § 141.19 in the notice of November 29, 1978. There is no change in the present section.

15. *Sections 141.19, 141.20, 142.4.* One commenter notes that proposed § 142.4 provides a general requirement for filing a bond at the time of entry, and proposed § 142.19 provides for filing a bond when an entry summary which serves as both an entry and entry summary is filed. However, there is no explicit provision for requiring a bond at the time of filing an entry summary after entry and release. He also notes that § 141.20 as drafted is limited to a consignee in whose name an entry is made.

Additionally, this commenter and others believe that proposed §§ 141.19 and 141.20 could be interpreted to deny the general practice authorized by Customs which permits a broker to file an application for immediate delivery in his own name under his bond and the importer to file the entry summary in his own name under his bond without the necessity of a superseding bond or actual owner's declaration.

Customs believes that these objections have merit and has revised proposed §§ 141.20 and 142.4 to take account of these objections.

Proposed § 141.20(a) has been clarified to state that a superseding bond and actual owner's declaration is needed upon filing an entry summary for consumption, warehouse, or temporary importation under bond, or upon filing a rewarehouse, entry or manufacturing warehouse entry.

A new paragraph (b)(1) has been added to proposed § 142.4 to provide that if the entry summary is filed after entry, the bond filed at the time of entry shall continue to be obligated unless a superseding bond is filed or a bond described in proposed § 142.4(a) is filed under the circumstances described in the new paragraph (b)(2). That paragraph provides for the practice which permits an agent to file an entry in his own name under his bond, and the importer to file the entry summary in his name under his bond without the importer's filing the superseding bond and actual owner's declaration otherwise required by § 141.20. This is because the entry declaration is not made until the entry summary is filed.

16. *Section 141.61(a).* One commenter objects to the requirement that all copies of Customs Form 3461 be legible and suggests it be revised. He believes that the form should have only 3 copies (one for the broker or importer, one for Customs, and one for filing with the entry); that the original be returned to the importer for filing with the entry summary; and that the form be free to the public.

The five copies of Customs Form 3461 are used as follows: The green card (the original copy) serves as the releasing document when signed by the Customs inspector. One tissue copy is retained by the inspector and serves to clear the manifest. Two tissue copies are provided for the convenience of the importer or broker. The first ordinarily is removed by the importer or broker for his record prior to filing the form; the second ordinarily is retained by the importer or broker after signature by the Customs inspector and is substituted for the first tissue copy. The yellow card copy is returned to the importer or broker to be submitted with the entry summary.

Customs recognizes that the yellow card copy may not be legible if not prepared with care; however, it is the responsibility of the preparer to ensure that all copies of the form are legible. The form has been designated as a saleable form in accordance with § 24.14, Customs Regulations (19 CFR 24.14).

Customs is considering a proposal (see T.D. 79-144, published in the Federal Register on May 23, 1979; 44 FR 29916) to revise Customs Form 7501, the "Consumption Entry" (to be redesignated the "Entry/Entry Summary") which, if adopted, would simplify the paperwork involved because the form then would be used both at the time of filing entry documentation and entry summary documentation and would reduce substantially the use of Customs Form 3461. Customs, therefore, does not believe it appropriate to revise Customs Form 3461 at this time.

One commenter suggests that the requirement in § 141.61(a)(1) that the entry summary be signed by the "importer" should be changed to "importer of record".

Customs disagrees because the definition of the term "importer" in § 101.1(k) includes "importer of record".

One commenter wishes verification that the marks and numbers on the forms specified in proposed § 141.61(a)(2) will be required on the "entry release document".

Under § 141.86(a)(3), Customs requires each invoice for merchandise imported into the United States to set forth the marks and numbers of packages in which the merchandise is packed. In this circumstance, it is unnecessary for this data to appear on the forms specified in proposed § 141.61(a)(2) at the time of filing entry or entry summary documentation. If the invoice is not produced at the time of entry, however, the marks and numbers shall be given on the releasing document, an attachment thereto, or on an accompanying document.

Proposed § 141.61(a)(2) is being revised to clarify that if the marks and numbers have been provided previously, the data need not appear on the forms specified therein for packages released or withdrawn.

17. *Section 141.61(b).* One commenter, although not objecting to the signing of the entry summary, which would be considered as the "signing of the entry" required by 19 U.S.C. 1484(d), would object to this requirement if he also had to sign Customs Form 3461.

"Signing of the entry" occurs when the entry summary is filed. However, it is necessary for the importer or agent also to sign the releasing document so as to establish liability under the appropriate bond.

18. *Section 141.61(d).* One commenter believes there is a contradiction between proposed § 141.61(d)(2), relating to a consolidated entry summary covering merchandise of more than 1 ultimate consignee, and proposed section 142.17, which permits the filing of 1 entry summary for merchandise the subject of separate entries if, among other circumstances, the merchandise is consigned to the same consignee.

Customs believes the comment has merit. Proposed § 141.61(d) permits a broker as nominal consignee to enter merchandise in his own name under his own bond for various ultimate consignees under certain circumstances. Accordingly, Customs has added a new § 142.17a (discussed below) which sets forth this procedure.

19. *Section 141.61(d)(3).* One commenter suggests that if Customs Form 4811, which authorizes the mailing of refunds, bills, or notices of liquidation by Customs to an agent of the importer, were used, Customs should provide the importer or broker with a receipt for this form. It is contended that the receipt will serve as proof that the form has been filed because the present system has no control.

Customs believes that a receipt for filing Customs Form 4811 would increase paperwork unnecessarily and, therefore, is not adopting this suggestion.

20. *Section 141.61(e)(1).* One commenter notes that this section should include a statement that Customs import specialists should submit statistical changes regularly to the Department of Commerce to assist in ensuring the integrity of Generalized System of Preferences (GSP) and other trade statistics.

Guidelines and instructions were issued to Customs field officers in Customs Statistical Circular No. 135, dated February 24, 1978. Customs believes it is desirable to issue these guidelines and instructions by statistical circulars instead of incorporating them into the regulations.

One commenter suggests that the regulations provide detailed instructions for completing Customs Form 7501 so that it would be unnecessary to maintain separate computer programs at each port.

The revised Customs Form 7501 now under consideration would have an instruction sheet to provide the necessary explanatory material to ensure uniformity at all ports. Customs, therefore, believes it is unnecessary to incorporate detailed instructions in the regulations.

21. *Sections 141.61(e)(1) and 141.61(f)(2).* Several commenters complain that the proposed regulations make statistical reporting paramount throughout all phases of the entry process and place statistical reporting responsibility on the importer rather than Customs. The commenters note that brokers may not be able to make necessary changes in programming their automatic data processing equipment. Many commenters object to the requirements of this section and proposed § 141.61(f)(2) that (1) if multiple invoices are involved, the total quantities and total entered values of like merchandise appearing on each of the multiple invoices shall be shown on the entry summary and other documents, and (2) the computations necessary to arrive at the final figures appearing on the entry summary shall be shown on an attached worksheet. Several of these commenters state that to summarize like tariff item numbers from all invoices covered by a mulitple invoice entry summary would pose a tremendous burden on brokers. Others state that preparation of the worksheet should be Customs responsibility. Some commenters believe that adoption of these requirements would result in an increase in the number of entries because importers would find it too expensive to file multiple invoice entries. They state that preparation of a worksheet is too costly and duplicative, and that the requirement should be deleted. One commenter suggests that the information needed should be placed on the entry summary.

One of the main objectives of the Act is to ensure collection of accurate and timely statistics on imported merchandise.

For many years, statistical users, such as the Commerce Department's Office of Textiles and the U.S. International Trade Commission, have complained of the loss of statistical data caused by § 141.61(e)(1), Customs Regulations, which requires that each class of merchandise within each invoice subject to a separate statistical reporting number be listed separately on the entry or warehouse withdrawal. They cite as an example the case of an entry of 5 invoices, each covering identical merchandise valued at $225. The regulations now require 5 separate line items on the entry. Although the entire shipment totals $1,125, none of the data would be included in the trade statistics under the applicable TSUSA reporting number because only line items valued over $250 are verified by Customs and included in the detailed Census statistics.

To minimize this loss of detail, Customs has determined to require one posting of a TSUSA number for each formal entry or withdrawal. In this way, many line items valued under $250 will be combined with other line items using the same TSUSA number and included in the detailed data instead of in the one percent sample of line items valued under $250 published by total values by country of origin.

A Census Bureau study disclosed that consolidation can reduce the number of reported line items by 16 percent annually. This means that for fiscal year 1978, the line count of 7,625,000 could have been reduced by some 1,220,000 lines. For both Customs and the Census Bureau, this change would reduce significantly the data required to be computerized.

In addition, consolidation would eliminate the laborious and time consuming manual task of annually underlining in red ink some 7,930,000 separate items (country of origin, quantity, values, etc.) which Customs officers must verify, and it should reduce the number of statistical errors and rejects by Census. To the extent practicable, Customs will assist anyone who may have difficulty in programming the changes because of technical problems. Accordingly, Customs believes the sections relating to multiple invoices should remain unchanged.

22. *Sections 141.61(e)(2) and 141.91(d).* Sixteen commenters object to the proposal to reduce from 2 months to 1 month after the date of withdrawal from warehouse, or to 20 days after the date the entry summary is required to be filed, the time within which to produce required statistical documents for which a bond has been given. They also object to the requirement that if an invoice is needed for statistical purposes, it shall be produced within 20 days after the date the entry summary documentation is filed. It is claimed that some district directors would require that all missing documents be supplied earlier, that this time frame is inadequate to produce a missing document; and that as a result, numerous requests for extensions of time would be made. Several of these commenters suggest alternative approaches, such as 2 months from the date of withdrawal from warehouse, or 50 days after the entry summary is filed. Others suggest 45 or 90 days after the date of the entry summary. Some suggest that the 6-month requirement of present § 141.91 be retained.

Based upon the comments, Customs has reconsidered its position. Proposed § 141.61(e)(2) has been revised to require the additional documentation described in that section to be produced within 2 months after the date of withdrawal, or within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required. Proposed § 141.91(d) has been revised to require an invoice needed for statistical purposes to be produced within 50 days after the date the entry summary (or the entry, if there is no entry summary) is required, instead of the 6-month period otherwise allowed for producing the invoice. In either case, the time for filing may be extended by the district director for a reasonable period upon good cause shown.

23. *Section 141.61(e)(2).* One commenter objects that the reference to the requirement to provide additional documentation is too vague. Another objects on the basis that the person filing the form is responsible for providing the necessary information and suggests the responsible party should be the importer or importer of record.

This section specifically provides that additional documentation may be requested to substantiate the statistical information required by § 141.61(e)(1), which requires the reporting of information required by the TSUSA general statistical headnotes. The headnotes enumerate the information the importer must provide.

All documents are not needed for the reporting of statistics. Many are needed to satisfy other agency requirements; others must be furnished to prove use of the merchandise in the United States. Customs envisions that the bond given for statistical information is to be used primarily to obtain missing or incomplete data or to substantiate ocean freight charges. In any case, these are documents which should be in the importer or broker's files or readily available to them.

Customs considers the person in whose name and under whose bond the entry summary is filed to be the person filing the form and thus responsible for providing the necessary information. If an agent files the entry summary on behalf of an importer under the importer's bond, it is the importer who is the responsible person.

24. *Section 141.61(e)(3).* One commenter notes that because all freight charges at the Canadian border are estimated, it would be cumbersome to use the designation "est". He suggests using the letter "E" to designate estimated values or the letter "A" to designate actual values.

Customs agrees and has revised this section to exempt Canadian rail and truck charges from the requirement that estimated charges be designated as such. However, if the transaction value were estimated, a notation to this effect would be required on the entry. Customs also has revised this section to permit the use of the letter "(E)" in addition to "(estimate)" and "(est)". Customs does not believe it necessary to adopt use of the letter "A" to designate actual values.

25. *Section 141.61(e)(4).* One commenter objects to authorizing a Customs officer to reject a form required as part of entry summary documentation for failure to provide the necessary information because the rejection would jeopardize the importer's right to declare the entry date.

When the entry summary is filed after the entry and release of the merchandise, statistical information is received at the time of filing the entry summary and time of entry already has been established. However, in accordance with proposed § 141.64, Customs may reject entry and entry summary documentation if not filed in proper form. Rejection at the time of filing entry documentation, or entry summary documentation which serves as both entry and entry summary, would preclude a determination of the time of entry because Customs would not have the necessary documentation to authorize release of the merchandise.

26. *Section 141.61(e)(5).* One commenter indicates that this section should be revised to provide some guidance as to the circumstances under which a penalty procedure might be involved if erroneous statistical data is submitted.

This provision has been a part of Customs procedures since December 7, 1973, when Customs Statistical Circular No. 41 was issued to implement an agreement reached with the American Importers Association by several Government agencies (Treasury, Commerce, and International Trade Commission) on implementing the FOB/CIF program for reporting statistical data. Because Customs is aware of no problems with this provision, no additional guidance is needed. Further, Customs believes that district directors should have discretion to decide the merits of each case.

27. *Section 141.61(f).* One commenter notes that in addition to being rated, an invoice filed at time of entry must be completed by deducting non-dutiable charges and adding dutiable charges such as assists. He mentions that this would be very difficult to accomplish on the night shifts on the Canadian border.

Proposed § 141.61(f) must be read in conjunction with proposed § 141.61(e). A rated invoice for which an entry summary is required by proposed § 141.61(e) need not contain, at the time of entry, the various charges mentioned in proposed § 141.61(f). Therefore, in these cases, the importer has 10 days from the time of entry to provide the value information. However, the rated invoice for which an entry summary is not required by proposed § 141.61(e) (appraisement entry, manufacturing warehouse entry, and rewarehouse entry) shall include the information required by proposed § 141.61(f). In these circumstances, Customs believes there is no alternative for providing the information at the time of entry.

28. *Section 141.62(a).* Several commenters note that since Customs Form 3461 is a serially pre-numbered, multi-part form, it provides the medium for immediate implementation of that portion of AMPS which would allow for filing of entries and entry summaries at different ports within a district. Another commenter notes that this section would preclude the district director from approving the filing of entry summaries at outports such as Gloucester and New Bedford, Massachusetts. He suggests that the regulation be revised to permit the documents to be filed at the Customs station, customhouse at the port of entry, or at the headquarters port of the region in which the port of entry is located.

Customs has reviewed its position on the place of filing the entry-related documents. Because of different physical and geographical locations and the variety and volume of importations, some Customs districts have the capability to permit merchandise to be released at one port and an entry summary to be filed at another port in the same district. However, other ports do not have this capability. Therefore, proposed § 141.62(a) has been revised to provide that entry, entry summary, or warehouse withdrawal documentation may be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

One commenter requests implementation of a procedure for advising the Customs officer at the cargo location that an entry has been filed, to avoid placing the cargo in general order when an entry summary which serves as both an entry and entry summary has been filed at the customhouse.

Customs believes the suggestion has merit and will undertake a study to develop a procedure to solve this problem.

29. *Sections 141.62(b) and 142.6.* Many commenters object to the "inflexible" office hours when the customhouse is open for the general transaction of business, especially with regard to the immediate delivery procedure. They claim that these hours would restrict importations and create a backlog at some ports. Commenters also object to the restriction on release and entry of quota-class merchandise to the official office hours.

Customs believes these objections have merit. Proposed § 142.6, relating to the entry of merchandise from Mexico and Canada when the customhouse is closed, has been deleted because that section, when read with § 141.62(b), is unclear.

To state more clearly the times when entry, entry summary, and withdrawal documentation, and applications for immediate delivery shall be filed, proposed § 141.62(b) has been revised as follows:

(1) Except for overtime service, applications for immediate delivery and entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty.

(2) Except for overtime service, entry summary and withdrawal documentation shall be filed when the customhouse is open for the general transaction of business.

(3) Except as provided for quota-class merchandise, (a) entry summary and withdrawal documentation, and (b) applications for immediate delivery and entry documentation (when no regular tour of duty has been established), may be filed when overtime has been authorized even though the customhouse is not open for the general transaction of business.

(4) Overtime shall not be authorized for the *presentation* of entry summary documentation for quota-class merchandise without Headquarters authorization.

Under the discussion of comments submitted on proposed § 132.3, relating to quotas, it was noted that restrictions on official office hours are applicable to when the entry summary shall be presented for purposes of determining quota priority and status. Similarly, proposed § 141.62(b)(2)(ii) is concerned with overtime for the presentation of entry summary documentation. Office hours and overtime are relevant to presentation of entry summary documentation for purposes of determining quota priority and status and not necessarily to when quota-class merchandise may be released from Customs custody. As noted in the discussion of comments relating to Parts 132 and 142, the immediate delivery procedure may be used for merchandise subject to absolute and tariff-rate quota in specified circumstances. Accordingly, the reference in proposed § 141.62(b)(2) to § 142.6 has been deleted.

30. *Section 141.63(b).* Three commenters request clarification of whether entry summary documentation may be submitted for preliminary review without deposit of estimated duties during the 10-day period after time of entry and release of the merchandise.

Except for quota-class merchandise, the proposed section does not provide for the submission, after the merchandise has arrived, of entry summary documentation for preliminary review without estimated duties attached and thus, in effect, would eliminate "pre-entry review".

It is necessary that duty be deposited as early as possible; therefore, the duty shall be attached to the entry summary when the entry summary is filed. Eliminating pre-entry review would reduce the amount of time involved in double processing the entry summary. Of course, if an importer or broker has any questions concerning completion of his entry or entry summary, he may discuss the matter with the appropriate Customs official.

31. *Section 141.64.* Several commenters object to the requirement that entry and entry summary documentation shall be returned to the importer if errors are found. One notes that because statistical information is filed generally at the time of filing the entry summary, it would not be useful to review the entry documentation when filed without the entry summary documentation. It also is contended that the entry summary should be rejected only when "clearly erroneous", or when errors are "substantial" or "material". Another commenter requests a provision be added that Customs would not reject an entry if there is a dispute as to the classification which ordinarily must be shown on a rated invoice. A commenter suggests that a provision be added for an additional 10-day period after an entry summary is rejected to resubmit the entry summary.

The notice of November 29, 1978, proposed to amend present § 141.64 to provide for the review of statistical requirements as well as entry requirements (as provided in present § 141.64).

Present § 141.64 requires Customs officers to review the documentation to ensure that the indicated values and rates of duty "are correct". The proposed section reads "appear to be correct" and, therefore, is a relaxation of the existing requirement. To provide accurate statistics to the Bureau of the Census, the import specialist must have full authority to reject for correction entry summaries he believes have incorrect, insufficient, or missing information. If there is a dispute as to the classification or value, those rates and values the import specialist believes are correct must be used because he is responsible for the accuracy of the data. Of course, the importer may protest the decision of the import specialist.

To ensure that trivial errors are not cause for rejection, guidelines were issued to field officers in Customs Statistical Circular No. 146, on September 20, 1978, and again in a letter to each Regional Commissioner on February 16, 1979.

The 10-day time limit for filing an acceptable entry summary must be adhered to so that the statistical information may be forwarded to Census on a timely basis.

32. *Section 141.68.* One commenter suggests that a paragraph be added to this section to define the time of entry for merchandise released under the immediate delivery procedure.

Customs agrees and has added a new paragraph to provide that the time of entry of merchandise entered under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

Another commenter suggests that a mechanism be developed to provide for the importer to declare the date of entry if he wishes it to be other than the date of release.

Customs believes proposed §§ 141.68 (a)(2) and (a)(3) are dispositive. The request must be made on the entry documentation.

Another commenter urges that § 141.68(a)(2) be revised to provide that if the importer requests the time of entry to be the time when the entry documentation is filed, Customs should permit the payment of duties within 10 days after the date of release of the merchandise.

After consideration of this request, Customs has determined that no change is needed. Accordingly, estimated duties shall be deposited at the time the entry summary is filed; that is, 10 days after the entry documentation is filed.

33. *Section 141.69.* One commenter raises a question concerning the date of the effective rate of duty when an immediate transportation entry is filed.

Customs made no change in present §§ 141.69 (b) and (c) and, therefore, did not include these sections in the November 29, 1978, notice. Section 141.69(b) provides that the specific rate of duty shall be determined as of the date Customs accepts the immediate transportation entry at the port of original importation.

34. *Section 141.83(c).* One commenter interprets this section to prohibit acceptance by the district director of a "photostatic" copy of a required commercial invoice.

A copy of a required commercial invoice, including a photostatic or other photographic copy, is acceptable. The only qualification is that if the importer submits a copy which is not a photostatic or other photographic copy, the copy shall contain a declaration that it is a true copy. A photostatic or other photographic copy needs no such declaration. The proposed section is being revised to include a reference to a photographic copy.

35. *Section 141.83(d).* Under the present regulations, neither a Special Customs Invoice ("SCI") nor a commercial invoice is required, and a pro forma invoice may be submitted, for merchandise unconditionally free of duty or subject only to a specific rate of duty (paragraph (d)(3)), or merchandise subject to a rate of duty dependent on value but entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of entry (paragraph (d)(4)). The notice of November 29, 1978, proposed to delete these paragraphs. Many commenters object to the proposed deletion, claiming that it establishes a new requirement which imposes an unnecessary burden on importers and foreign suppliers to produce the SCI and will hinder the flow of merchandise. Several state the adoption of the proposal virtually would eliminate the availability of pro-forma invoices for all fish products and perishables in general. Others note that the only way a pro-forma invoice could be used is to rely on the waiver provisions of § 141.92. One commenter wants the regulation to state clearly that the SCI is not required when a commercial invoice is filed.

Customs believes there is no inherent reason why merchandise subject to free or specific rates of duty should be exempt from the requirements to furnish a commercial invoice. Some of the most strategic and sensitive commodities, such as petroleum and sugar, fall into this category. In addition, dumping complaints often are brought against merchandise which is free of duty or carries a specific rate, and the petitioners look to the official trade statistics to alert them to the problem and to provide them with the initial basis to file a complaint.

A pro forma invoice filed in lieu of a commercial invoice or a SCI may have data sufficient for duty purposes, but it seldom entirely satisfies the statistical requirements. Customs believes that commercial invoices are available for most of this merchandise but are not submitted simply because Customs does not require it. Customs doubts that the rate of duty involved determines whether or not a commercial invoice is prepared.

As a result of this amendment, only a commercial invoice will be required and a SCI will not be required. Accordingly, Customs is amending the first sentence of present § 141.83(a) to clarify that even though § 141.83(d)(4) is being deleted, only a commercial invoice will be required for merchandise subject to a rate of duty dependent on value which is entered under a conditionally free provision if all free entry documents and evidence required to establish the exemption from duty are produced at the time of filing the entry summary.

Also, notwithstanding the deletion of § 141.83(d)(3), the criteria set forth in present § 141.83(a) eliminate the requirement for an SCI for merchandise unconditionally free or subject only to a specific rate of duty.

In those cases where a commercial invoice is not available at the time of filing the entry summary for free and specific rate goods (e.g. some perishables), a pro forma invoice may be presented and bond taken for production of the commercial invoice under proposed § 141.91.

36. *Section 141.86(a)(8).* Several commenters object to the deletion of the phrase "when known to the seller or shipper" from this section on the basis that invoice information not available to its author would be required. One commenter claims that the proposed regulation would require the separate itemization of unnecessary FOB information and suggests that selling commissions not be itemized if included in the invoice price and so identified.

Customs does not believe that any change to proposed § 141.86(a)(8) is necessary. If the seller or shipper has the required information, he must itemize it on the invoice. If the seller or shipper does not have the information, the importer then must provide it on an attachment to the invoice. This information is necessary to collect accurate FOB/CIF data. The proposed regulation will ease the burden somewhat by not requiring the itemization of packing and inland freight charges to the port of exportation if they are included in the invoice price and are so identified.

Selling or buying commissions affect the unit value of the imported merchandise for purposes of sections 402 and 402a, Tariff Act of 1930, as amended (19 U.S.C. 1401a, 1402), and antidumping determinations and, therefore, should be itemized separately.

37. *Section 141.86(c).* One commenter objects to the requirement to produce a resale invoice, in addition to the original invoice, on the basis that a statement of sale to the importer showing ownership and the right to make entry should be sufficient.

Customs believes the comment has merit and has revised this proposed section to provide that, in addition to the original invoice, a resale invoice *or* a statement of sale showing the price paid for each item by the purchaser shall be filed as part of the entry, entry summary, or withdrawal documentation.

38. *Section 141.89(b).* One commenter notes that before enactment of Pub. L. 95–410, the Special Summary Steel Invoice ("SSSI") was required to be filed at the time of entry (now the "entry summary"). However, he contends that the introductory language of present § 141.89(b)(1) and present § 141.89(b)(1)(E) indicate that when merchandise is released under an entry before the filing of the entry summary, the SSSI would be required with the entry (i.e., the release).

This is not the intention of the regulations. Accordingly, these provisions are being amended to permit the filing of the SSSI at the time the entry summary is filed. If the SSSI is not filed with the entry summary, Customs will reject the entry and order redelivery of the merchandise in accordance with § 141.113(d). If the demand for redelivery is not complied with, liquidated damages will be assessed in accordance with § 141.113(g).

39. *Sections 141.101 and 142.12(c).* Numerous commenters object to the requirement that estimated duties be deposited at the time the entry summary documentation is filed. One commenter suggests the language be revised to provide for the deposit of estimated duties at the time the entry summary is reviewed and approved by Customs. It is claimed this method would allow for a more accurate entry summary, thereby decreasing corrections on liquidation. Another commenter objects to the requirement to deposit estimated duties at the time of entry rather than at the time the entry summary is filed, in certain circumstances. Others express concern about requiring deposit of estimated duties earlier than the 10-day period.

Section 505(a), Tariff Act of 1930, as amended (19 U.S.C. 1505(a)), sets forth the general requirement that estimated duties be deposited at the time of entry. Section 103 of Pub. L. 95–410 did not change this general requirement but merely created another exception to it. The general requirement is applicable to entries such as informal and appraisement entries which require no entry summaries but require deposit of estimated duties with the entry. The exception provides for the deposit of estimated duties at the time of entry or at a later time prescribed by regulation, not to exceed 30 days after making entry.

Proposed § 141.101(a) provides that if merchandise is released under the entry documentation before filing of the entry summary, deposit of estimated duties generally shall be made at the time the entry summary is filed (i.e., within 10 working days after the "time of entry").

Customs believes that for the present, there should be no change in the language of the proposed section. It is necessary to maintain the Government's cash flow by collecting duties as early as practicable to maximize the use of Customs collections and to preclude unnecessary borrowing and associated interest costs. Accordingly, the 10-day period to deposit estimated duties at the time the entry summary documentation is filed will remain as drafted.

40. *Part 142.* Numerous commenters object to the provisions of the proposed notice that would restrict the use of the immediate delivery procedure. Objections relating to its use in connection with quota-class merchandise are addressed in the discussion under Part 132. Other objections are discussed in Customs comments relating to specific sections of Part 142, which follow, and also under the heading "Other Changes".

One commenter requests the elimination of the immediate delivery procedure. However, Pub. L. 95–410 did not repeal section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the statutory authority for the immediate delivery procedure. The language of this provision providing "permits for delivery, prior to formal entry" precludes Customs from defining "time of entry" as time of release. Under new § 141.68(c), the time of entry shall be the time the entry summary is filed in proper form, with estimated duties attached.

41. *Section 142.2.* One commenter suggests that the section be revised to provide for the automatic extension of the 5-day lay order period for certain specified reasons.

Customs disagrees and believes the question of granting extensions should be left to the discretion of the district director without specifying reasons in the regulations. Customs also believes there should be no change in the basic 5-day period without further study.

42. *Section 142.3.* One commenter objects to the requirement in proposed § 142.3(a)(1) that Customs Form 7533 be filed in duplicate under the new entry procedure.

Customs wishes to note that this form is necessary for control purposes. Generally, one copy remains with Customs as the entry, and the other is returned to the importer to be filed with the entry summary.

One commenter appears to object to the use of Customs Form 7533 as a release document under this section while favoring its use as a releasing document under the immediate delivery procedure.

Customs believes that it is proper for Customs Form 7533 to serve as a releasing document in either circumstance and, therefore, is retaining the proposed language.

One commenter questions whether it is appropriate for Customs to require the filing of other documents which may be required by Federal, state, or local agencies under § 142.3(a)(5).

Because Customs enforces the laws of other Federal, state and local agencies, it may be necessary to require other documentation for a particular shipment in order that Customs may carry out its enforcement responsibilities.

43. *Section 142.3a.* One commenter suggests that the prenumbering system not be limited to formal consumption entries but should apply to all other types of entries (informal, T.I.B., drawback). This commenter also suggests that entry numbers be obtained on the basis of the calendar year rather than the fiscal year. Several commenters express the opinion that the prenumbering system would be very beneficial.

The prenumbering system would apply to entry summaries for consumption, warehouse, and temporary importation under bond. It would not apply to any other entries. However, it is Customs policy to develop and utilize this procedure as extensively as possible. Customs anticipates expanding it to include other types of entries in the future.

Customs is unable at the present time to assign numbers other than on a fiscal year basis.

One commenter expresses concern that proposed § 142.3a(e), as well as proposed §§ 142.13 (a) and (b), and 142.24 (a) and (b) (discussed below), may hamper severly the operations of a broker or importer. He suggests that the regulations provide a procedure to ensure due process before the district director invokes the sanctions of proposed § 142.3a(e).

Customs disagrees and notes that the assignment of entry numbers is a procedure which is being established to provide a privilege and benefit to the importer. This privilege does not give rise to Fifth Amendment considerations.

Another commenter objects that the assignment of entry numbers other than during the hours of 8:00 a.m. to 5:00 p.m., Monday to Friday, would result in high overtime.

Customs believes that the importer is responsible for ensuring that he has sufficient entry numbers for his use, and notes that numbers ordinarily will be assigned in blocks of not less than 100. Also, this section has been revised to provide that the district director may assign numbers in blocks of less than 100, if warranted.

44. *Section 142.5.* Two commenters question the necessity for a bond rider to the entry bonds. The current editions of the entry bonds (Customs Forms 7551, 7553, and 7595) provide, in pertinent part, that if merchandise is released under section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), the immediate delivery procedure, the principal on the bond is liable for liquidated damages if he fails to make entry and deposit estimated duties within the allowable period. Although 19 U.S.C. 1448(b) continues to provide a valid method for securing release of merchandise, Pub. L. 95–410 amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to provide an alternative means for securing release.

Because 19 U.S.C. 1448(b) limits the types of merchandise entitled to be released under the immediate delivery procedure, and 19 U.S.C. 1484(a) is not so limited, Customs intends that most releases take place under 19 U.S.C. 1484(a). Therefore, the bond rider, which is conditioned on release under 19 U.S.C. 1484(a), is necessary to guarantee performance of the importer's obligation to file an entry summary timely. Otherwise, without the rider, if a release were made under 19 U.S.C. 1484(a), the entry bonds would not be obligated because the current editions are conditioned strictly upon releases of merchandise under 19 U.S.C. 1448(b).

One commenter states that if Customs intends to require the rider only to implement the terminology relating to the new entry procedure, Customs should revise the bond rider to repeat precisely the language of existing bonds except to alter the terminology to comply with the new procedure. Customs believes that the language of the bond rider should not be changed, as suggested, because merchandise now may be released under 2 statutes instead of 1. However, because merchandise will be released under 19 U.S.C. 1484(a), in most instances, instead of 19 U.S.C. 1448(b), and the 2 procedures for securing release are mutually exclusive, the bond rider must cover release under 19 U.S.C. 1484(a) as well as 19 U.S.C. 1448(b).

The same commenter believes that the rider and new bond editions should be revised to conform to Condition (2) of the current general term bond, Customs Form 7595: (The principal) "* * * shall pay to the said district director such amounts as liquidated damages as may be demanded by him in accordance with the law and regulations". He believes that this language would protect the revenue without the threat of initial demands for the value of the merchandise plus duty and taxes if the principal fails to conform to the conditions of the bond.

Customs believes that because the new entry procedure supplements but does not replace the existing immediate delivery procedure, as noted previously, a provision is necessary to cover explicitly the new entry procedure, instead of relying on what is at best a general condition, such as Condition (2) of Customs Form 7595. Condition (1) of Customs Form 7595 relates to the timely filing of entry documentation after merchandise is released under the immediate delivery procedure, and Customs believes similar language is necessary in connection with the new entry procedure. Even if Condition (2) were considered sufficiently broad to cover submission of documents under the new entry procedure, that provision does not provide for the timely deposit of estimated duties following the release of merchandise. For all of these reasons, Customs does not agree with this commenter.

Another commenter believes that a bond rider must be attached to each term bond at the time of execution. He appears to believe that the rider may not be attached after execution because § 113.23(d), Customs Regulations, provides that except in cases in which a change in a bond is authorized by regulation or instruction of the Commissioner, no change shall be made in the bond after execution.

It is Customs position that the rider incorporated in proposed § 142.5 effects a change expressly authorized by regulations, and that the rider established by Headquarters telex BON–3–0:D:E AO of November 20, 1978, which is substantially similar to that incorporated in proposed § 142.5 (except that the telex refers to modifications required by provisions of law and Customs instructions, instead of by provisions of regulations), effects a change expressly authorized by instruction of the Commissioner, within the meaning of § 113.23(d). Therefore, the rider may be attached to a bond after, as well as at the time of, execution.

This commenter notes that the minimum 60-day time delay provided by § 113.26(a), Customs Regulations, before a bond rider may become effective precludes its immediate use.

Customs agrees. The procedure provided in § 113.26(a) also may be used by a principal who desires to amend an existing bond with an approved rider. The principal is required to submit the rider and the bond transcript, Customs Form 53, at the appropriate port. The rider would take effect a minimum of 60 days after submission and would terminate with the underlying bond. Customs has provided by Headquarters instruction for a waiver of the 60-day effective requirement of § 113.26(a), for the bond rider set forth in proposed § 142.5 and for the bond rider established by Headquarters telex of November 20, 1978, previously referred to, until the normal termination date of the underlying bond. When the bond is renewed, the rider set forth in § 142.5 shall be required.

The same commenter also notes that the rider in proposed § 142.5 should have a letter identification similar to other bond riders. Customs agrees and has revised proposed § 142.5 to identify the bond rider as "RIDER R".

Another commenter states that the proposed bond rider was implemented by Headquarters telex dated November 20, 1978, without the benefit of public comment, and therefore violates the notice requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). In Customs Service Decision ("C.S.D.") 79–217, Customs ruled that a Customs bond is neither a rule of general applicability nor a rule of procedure as referred to in the Administrative Procedure Act, but that it is a contract and, consequently, there is no legal requirement to follow the rulemaking procedure of 5 U.S.C. 553 in promulgating the format for a Customs bond. In addition, section 623(b)(1), Tariff Act of 1930, as amended (19 U.S.C. 1623(b)(1)), gives the Secretary of the Treasury or Customs broad discretionary power to prescribe the conditions and forms of bonds.

This commenter states that the procedures for obtaining release by filing entry documents should be eliminated from the rider. Customs disagrees because 19 U.S.C. 1484(a) requires a consignee of imported merchandise to make entry by filing documentation which will enable a Customs officer to determine whether the merchandise is eligible for release.

The commenter apparently believes that if the importer fails to make entry timely, as provided for by § 141.5, and the merchandise is sent to general order, the importer's entry bond will be obligated. Customs does not agree because the bond is not obligated until an entry is filed by the importer.

The same commenter states that the provision of the rider relating to filing documents is not clear as to whether an importer may be "charged" (and the surety thereby be obligated) for failure to "file" the documents required by Customs to assess duties and to determine that applicable requirements of law or regulation are met in the following situations:

(1) In response to a Request for Information, Customs Form 28;

(2) For a failure to produce and "file" documents in response to a summons issued under section 509, Tariff Act of 1930, as amended (19 U.S.C. 1509); and

(3) For a failure to "file" documents which, as to the importer, may constitute a violation of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

In C.S.D. 79-217, Customs ruled that:

1. For the purpose of satisfying the conditions of the bond rider, the rider refers to documentation required by a law or regulation to be filed at the time entry summary documentation is filed. The requirement of § 141.66 for a bond to guarantee production of a missing document assumes that the document is known to be missing at the time entry summary documentation is filed. If the entry summary documentation were filed without any required document, failure to furnish the missing document timely subjects the importer as principal and the surety to liquidated damages for breach of the condition of the bond which requires the missing document to be filed timely. Assuming the entry summary documentation is filed timely in proper form, there is no breach of condition as to the filing of the documentation. The bond is not designed to guarantee production of documents or information determined to be necessary only after Customs reviews the entry summary documentation and makes a request for additional information or documents on Customs Form 28. Of course, failure to file a necessary document or to provide information when requested may cause Customs to extend the 1-year period for liquidation of an entry or result in the assessment of increased duties at the time of liquidation on the basis of the best information available to Customs.

2. An importer's failure to comply with a summons issued under 19 U.S.C. 1509 does not subject the surety to liability under an entry bond.

3. An importer's failure to file a document does not subject the surety to liability under 19 U.S.C. 1592.

The same commenter notes that the statement in the first whereas clause of the bond rider—"Whereas certain merchandise which is described in a bond * * * "—is misleading because no existing Customs bond provides for a description of the merchandise, and recommends that this clause be deleted.

Customs agrees that use of the word "described" in the context may be misleading. However, rather than eliminate the clause, the phrase "referred to" has been substituted for the word "described" in the bond rider set out in proposed § 142.5.

45. *Section 142.6.* Two commenters raise questions relating to this section.

As noted under the discussion of comments relating to proposed § 141.62(b), proposed § 142.6 has been deleted. Accordingly, proposed §§ 142.7, 142.8, and 142.9 have been renumbered as §§142.6, 142.7, and 142.8, respectively.

46. *Section 142.7* (now 142.6). Many commenters object to the requirement of this section that the invoices be rated by showing the appropriate 5-digit item number from the Tariff Schedules of the United States ("TSUS"). They contend that on numerous occasions, the information may not be available and thus cause delays in release of the merchandise, or there may be a dispute as to the proper rate. Another question why this information is needed at the time of entry and notes that under T.D. 78-174, an importer may subject himself to penalty liability by providing the information. One commenter notes that the proposed section does not provide for a change without prejudice from an incorrect 5-digit classification in documents supporting the entry to a corrected 7-digit classification in documents supporting the entry summary. Several commenters note that this information should be required only at the time of filing the entry summary. Several commenters suggest that this proposed section be amended to provide that (1) entries shall not be rejected because of any questions as to proper rating when the invoice descriptions are complete and accurate, (2) importers may make rating changes between entry and entry summary, and (3) rating errors should not be the basis for penatly proceedings. One commenter suggests that the section provide that the district director may waive the rated invoice requirement. Other commenters suggest proposed § 142.7(a)(4) be deleted.

In light of the comments, Customs has reconsidered its position. A sentence has been added to this proposed section to provide that the district director may waive the requirement to provide the 5-digit TSUS item number from the invoice when the information is not available at the time release of the merchandise is authorized. Additionally, when required, it is within the discretion of the district director to permit an importer to change the TSUS number at time of filing the entry summary. Whether or not a penalty would be imposed depends upon the facts and circumstances surrounding the filing of the documentation, which would determine whether there is a falsity without reasonable cause to believe the truth of the rating shown on invoice.

47. *Section 142.11(a).* Several commenters suggest this section be revised to permit Customs Form 5119-A or 7501 to serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation set forth in §142.3(a).

Customs agrees that Customs Form 5119-A or 7501 should serve as follow-up documentation for merchandise entered under an informal entry and released under the entry documentation, and accordingly, has revised proposed §§ 141.68, 142.11, and present § 143.23. A sentence has been added to proposed § 142.11(a) referring the reader to present § 143.23 in situations relating to merchandise entitled to be entered under an informal entry.

Present § 143.23(f) is being amended to provide that for merchandise entitled to be entered under an informal entry and released under the immediate delivery or entry documentation, Customs Form 5119-A or 7501 (annotated "Informal Entry" in the upper right hand corner) may be used as the follow-up documentation.

Proposed § 141.68(h) is being revised to state the time of entry for informal entries. If merchandise eligible for informal entry is released under immediate delivery and then Customs Form 5119-A or 7501 is filed, the time of entry shall be the time the Customs Form 5119-A or 7501 is filed in proper form, with any related documents and estimated duties attached. However, if merchandise eligible for informal entry is released under the entry documentation set forth in § 142.3(a) and then Customs Form 5119–A or 7501 is filed, the time of entry shall be in accordance with proposed § 141.68(a).

One commenter questions whether Customs Form 3311 would serve as entry and entry summary regardless of value.

Proposed §§ 10.1 (g) and (h) permit Customs Form 3311 to be used as an entry summary for consumption for certain aircraft and aircraft parts and equipment and for nonconsumable vessel stores and equipment regardless of value. If the value of other merchandise is over $250 for American goods returned, an entry summary for consumption on Customs Form 7501 is required.

Another commenter suggests that the provisions for filing entry summary documentation 10 days after release of merchandise be limited to merchandise entered for consumption or under informal entries, and that merchandise not be released under TIB entries or entries for warehouse unless the documentation otherwise required as part of the entry summary is furnished before release.

Customs is of the opinion that the Act does not limit the filing of an entry summary to situations where the merchandise is entered for consumption or under an informal entry. Accordingly, no change is being made in this proposed section.

48. *Section 142.12.* Many commenters object to any action on the part of Customs to require deposit of estimated duties earlier than 10 working days after the time of entry. It is claimed that requiring estimated duties earlier would create undue burdens for many importers because 10 days is the minimum time in which customhouse brokers can calculate duty, obtain deposits from the importer, prepare the entry summary, and locate and file documents with Customs.

As noted in the discussion under proposed § 141.101, Customs is retaining the 10-day period for the present.

Several commenters request clarification as to the timing and count of the 10-day period, noting that this proposed section does not mention Customs position regarding the length of time documents are in Customs possession in determining the 10-day period, and suggest this position be incorporated in the regulations.

One commenter suggests that the phrase "unless otherwise provided in [section] 141.64" be added to proposed § 142.12(b). It appears that the commenter is suggesting that if the entry summary is returned to the importer because it is not filed in proper form, the time it was under review by Customs shall not be included in the 10 working days during which the entry summary, with estimated duties attached, ordinarily must be filed.

Customs position on this matter is set forth in instructions to its field offices. Basically, the period of time Customs holds the entry summary is included within the 10-working day period. However, if it is necessary to return the entry summary for correction, the importer is allowed at least 2 working days to make the necessary corrections, provided the entry summary was filed initially within the 10-working day period.

One commenter suggests that the regulations provide that Saturdays and Sundays not be included in the 10-day count. It is unnecessary to refer to Saturdays and Sundays in determining the 10-day count, because proposed section 142.12(b) explicitly mentions "working days".

49. *Section 142.13.* One commenter notes that in light of proposed § 141.64 (which provides that if errors are found, the entry and entry summary documentation shall not be considered "filed" and be returned to the importer), proposed § 142.13(a)(3) is contradictory and superfluous. The basis for this reasoning is that because"filing" does not occur until the entry summary is correct and complete, an importer cannot repeatedly "file" incomplete or erroneous entry summaries.

Because Customs agrees with this comment, the non-technical term "delivered" has been substituted for the technical term "filed" in this section. Customs is concerned about the repetitious delivery to Customs of entry summaries which are incomplete or which contain erroneous information.

Several commenters request that the term "repeatedly", as used in proposed §§ 142.13(a)(1) and (3), and the phrase "substantially or habitually delinquent", as used in proposed § 142.13(b), be defined.

Customs believes that the term "repeatedly" need not be defined. This term will be given its normal dictionary meaning. Similarly, Customs believes the phrase "substantially or habitually delinquent", used in present § 142.7 for suspension of immediate delivery privileges (proposed § 142.26), need not be defined in the regulation.

The term "habitually deliquent" means to fail repeatedly to pay Customs bills within 30 days. The term "substantially delinquent" means to fail to pay a large amount of money due to the United States within 30 days.

One commenter believes that due process requires a hearing with a right of appeal to Customs Headquarters before the regional commissioner may act under § 142.13(b).

Customs disagrees. There is no due process issue involved. Section 102 of Pub. L. 95–410 provides that the entry summary shall be filed at the time of entry of the merchandise or within 10 working days after time of entry. Section 103 provides that the importer shall deposit estimated duties at the time of entry or by regulation at a later time, not to exceed 30 days. Customs has interpreted this to permit deposit of estimated duties within 10 working days after the time of entry. If the importer is habitually or substantially delinquent in the payment of Customs bills, then Customs has the right to require filing of the entry summary, with estimated duties attached, before the merchandise may be released. Customs believes that this does not generate a due process claim. Similarly, Customs considers the use of the immediate delivery procedure a privilege rather than a right. Suspension of the privilege would require an importer to deposit estimated duties at the time of release, which is consistent with 19 U.S.C. 1505(a).

Two commenters suggest that when a regional commissioner requires the entry summary to be filed and estimated duties deposited before release of the merchandise, as provided in proposed § 142.13(b), the sanction (as set forth in proposed § 142.14) should be restricted to the particular port or ports where the entry requirements are being violated.

Customs disagrees. The immediate delivery procedure previously provided for the suspension of the immediate delivery privilege for the particular region involved. However, based upon Customs experience, it is necessary to amend present § 142.7 to provide for suspension in any Customs region (see T.D. 76–78). Proposed § 142.26 contains provisions similar to those in proposed § 142.14.

50. *Section 142.17.* Several commenters are concerned that adoption of a weekly consolidated entry for merchandise consigned to the same consignee would eliminate the daily consolidated entry of "like" merchandise for ultimate consignees by a customhouse broker under his own name and bond.

Customs did not intend to eliminate this practice. A new § 142.17a is being added to Part 142 to permit a customhouse broker as nominal consignee to file a daily consolidated entry summary in his own name under his own bond to cover shipments of like or similar merchandise consigned to multiple ultimate consignees provided the merchandise is imported on the same day, itemized as to each category of merchandise by statistical reporting number, and released on the same day. This practice, which has been in effect since 1954, is merely being made a part of the regulations.

One commenter objects that proposed § 142.17(b)(5) would prohibit the filing of one entry summary of multiple entries of merchandise subject to internal revenue tax.

Customs has reconsidered its position and because this prohibition has been found to be unnecessary, has revised proposed § 142.17(b) by deleting subparagraph (5), relating to merchandise subject to internal revenue tax.

51. *Section 142.21(a).* Several commenters suggest that the proposed section should permit the use of the immediate delivery procedure for other than land shipments from Canada or Mexico.

Customs believes that the immediate delivery procedure is an exception to the general rule that under Pub. L. 95-410, the "entry" is the releasing document and, therefore, should be used only in special circumstances. The use of the immediate delivery procedure in connection with merchandise from contiguous countries is limited to land shipments to avoid congestion at the border ports. The same circumstances do not apply to shipments arriving by air and sea, because there is time to prepare the necessary entry documentation in connection with such shipments. Accordingly, proposed § 142.21(a) is being revised to make clear that the immediate delivery procedure applicable to shipments from contiguous countries is limited to land shipments.

52. *Section 142.21(b).* One commenter questions why the procedure set forth in this proposed section includes only certain merchandise transported to an importer's premises within the port of importation but removed from the area immediately contiguous to the border.

Other commenters suggest that the provision apply to fresh cut flowers, livestock, frozen strawberries, tropical fish, and other merchandise.

Customs believes this section cannot be expanded to cover the transportation of merchandise to an importer's premises outside the port limits because it is necessary to maintain strict control and accountability of the merchandise released under this liberalized procedure.

It also is Customs position that this procedure should include only fresh fruits and vegetables and should not be expanded.

53. *Section 142.21(d)* (now § 142.21(g)). One commenter asks what type of merchandise would fall within the context of this proposed section which provides that Headquarters may authorize release of merchandise under the immediate delivery procedure.

This proposed section was added to provide for the immediate release of merchandise on a case-by-case basis in situations which may arise in the future.

54. *Section 142.22(a).* Although one commenter notes that this section provides that an importer may deliver to Customs a pro forma invoice, he questions whether the other invoice requirements would apply at time of filing the entry summary.

The invoice requirements in proposed § 142.16(a) would apply when an entry summary is filed as a follow-up document after the release of merchandise under the immediate delivery procedure.

55. *Section 142.22(b).* One commenter notes that it would be more accurate to state that the document filed under § 142.22(b)(1) is actually a combined entry/entry summary.

An entry summary may be filed (1) after the merchandise is released under an entry, (2) at the time of entry, in which case the entry summary shall serve as an entry and entry summary, or (3) after the merchandise is released under the immediate delivery procedure. As previously noted, a separate proposal is under consideration to revise Customs Form 7501, to be entitled the "Entry/Entry Summary".

One commenter questions whether under this section, an importer could have merchandise released under a special permit for immediate delivery, return the merchandise to Customs custody several days later, and file an exportation entry, thereby negating the need to file an entry summary.

The filing of an exportation entry after release under an application for immediate delivery is permitted only under proposed §§ 142.21(b), relating to fresh fruits and vegetables, and 142.21(e)(2), relating to absolute quota merchandise.

56. *Section 142.23.* Two commenters note that although the proposed section continues to provide for the 10-working-day period for filing documentation after release, longer periods have been allowed for monthly consolidated entries. One of these commenters suggests that § 142.23 be revised to provide for periods longer than 10 working days when authorized by Customs Headquarters.

The monthly consolidated entry procedure presently is under review. It is not intended that proposed § 142.23 make any change in the procedure. Customs believes the language should remain as proposed.

57. *Sections 158.21a and 158.43(c)(2).* One commenter believes there is no reason why an abatement or a refund should not be permissible throughout the full 5-year term authorized for warehouse entries.

Customs believes this matter was explained satisfactorily in the proposed notice of November 29, 1978 (43 FR 55780).

58. *Section 159.9(c).* Several commenters object to Customs considering the legal notice of liquidation to be the bulletin notice posted in the customhouse. One commenter suggests that Customs eliminate the practice of considering the bulletin posting of liquidation as the official notice and instead consider the mailed "courtesy" notice as the official notice.

Section 500 of the Tariff Act of 1930, as amended (19 U.S.C. 1500), authorizes the Secretary of the Treasury to prescribe regulations for the liquidation of entries of imported merchandise. Under this authority, present § 159.9(a) provides that a notice of liquidation of formal entries shall be made on a bulletin notice of liquidation, Customs form 4333 or 4335. The Customs Court in *Reliable Chemical Company* v. *United States*, C.R.D. 78-111 (1978), held that the notice of liquidation must be given in the form and manner prescribed by the Secretary of the Treasury and the regulations so prescribed have the force of law.

One commenter questions whether the bulletin notice would serve as the only legal evidence of liquidation and refers to the above-cited case, wherein the Customs Court held that Customs Form 4333-A constituted a direct, formal, and decisive notice of liquidation. Two commenters recommend that Customs continue to provide a courtesy notice in addition to the bulletin notice. Other commenters question whether importers would receive a notice of liquidation for entries that are liquidated before the 1-year period and for entries deemed liquidated by operation of law.

Customs has determined that the bulletin notice shall serve as the only legal evidence of liquidation. However, Customs will review the procedure to provide alternate means of providing legal evidence of liquidation when AMPS is developed further.

Also, Customs will implement the suggestion of the Customs Court in *Reliable Chemical Company* v. *United States, supra*. In this regard, a new paragraph (d) has been added to present § 159.9 to provide that Customs will endeavor to provide a Customs form 4333–A, the "Courtesy Notice", for all entries specified in § 159.9(a)(1) which are scheduled to be liquidated. Customs also will provide the courtesy notice, in addition to the bulletin notice specified in proposed § 159.9(c)(2)(iii), for all entries which are deemed liquidated by operation of law. Customs Form 4333–A is being revised to provide (and § 159.9(d) specifically states) that the form shall serve only as an informal courtesy notice and not as a direct, formal, and decisive notice of liquidation. However, a courtesy notice will not be provided for informal entries liquidated under present § 159.10(c)(3).

A new sentence has been added to §§ 159.11(a), 159.12(f), and 159.12(g) to state that Customs will endeavor to provide a Customs Form 4333–A pursuant to § 159.9(d).

Several commenters raise questions about the period of time for filing protests after liquidation. Proposed § 159.9(c)(2)(iii) provides that for entries liquidated by operation of law, a protest shall be filed within 90 days from the date the bulletin notice of liquidation is posted or lodged in the customhouse. The commenter requests this section be revised to provide that the 90-day protest period should begin to run on the date of liquidation by operation of law. Another commenter suggests that Customs provide 2 applicable 90-day periods: 90 days from (1) the date of bulletin notice, as provided in proposed § 159.11, or (2) the date of expiration of the appropriate statutory period, whichever occurs first.

Customs has reviewed this matter and has determined that no change is necessary. The protest must be filed within 90 days from the date the bulletin notice of liquidation of an entry liquidated by operation of law is posted or lodged in the customhouse. However, it is proper for a protest to be filed on the date of liquidation of an entry deemed liquidated by operation of law, or within 90 days thereafter, even though the importer has not as yet received the bulletin notice of liquidation. The importer will have, in effect, 2 time frames within which to file a protest. Proposed section 159.9 specifies the longer period of time.

59. *Section 159.11(a)*. One commenter objects to the language that an entry not liquidated within the 1-year period shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted by the importer at time of entry. He believes these factors should be fixed as of the date the entry summary is filed.

Customs believes this comment has merit. "Time of entry" is used in section 209 of Pub. L. 95–410 (19 U.S.C. 1504) to refer to the time the merchandise enters the commerce of the United States. Therefore, for purposes of liquidation, Customs believes this term has a different meaning than that set forth in proposed § 141.68.

Customs believes that for purposes of liquidation, "time of entry" occurs when an entry summary in proper form, with estimated duties attached, is filed, or in the case of merchandise entered for warehouse, when the merchandise is withdrawn from warehouse for consumption and estimated duties are deposited. Therefore, proposed §§ 159.11(a) and 159.12(f) have been revised to reflect that an entry deemed liquidated by operation of law shall be deemed liquidated at the rate of duty, value, quantity, and amount of duties asserted at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or at the time of filing a warehouse withdrawal for consumption in proper form, with estimated duties attached.

The same commenter believes Customs also should take into consideration any tender of duties submitted by the importer after the entry summary is filed. A definitive answer to this comment would depend on the facts and circumstances surrounding the tender. For example, a tender of additional duties may be required as liquidated damages for failure to produce a missing document timely, in accordance with § 141.66, Customs Regulations, or for failure to meet a conditionally free entry requirement. Generally, however, Customs believes that the action contemplated by 19 U.S.C. 1504 is fixed at the time of filing the entry summary and would not be applicable to any voluntary tender of duties made after the filing of the entry summary, with estimated duties attached.

One commenter requests clarification of the meaning of the terms "asserted" and "amount of duties asserted by the importer". He wishes to know whether the term "asserted" implies any TSUS rate the importer states and how this rate would be documented in reject situations.

The statute requires that an entry deemed liquidated by operation of law shall be liquidated at the TSUS rate of duty, value, quantity, and amount of duties which is "asserted". In this context, "asserted" means that which is claimed and indicated by the importer, his consignee or agent on the entry summary or warehouse withdrawal.

60. *Section 159.11(b)*. Several commenters object that this proposed section and proposed § 159.12 shall apply to entries or withdrawal of merchandise for consumption made after March 31, 1979. They believe that the procedure should apply to all unliquidated entries.

Section 209(b) of Pub. L. 95–410 states:

> The amendment made by this section applies to the entry or withdrawal of merchandise for consumption on or after 180 days after the enactment of this Act.

Therefore, proposed §§ 159.11(b) and 159.12 apply only to entries or withdrawals of merchandise for consumption made after March 31, 1979, and cannot be applied to unliquidated entries made before that date. This delayed effective date was incorporated into the statute to enable Customs to program the automated systems required to administer the new provision.

61. *Section 159.12(a)*. One commenter questions the meaning of the phrase "not available" in paragraph (a)(1) in the context of American Selling Price (ASP) appraisement. He believes that the phrase "not available" would preclude postponement or extension of time for an ASP determination because the information on domestically-produced shoes is "available" in the market place at the time of importation.

Customs believes that the statutory authority to extend the period for liquidation to develop additional information relating to the appraisement of merchandise extends to situations in which the information is not before Customs for any reason. Accordingly, the time for liquidation of ASP entries may be extended if the information is not before Customs, notwithstanding its availability in the market place.

62. *Section 159.12(g)*. One commenter suggests that Customs Form 4333 be used as the means of notification of liquidation, and that Customs supply a print-out of entries liquidated for each customhouse broker having an interest.

As indicated above, Customs will endeavor to provide a courtesy notice as well as the bulletin notice. Customs is considering the request to supply a print-out of liquidation for the individual customhouse broker having an interest.

63. *Section 172.22*. Although the notice of November 29, 1978, contained no reference to amending Part 172, one commenter notes that because Part 142

has been rewritten, the reference to § 142.15 in § 172.22(d) is incorrect. Customs agrees.

Therefore, § 172.22 is amended to reflect appropriate cross-references to the immediate delivery procedure and to release under an entry.

64. *Other comments.* One commenter suggests that the terms "importer", "importer of record", and "consignee" be defined.

The term "importer" is defined in § 101.1(k) and includes within its meaning a "consignee" and "importer of record".

Two commenters object because only 30 days was given for the public to provide written comments on the proposed notice of November 29, 1978.

As stated in the notice, the comment period was 30 days rather than 60 days because it was necessary to expedite implementation of the legislative changes made by Pub. L. 95–410 which became effective either upon enactment, or 60 to 180 days thereafter.

Other Changes

Upon its own review, Customs has made additional changes in the amendments proposed in the notice published in the **Federal Register** on November 29, 1978. Customs also is amending certain sections of the Customs Regulations which were not referred to in the notice. Because these amendments merely liberalize existing requirements, or represent conforming and editorial changes, notice and public procedure thereon are found to be unnecessary.

1. *Section 24.3.* Section 24.3(b), relating to bills and accounts and receipts, not discussed in the November 29, 1978, notice, is amended to provide that a payer shall be furnished a receipt for estimated duties at the time of payment, rather than the time of entry, if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The reference to furnishing an additional copy of Customs Form 5101 has been deleted because this form is not used for this purpose. Additionally, minor editorial changes have been made.

2. *Section 132.14.* Proposed § 141.0a(e) provides that the term "presentation" is to be used only in connection with quota-class merchandise. However, the term "filing", defined in proposed § 141.0a(d), was used inadvertently in two sections in Part 132. Therefore, the term "presentation" has been substituted for the term "filing" in proposed § 132.14(a)(3)(i)(B) (renumbered § 132.14(a)(4)(i)(B)).

The term "presentation" also has been substituted for the term "filing" in proposed § 132.14(a)(3)(ii) (now § 132.14(a)(4)(ii)).

3. *Section 141.0(a).* This proposed section defines terms used in connection with the entry of merchandise. Three additional definitions have been added to this section.

The term "entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

The term "entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

The term "entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

These terms are being added because the type of entry is not determined until the information set forth on the entry summary is provided.

4. *Section 141.55.* Section 141.55, relating to a single entry summary for shipments arriving under one transportation entry, not discussed in the November 29, 1978 notice, is being amended to reflect the use of the term "entry summary". As amended, this section provides that an entry summary ordinarily may be filed for the entire quantity of merchandise transported under one immediate transportation entry from the port of origin to the port of final destination in installments. Minor editorial changes also have been made.

5. *Section 141.56.* A new § 141.56, relating to a single entry summary for multiple transportation entries consigned to the same consignee, is added. This section provides that a district director may accept an entry summary for merchandise covered by multiple entries for immediate transportation. However, a single entry summary shall not be accepted for any merchandise listed in proposed § 142.17(d).

6. *Section 141.61(d)(1).* Proposed § 141.61(d)(1) provides that except in the case of a consolidated entry summary covering merchandise of more than 1 ultimate consignee, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. The proposed section also provides that if the importer of record and the ultimate consignee are the same, the importer number shall be entered in both spaces provided on Customs Form 5101.

If the importer of record and ultimate consignee are the same, it is unnecessary to require the importer number to be entered in both spaces. Therefore, the second sentence of proposed § 141.61(d)(1) has been revised to provide that in this circumstance, the importer number may be entered in both spaces, or the importer number may be entered in the space provided for the importer of record, and the word "same" may be entered in space provided for the ultimate consignee. This change should reduce the number of errors which result from improper data transcription.

7. *Section 141.61(e)(1).* This section sets forth various Customs forms upon which the applicable statistical information is required to be shown. Several technical changes in citing the forms have been made. References have been added to:

(1) Customs Form 7500, "Appraisement Entry",

(2) Customs Form 7512, "Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit", when used to document an incoming vessel shipment proceeding to a third country by means of transportation and exportation, or immediate exportation, and

(3) Customs Form 226, "Record of Vessel/Aircraft Foreign Repair or Equipment Purchase".

The reference to Customs Form 7502, when used as a rewarehouse entry, has been deleted.

8. *Section 141.62(b)(1) (now 141.62(b)(1)(ii).* The phrase "special permit for", in describing the immediate delivery application, may be confusing and, therefore, is deleted.

9. *Section 141.68(a).* Proposed § 141.68(a)(1) provides that if entry documentation is filed in proper form without the entry summary, the time of entry is the time authorized for release of the merchandise. However, merchandise may take several to unlade. The counting, for purposes of filing the entry summary, with estimated duties attached, begins when the Customs officer authorizes release of any part of the merchandise covered by the entry. This section has been revised to reflect this point.

10. *Section 141.86.* A Special Customs Invoice ("SCI"), Customs Form 5515, is required for each shipment of merchandise imported into the United States when the purchase price exceeds $500 and the rate of duty is dependent in any manner upon the value of the merchandise. This invoice also is

required for merchandise not imported pursuant to a purchase or agreement to purchase when the value is over $500.

The general information required by section 481(a), Tariff Act of 1930 (19 U.S.C. 1481(a)), to be shown on all invoices, including the SCI, for merchandise imported into the United States, is set forth in § 141.86(a).

Pursuant to section 481(d), Tariff Act of 1930 (19 U.S.C. 1481(d)), exemptions from the requirements of 19 U.S.C. 1481(a) may be made by the Secretary as he deems advisable. An exemption has been found advisable in the case of the SCI.

In cooperation with the National Committee on International Trade Documentation, Customs has revised the SCI to align it with the United States Standard Master for International Trade. The United States Standard Master for International Trade was designed to facilitate the use of forms in international trade by creating uniform specifications for form, size, and content, and to allow importers to use automatic data processing equipment in completing trade forms.

As a result, certain information required by § 141.86(a) to be included on all invoices no longer need appear on the SCI, and the requirement for furnishing the information has been deleted from this form.

Accordingly, the SCI is excepted from the general informational requirements of § 141.86(a), and a new § 141.86(j) has been added to reflect the specific informational requirements of this form.

11. *Section 141.91.* The phrase "other than a special summary invoice" was omitted inadvertently from the introductory language of this section in the November 29, 1978, notice, and is being inserted by this document.

12. *Section 141.92(b).* The introductory language of this section is being amended to reflect the new entry/entry summary terminology.

13. *Section 142.3a.* This paragraph has been revised to define the first fiscal year as beginning on October 1, 1979, and ending on September 30, 1980.

Customs plans to begin to initiate assigning entry numbers nationwide on October 1, 1979. Although pilot tests are being conducted and others will be initiated prior to October 1, 1979, the national capability for implementing this procedure will not occur until that date.

14. *Section 142.17(a)(2). Proposed § 142.17(a)(2)* provides that a district director generally may permit the filing of 1 entry summary for merchandise the subject of separate entries if the merchandise arrives by the same air carrier or the same mode of land transportation. However, upon review, it has been determined that this procedure may be used for merchandise arriving by the same vessel, and that there is no need to restrict this procedure to the same mode of land transportation. Therefore, this section is being revised to provide that the procedure may be used when the merchandise arrives by land, by the same vessel, or by the same air carrier.

15. *Section 142.17(b).* Proposed § 142.17(b) sets forth 5 situations in which 1 entry summary may not be used for multiple entries. As previously noted, reference to the fifth situation has been deleted. Customs has added a new fifth limitation to cover the situation when the rate of duty on merchandise covered by the same TSUS item number changes during the period of consolidation. This limitation would apply to entries and immediate transportation entries so that only those filed before the change in the rate of duty could be consolidated into 1 entry summary and those filed on or after the change could be consolidated into another entry summary. Customs believes that the procedure otherwise would be too burdensome to use.

16. *Section 142.21.* Proposed § 142.21 sets forth the circumstances under which merchandise may be released under the immediate delivery procedure. However, the November 29, 1978, notice inadvertently omitted the use of the immediate delivery procedure for merchandise consigned to or for the account of any agency or office of the United States Government, or to an officer or official of the agency in his official capacity. Therefore, a new § 142.21(c) has been added to provide for this use of the immediate delivery procedure.

The notice also inadvertently omitted the use of the immediate delivery procedure for articles entered for a trade fair, as provided for in § 147.13 of this chapter. Therefore, a new § 142.21(d) has been added to provide for this use of the immediate delivery procedure.

17. *Section 142.21(a).* The second sentence of this section has been revised to provide a cross-reference to § 142.21(b)(1) to reflect the type of entry summary documentation which shall be filed.

18. *Section 142.22(b)(1).* This section has been revised to include a reference to an "entry summary for warehouse and entry summary for entry under temporary importation bond". This change is being made to conform to the current practice.

19. *Section 142.25.* Proposed § 142.13(a) sets forth 3 circumstances in which the district director may require that the entry summary documentation by filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released. However, proposed § 142.25(a) (the title of § 142.25 inadvertently was omitted from the November 29, 1978, notice) sets forth only 2 provisions for which the district director may discontinue the immediate delivery procedure. A third circumstance, similar to that in proposed § 142.13(a)(3), has been added to § 142.25 as paragraph (a)(3). Customs considers the comments made on proposed § 142.13(a)(3) to apply to the new § 142.25(a)(3).

20. *Part 151.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The first and last sentences of § 151.47,

2. The section heading and first sentence of § 151.63,

3. Paragraph (a) and (b) of § 151.64, and

4. The first, third, and fourth sentences of § 151.64.

21. *Part 158.* The following sections of this part are being amended to reflect the new entry/entry summary terminology:

1. The section heading and first sentence of § 158.2, and

2. The section heading and first sentence of § 158.3.

22. *Section 159.11(b).* The notice stated that the amendments relating to the time limits for liquidation did not include vessel repair entries or drawback entries. This limitation has been incorporated in proposed § 159.11(b).

For editorial clarity, this proposed section also has been revised by referring to the effective date as "on or after April 1, 1979" rather than "after March 31, 1979".

23. *Sections 159.12 (b) and (c).* Proposed §§ 159.12 (b) and (c) provide the district director shall notify the importer or appropriate party in writing of an extension or suspension of liquidation. These sections have been revised to provide that notification shall be on "Customs Form 4333–A, appropriately modified".

24. *Section 159.12(f)(1).* The phrase "for consumption" has been deleted

from this paragraph. This phrase may be confusing because final withdrawals may not always be withdrawals for consumption.

25. *Section 172.22(b).* This section is being amended to (1) reflect the new entry/entry summary terminology, and (2) provide for the production of a required invoice within 50 days after the date the entry or entry summary is filed. The second change is being made to conform this section with proposed §§ 141.61(e)(2) and 141.91(d).

26. *Section 173.1.* Section 173.1 provides that district directors have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is in accordance with law. However, this section makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

27. *Section 173.4(c).* Proposed § 173.4(c) provides that a clerical error, mistake of fact, or other inadvertence meeting the requirements of § 173.4(b) shall be brought to the attention of the district director at the port of entry within 1 year after the date of liquidation or exaction. However, proposed § 173.4(c) makes no reference to the Regional Commissioner of Customs, New York, and is being amended to refer to that official.

After consideration of the comments received and upon Customs internal review, it has been decided to adopt the regulations as proposed with the changes set forth in this document.

Inapplicability of Executive Order 12044

This document is not subject to the provisions of the Treasury Department directive (43 FR 52120) implementing EO 12044, "Improving Government Regulations", because the subject matter was in an advanced state of preparation before May 22, 1978.

Drafting Information

The principal authors of this document were Charles D. Ressin and Benjamin H. Mahoney, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173, Customs Regulations (19 CFR Parts 10, 11, 24, 127, 132, 141, 142, 143, 144, 151, 158, 159, 172, and 173), are amended as set forth below.

William T. Archey,
Acting Commissioner of Customs.

Approved: July 17, 1979.

Richard J. Davis,
Assistant Secretary of the Treasury.

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

1. §§ 10.1 (d), (g) and (h) are amended to read as follows:

§ 10.1 Domestic products; requirements on entry.

* * * * *

(d) If the district director is reasonably satisfied, because of the nature of the articles, or production or other evidence, that the articles are imported in circumstances meeting the requirements of item 800.00 or 805.00, Tariff Schedules of the United States, and the related headnotes, he may waive the requirements for producing the documents specified in paragraphs (a) and (b) of this section except when Customs Form 3311 is used as an entry summary (as defined in § 141.0a(b) of this chapter) under paragraphs (g) or (h), or as an informal entry under paragraph (i).

* * * * *

(g) *Aircraft and aircraft parts and equipment.* (1) In the case of aircraft and aircraft parts and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, by or for the account of an aircraft owner or operator and intended for use in his own aircraft operations, within or outside the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed by the entrant and supported by the entry documentation required by § 142.3 of this chapter. If the Customs officer is satisfied that the articles are products of the United States, that they have not been improved in condition or advanced in value while abroad, and that no drawback has been or will be paid, the other documents described in this section shall not be required, and no bond need be filed for their production.

(2) The entrant shall show on Customs Form 3311:

(i) The name and address of the aircraft owner or operator by whom or for whose account the articles are returned to the United States, in the block headed "Articles Returned To (Name and Address)",

(ii) The name of the importing vessel or conveyance,

(iii) The date of its arrival,

(iv) A description of the articles,

(v) The value of the articles, and

(VI) That the articles are intended for use by the aircraft owner or operator in his own aircraft operations.

(3) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

(h) *Nonconsumable vessel stores and equipment.* (1) In the case of nonconsumable vessel stores and equipment returned to the United States under item 800.00, Tariff Schedules of the United States, the entry summary may be made on Customs Form 3311. The entry summary on Customs Form 3311 shall be executed in duplicate by the entrant and supported by the entry documentation required by § 142.3 of this chapter. Before an entry summary on Customs Form 3311 may be accepted for nonconsumable vessel stores and equipment, the Customs officer shall be satisfied that:

(i) The articles are products of the United States.

(ii) The articles have not been improved in condition or advanced in value while abroad.

(iii) No drawback has been or will be paid, and

(iv) No duty equal to an internal revenue tax is payable under item 804.20, Tariff Schedules of the United States.

(2) The declaration of the foreign shipper described in paragraph (a)(1) of this section and the certificate of exportation described in paragraph (a)(3) of this section shall not be required in connection with an entry for nonconsumable vessel stores and equipment on Customs Form 3311.

(3) To satisfy the Customs officer that no drawback has been or will be paid on the articles in connection with their removal from the United States, the master of the vessel or other person having knowledge of the facts shall furnish a written declaration which may be made on the reverse side of Customs Form 3311 showing that the articles were:

(i) Exported as stores or equipment on a United States vessel or a vessel operated by the United States Government,

(ii) Not landed in a foreign country, except for any needed repairs, adjustments, or refilling and return to the vessel from which landed or,

(iii) For transshipment as stores or equipment to another vessel.

(4) The entrant also shall show:

(i) The name of the importing vessel,

(ii) The date of its arrival,

(iii) A description of the articles, and

(iv) The value of the articles.

(5) If Customs Form 3311 is filed at time of entry, it shall serve as both the entry and the entry summary.

2. § 10.31(a) is amended to read as follows:

§ 10.31 Entry; bond.

(a)(1) Entry of articles brought into the United States temporarily and claimed to be exempt from duty under Schedule 8, Part 5C, Tariff Schedules of the United States (TSUS),[34] unless covered by an A.T.A. carnet as provided in Part 114 of this chapter, shall be made on Customs Form 3461 or 7533, supported by the documentation required by § 142.3 of this chapter. However, when § 10.35 or § 10.36a is applicable, or the aggregate value of the article is not over $250, the form prescribed for the informal entry of importations by mail, in baggage, or by other means, may be used. When entry is made on Customs Form 3461 or 7533, an entry summary, Customs Form 7501, shall be filed within 10 days after time of entry, in accordance with Subpart B, Part 142 of this chapter.

(2) If Customs Form 7501 is filed at time of entry, it shall serve as both the entry and entry summary, and Customs Form 3461 or 7533 shall not be required. Customs Form 7501 shall be in original only, except for entries under item 864.05, TSUS, which require a duplicate copy for statistical purposes. When articles are entered under an A.T.A. carnet, the importation voucher of the carnet shall serve as the entry.

(3) In addition to the data usually shown on a regular consumption entry summary, each temporary importation bond entry summary shall include:

(i) The TSUS item number under which entry is claimed.

(ii) A statement of the use to be made of the articles in sufficient detail to enable the district director to determine whether they are entitled to entry as claimed, and

(iii) A declaration that the articles are not to be put to any other use and that they are imported for sale or sale on approval.

* * * * *

3. § 10.91 is amended to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel[82] imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),[83] shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released, unless the merchandise is to be entered for warehouse. If the merchandise is to be entered for warehouse, the entry summary shall be made on Customs Form 7502 and filed with the entry documentation listed in § 142.3(b) of this chapter in either case, Customs Form 7501 or 7502, as appropriate, shall serve as both the entry and the entry summary.

(b) When the entry summary is made on Customs Form 7501, it shall contain the following endorsement:

Above merchandise entered under bond for use in the manufacture of ——————— (camel hair belting, felt or knit boots, floor coverings, heavy fulled lumbermen's socks, press cloth, papermakers' felts, or pressed felt for polishing plat and mirror glass) under the provision of item 306.00, Tariff Schedules of the United States.

The endorsement shall be signed by the obligor on the bond.

(c) When the merchandise is entered for warehouse, withdrawals for use in the manufacture of the articles enumerated shall be made on Customs Form 7506 in the name of the obligor on the bond.

(d) Wool or hair of the camel which has been released from Customs custody shall not be restored to a Customs status from which it thereafter could be entered or withdrawn under the provisons of item 306.00, TSUS.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 11—PACKING AND STAMPING; MARKING [1]

1. Section 11.6 is amended to read as follows:

§ 11.6 Distilled spirits, wines, and malt liquors in bulk.

(a) The district director, in his discretion, may require marks, brands, stamps, labels, or similar devices to be placed on any bulk container used for holding, storing, transferring, or conveying imported distilled spirits, wines, and malt liquors, in accordance with 19 U.S.C. 467.[2]

(b) Marks, brands, stamps, labels, or similar devices required by Federal, state, or local statute or regulation may be affixed, and Customs inspection, gauging, marking, or measurement may be done, at the place of unlading or other suitable place, unless the district director determines that inspection, gauging, marking, or measurement shall be done at a public store, warehouse, or other appropriate facility.

(c) Marks, brands, stamps, labels, or similar devices shall be permanent in nature and not subject to obliteration or removal as a result of handling or other condtions. The district director shall determine whether a mark, brand, stamp, label, or similar device is acceptable, based on the nature, surface, and composition of the container.

2. Footnote 2 to Part 11 is amended to read as follows

[2] "The Secretary of the Treasury may by regulation require such marks, brands, and stamps or devices to be placed on any bulk container (including a pipeline) used for holding, storing, transferring or conveying imported distilled spirits, wines, or malt liquors as he deems necessary and proper in the administration of the Federal laws applicable to such imported distilled spirits, wines, or malt liquors and may specify those marks, brands, and stamps or devices which the importer or owner shall place or have placed on such containers. Any such container of imported distilled spirits, wines, or malt liquors withdrawn from customs custody purporting to contain imported distilled spirits, wines, or malt liquors found without having thereon any mark, brand, stamp, or device the Secretary of the Treasury may require, shall be with its contents, forfeited to the United States of America." (19 U.S.C. 467)

"Beverages in this subpart, containing over 24 percent of ethyl alcohol by volume when imported are classed as spirits under item 168.52." (Schedule 1, part 12C, headnote I. Tariff Schedules of the United States.)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Section 24.3(b), Customs Regulations, is amended to read as follows:

§ 24.3 Bills and accounts; receipts.

(a) * * *

(b) A receipt for the payment of estimated Customs duties shall be provided a payer at the time of payment if he furnishes with his payment an additional copy of the documentation submitted in support of the payment. The appropriate Customs official shall validate the additional copy as paid and return it to the payer. Otherwise, a copy of the document filed by the payer and the payer's cancelled check shall constitute evidence of payment.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 127—GENERAL ORDER, UNCLAIMED AND ABANDONED MERCHANDISE

§ 127.3 [Deleted]

1. Part 127 is amended by deleting § 127.3.

2. Section 127.4 is amended to read as follows:

§ 127.4 General order period defined.

The general order period is that period of time during which general order merchandise, as defined in § 127.1, is not subject to sale. The general order period expires 1 year from the date of importation.

3. Section 127.11 is amended to read as follows:

§ 127.11 Unclaimed merchandise.

Any entered or unentered merchandise (except merchandise under section 557, Tariff Act of 1930, as amended (19 U.S.C. 1557), but including merchandise entered for transportation in bond or for exportation) which remains in Customs custody for 1 year from the date of importation, or a lesser period for special merchandise as provide by §§ 127.28 (c), (d), and (h), and without all estimated duties and storage and other charges having been paid, shall be considered unclaimed and abandoned.

(Sec. 491, 46 Stat. 726 as amended (19 U.S.C. 1491).)

4. Section 127.12(a)(2) is amended to read as follows:

§ 127.12 Abandoned merchandise.

(a) * * *

(1) * * *

(2) Any imported merchandise upon which any duties or charges are unpaid; remaining in a bonded warehouse beyond the 5-year warehouse period.

5. Section 127.14(c)(1) is amended to read as follows:

§ 127.14 Disposition of merchandise in Customs custody beyond time fixed by law.

* * * * *

(c) * * *

(1) Merchandise upon which all duties and charges have been paid which remains in a bonded warehouse beyond the 5-year warehouse period.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 132—QUOTAS

1. Section 132.1 is amended by deleting paragraph (c) and by revising paragraph (d) to read as follows:

§ 132.1 Definitions.

* * * * *

(d) *Presentation.* "Presentation" is the delivery in proper form to the appropriate Customs officer of:

(1) An entry summary for consumption, which shall serve as both the entry and the entry summary, with estimated duties attached (see § 141.0a(b)), or

(2) A withdrawal for consumption, with estimated duties attached.

* * * * *

2. Section 132.3 is amended to read as follows:

§ 132.3 Observation of official hours.

An entry summary for consumption or a withdrawal for consumption for quota-class merchandise shall be presented only during official office hours, except as provided in §§ 132.12 and 141.62(b) of this chapter. For purposes of administering quotas, "official office hours" shall mean 8:30 a.m. to 4:30 p.m. in all time zones.

3. Section 132.11 (a) and (b) are amended to read as follows:

§ 132.11 Quota priority and status.

(a) *Determination of quota priority and status.* Quota priority and status are determined as of the time of presentation of the entry summary for consumption, or withdrawal for consumption, in proper form in accordance with § 132.1(d).

(b) *Documentation and deposit of duties in proper form required.* Merchandise covered by an entry summary for consumption which serves as both the entry and the entry summary, or by a withdrawal for consumption, which is not in proper form, or for which duties have not been attached or deposited in proper form, shall not be regarded as entered for purposes of quota priority and shall not acquire quota status.

See §§ 141.4, 141.63, 141.68, 141.69, and 141.101 of this chapter.

4. Part 132 is amended by adding new § 132.11a to read as follows:

§ 132.11a Time of presentation.

(a) *General Rule.* Except as provided in paragraph (b) of this section, the time of presentation of an entry for quota purposes shall be the time of delivery in proper form of:

(1) An entry summary for consumption, which serves as both the entry and the entry summary, with estimated duties attached, or

(2) A withdrawal for consumption, with estimated duties attached.

(b) *Before arrival of merchandise.* The entry summary for consumption, without estimated duties attached, may be submitted for preliminary review before the merchandise arrives within the limits of the port where entry is to be made. In that case, the time of presentation of the entry summary for consumption shall be the time estimated duties are deposited after the importing carrier arrives within the port limits.

5. Section 132.12 is amended to read as follows:

§ 132.12 Procedure on opening of potentially filled quotas.

(a) *Preliminary review before opening.* When it is anticipated that a quota will be filled at the opening of the quota period, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall not be presented before 12 noon Eastern Standard Time in all time zones. However, an entry summary for consumption, or withdrawal for consumption, for merchandise which has arrived within the Customs territory of the United States may be submitted for preliminary review without deposit of estimated duties within a time period before the opening approved by the district director. Submission of these documents before opening will not accord the merchandise quota priority or status.

(b) *Simultaneous presentation.* Special arrangements shall be made so that all entry summaries for consumption, or withdrawals for consumption, for quota merchandise may be presented at the exact moment of the opening of the quota in all time zones. All importers prepared to present entry summaries for consumption, or withdrawals for consumption, when the quota opens shall be given equal opportunity to do so. All entry summaries for consumption, or withdrawals for consumption, presented in proper form (including those submitted for review before opening of the quota period if accompanied by the deposit of estimated duties) shall be considered to have been presented simultaneously.

(c) *Proration of quantities.* (1) The quantities on all entry summaries for consumption, or withdrawals for consumption, submitted simultaneously shall be prorated by Headquarters against the quota quantity admissible to determine the percentage to be allocated to each importer under the quota. Merchandise in excess of the quota shall be disposed of in accordance with § 132.5.

(2) In the event a quota is prorated, entry summaries for consumption, or withdrawals for consumption, with estimated duties attached, shall be returned to the importer for adjustment. The time of presentation for quota purposes, in that event, shall be the exact moment of the opening of the quota provided—

(i) An adjusted entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(ii) The importer takes delivery of the merchandise within 15 working days after release is authorized.

6. Section 132.13(a) is amended to read as follows:

§ 132.13 Quotas after opening.

(a) *Procedure when nearing fulfillment.* To secure for each importer the rightful quota priority and status for his quota-class merchandise, and to close the quota simultaneously at all ports of entry—

(1) *For release of merchandise.*—(i) *Tariff-rate.* When instructed by Headquarters, the district director shall require an importer to present an entry summary for consumption, with estimated duties attached, at the over-quota rate of duty until Headquarters has determined the quantity, if any of the merchandise entitled to the quota rate. If any of the merchandise entered at the over-quota rate is entitled to the quota rate, Customs shall amend the entry summary and refund to the importer any excess duties paid. This section does not prohibit an importer from obtaining release of the merchandise under the immediate delivery procedure. If an importer desires to enter only that quantity entitled to the quota rate, he may request that the merchandise not be released from Customs custody until Headquarters has determined the quantity entitled to the quota rate.

(ii) *Absolute.* Except in emergency cases, as provided for in § 142.21(e)(2) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure if the quota is nearing fulfillment. An entry summary for consumption, with estimated duties attached, setting forth the quantity desired to be entered, shall be presented. However, the merchandise shall not be released until Customs has determined the quantity entitled to absolute quota status and priority. After this determination, the importer shall amend his entry summary and deposit estimated duties to reflect the quantity Customs has determined is entitled to absolute quota status and priority.

(2) *Notation on entry papers.* The appropriate Customs officer shall note the exact date, hour, and minute of presentation on each entry summary for consumption, or withdrawal for consumption, and shall report these facts to Headquarters.

7. Section 132.13(b) is amended by deleting "or of official acceptance" in the first sentence.

8. The section heading and § 132.14 are amended to read as follows:

§ 132.14 Special permits for immediate delivery; entry of merchandise before presenting entry summary for consumption; permits of delivery.

(a) *Effect of issuance of special permit for immediate delivery or filing entry documentation before presentation of entry summary*—(1) *Requirements for release.* Quota-class merchandise shall not be released upon filing entry documentation before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached. However, quota-class merchandise may be released under a special permit for immediate delivery in accordance with § 142.21(e) of this chapter.

(2) *Effect of release under immediate delivery.* Release of quota-class merchandise under a special permit for immediate delivery before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord merchandise any quota priority or status or entitle it to any other quota benefit.

(3) *Effect of inadvertent release.* Inadvertent release under a special permit for immediate delivery, or upon filing entry documentation, before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, shall not accord the merchandise any quota priority or status or entitle it to any other quota benefit.

(4) Procedures following inadvertent release.

(i) *Quota nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is nearing fulfillment, the district director—

(A) May demand the return to Customs custody of the released merchandise in accordance with § 141.113 of this chapter,

(B) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached, and

(C) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over-quota rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption or a withdrawal for consumption, with estimated duties attached; (*2*) the merchandise is not returned to Customs custody within 30 days from the date of demand for redelivery; or (*3*) the entry summary for consumption, or the withdrawal for consumption, with estimated duties attached, is not presented timely.

(D) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for the release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the merchandise is redelivered to Customs custody within 30 days from the date of the demand, or if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(ii) *Quota not nearing fulfillment.* If quota-class merchandise is released inadvertently under a special permit for immediate delivery, or under entry documentation, before the presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and the quota is not nearing fulfillment, the district director—

(A) Shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with estimated duties attached, and

(B) May assess liquidated damages under the entry bond in an amount equal to the value of the merchandise, plus estimated duties (computed at the over quota-rate for tariff-rate quota merchandise), if the merchandise is (*1*) released before presentation of an entry summary for consumption, or a withdrawal for consumption, with estimated duties attached; or (*2*) if the entry summary for consumption, or the withdrawal for consumption with estimated duties attached, is not presented timely.

(C) The district director may cancel the claim for liquidated damages if he is satisfied by the evidence that the release was due to causes wholly beyond the control of the importer, that no act or omission on the part of the importer formed the basis for release, and that there was no intent on the part of the importer to evade any law or regulation. The district director also may cancel the claim for liquidated damages if the entry summary for consumption, or withdrawal for consumption, with estimated duties attached, is presented timely.

(b) *Permit of delivery.*—(1) *Effect of filing.* The issuance of a permit of delivery shall not accord the merchandise any quota priority or status nor entitle it to any other quota benefit.

(2) *Time of issuance.*—(i) *Absolute quota merchandise.* A permit of delivery for merchandise subject to an absolute quota shall not be issued before a determination of the quota status of the merchandise.

(ii) *Tariff-rate, quota merchandise.* A permit delivery for merchandise subject to a tariff-rate quota shall not be issued before a determination of the quota status of the merchandise unless estimated duties are deposited at the over-quota rate of duty.

§ 132.15 [Amended]

9. § 132.15 is amended by substituting "141.68(c)" for "141.68(d)", and "presentation" for "acceptance".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 141—ENTRY OF MERCHANDISE

1. Part 141 is amended by adding a new § 1241.0a, to read as follows:

§ 141.0a Definitions.

Unless the context requires otherwise or a different definition is prescribed, the following terms shall have the meanings indicated when used in connection with the entry of merchandise:

(a) *Entry.* "Entry" means that documentation required by § 142.3 of this chapter to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation.

(b) *Entry summary.* "Entry summary" means any other documentation necessary to enable Customs to assess duties, and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

(c) *Submission.* "Submission" means the voluntary delivery to the appropriate Customs officer of the entry summary documentation for preliminary review or of entry documentation for other purposes.

(d) *Filing.* "Filing" means:

(1) The delivery to Customs of the entry documentation required by section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), to obtain the release of merchandise, or

(2) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation required to assess duties, collect statistics, and determine whether other requirements of law and regulation are met, or

(3) The delivery to Customs, together with the deposit of estimated duties, of the entry summary documentation which shall serve as both the entry and the entry summary.

(e) *Presentation.* "Presentation" is used only in connection with quota-class merchandise and is defined in § 132.1(d) of this chapter.

(f) *Entered for consumption.* "Entered for consumption" means that an entry summary for consumption has been filed with Customs in proper form, with estimated duties attached.

(g) *Entered for warehouse.* "Entered for warehouse" means that an entry summary for warehouse has been filed with Customs in proper form.

(h) *Entered under a temporary importation bond.* "Entered under a temporary importation bond" means that an entry summary supporting a temporary importation under bond has been filed with Customs in proper form.

§ 141.5 [Amended]

2. The first sentence of § 141.5 is amended by inserting "or aircraft," after "vessel".

3. The first sentence of § 141.19(a), § 141.19(b)(1), and the first sentence of § 141.19(b)(2) are amended to read as follows:

§ 141.19 Declaration of entry.

(a) *Declaration by consignee.* The consignee in whose name an entry is made under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), shall execute the declaration specified in section 485(a), Tariff Act of 1930, as amended (19 U.S.C. 1485(a)) on:

(1) The entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, or

(2) The rewarehouse or the bonded manufacturing warehouse entry.

The declaration need not be under oath. * * *

(b) *Declaration by agent of consignee*—(1) *Authorized agent with knowledge of the facts.* When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee to make declarations in accordance with section 485(f), Tariff Act of 1930, as amended (19 U.S.C. 1485(f)), a declaration on the entry or entry summary executed by that agent is sufficient and no bond to produce a declaration of the consignee is required.

(2) *Other agents.* When entry is made in a consignee's name by an agent who does not meet the qualifications in paragraph (b)(1) of this section either:

(i) A declaration of the consignee on Customs Form 3347-A shall be filed with the entry documentation or entry summary or

(ii) A charge for the production of the declaration shall be made against the entry bond.

(3) * * *

* * * * *

4. Section 141.20(a) is amended to read as follows:

§ 141.20 Actual owner's declaration and superseding bond of actual owner.

(a) *Filing*—(1) *Declaration of owner.* A consignee in whose name an entry summary for consumption, warehouse, or temporary importation under bond is filed, or in whose name a rewarehouse entry or a manufacturing warehouse entry is made, and who desires, under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to be relieved from statutory liability for the payment of increased and additional duties shall declare at the time of the filing of the entry summary or entry documentation, as provided in § 141.19(a), that he is not the actual owner of the merchandise, furnish the name and address of the owner, and file with the district director within 90 days from the time of entry (see § 141.68) a declaration of the actual owner of the merchandise acknowledging that the actual owner will pay all additional and increased duties. The declaration of owner shall be filed on Customs Form 3347.

(2) *Bond of actual owner.* If the consignee desires to be relieved from contractual liability for the payment of increased and additional duties voluntarily assumed by him under the single-entry bond which he filed in connection with the entry documentation and/or entry summary, or under his term bond against which the entry and/or entry summary is charged, he shall file a bond of the actual owner on Customs Form 7601 with the district director within 90 days from the time of entry.

* * * * *

5. Section 141.55 is amended to read as follows:

§ 141.55 Single entry summary for shipments arriving under one transportation entry.

Except for merchandise subject to a quantitative or tariff-rate quota, district directors are authorized to accept one entry summary for consumption or for warehouse for the entire quanity of merchandise covered by an entry for immediate transportation after the arrival of any part of the merchandise at the port of destination or at a place of deposit outside the port as may be authorized in accordance with § 18.11(c) of this chapter.

6. Part 141 is amended by adding a new § 141.56 to read as follows:

§ 141.56 Single entry summary for multiple transportation entries consigned to the same consignee.

(a) *Requirement.* District directors may accept one entry summary for consumption or for warehouse for merchandise covered by multiple entries for immediate transportation, subject to the requirements of § 142.17(a) of this chapter, provided the merchandise covered by each immediate transportation entry is released at the port of destination under a separate entry, in accordance with § 142.3 of this chapter.

(b) *Limitation.* A single entry summary for multiple transportation entries shall not be accepted for any merchandise listed in § 142.17(b) of this chapter.

(c) *Information on the entry summary.* Each entry for immediate transportation shall be identified separately on the entry summary by the immediate transportation entry number and the corresponding entry number.

7. Section 141.61 is amended to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* (1) Entry and entry summary documentation shall be prepared on a typewriter, or with ink, indelible pencil, or other permanent medium. The entry summary shall be signed by the importer (see § 101.1(k)). Entries, entry summaries, and accompanying documentation shall be on the appropriate forms specified by the regulations and shall set forth clearly all required information. All copies shall be legible.

(2) An importer may omit from the entry summary for consumption, Customs Form 7501, the warehouse entry summary, Customs Form 7502, or the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and number previously provided for packages released or withdrawn.

(b) *"Signing of the entry".* the signing of the consignee's declaration on the entry summary for merchandise entered for consumption, for warehouse, or for temporary importation under bond, in accordance with § 141.19, shall be regarded as the "signing of the entry" required by section 484(d), Tariff Act of 1930, as amended (19 U.S.C. 1484(d)). For a rewarehouse or a bonded manufacturing warehouse entry, the signing of the consignee's declaration on the entry documentation shall satisfy 19 U.S.C. 1484(d).

(c) [Reserved]

(d) *Customs Form 5101.* An Entry Record, Customs Form 5101, shall be prepared by the importer, in triplicate, with carbon paper left in, and shall be filed with each consumption or warehouse entry summary and with each appraisement, vessel/aircraft repair, or drawback entry. The importer number shall be reported as follows:

(1) *Generally.* Except as provided in paragraph (d)(2) of this section, the importer number of the importer of record and of the ultimate consignee shall be reported for each consumption or warehouse entry summary and for each appraisement, vessel/aircraft repair, or drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 5101, or the importer number may be entered in the space provided for the importer and the word "same" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 5101, and the notation "consolidated" shall be made in the space provided for the importer number of the ultimate consignee.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number also shall be reported on Customs Form 5101. In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the appraisement entry, Customs Form 7500; the entry summary, Customs Form 7501 or 7502; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506; or the record of vessel/aircraft foreign repair or equipment purchase, Customs Form 226, in the space provided. If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the information shall be combined and reported under one statistical reporting number. When consolidating information from several invoices under one reporting number, a work sheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(1) of this section shall be attached to the appropriate form.

(ii) *Where form does not provide space.* In addition to the information required by paragraph (e)(1)(i) of this section, statistical information for which spaces are not provided on the appropriate form, shall be shown as follows:

(A) The name, the abbreviated designation or 4 digit code of the country of registry (flag) of the vessel expressed in terms of Annex 8, TSUSA, shall be placed in the block on the entry document for the name of the importing vessel or carrier.

(B) The notation "related" or "not related," as appropriate, shall be placed at the top of columns 3, 4, and 5 of Customs Forms 7501, 7502, 7505, 7506, and 7521, and in the top right hand portion of Customs Form 7519, to identify the transaction as one between a buyer and a seller who are related in any manner specified in section 402(g)(2), Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)), or as one between a buyer and a seller who are not so related.

(C)(1) The transaction value, charges, and equivalent value shall be listed on Customs Forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting number. These amounts shall be identified by placing (in the following order) PEXT (port of exportation transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (equivalent port of exportation value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(2) The transaction value, charges, and equivalent value shall be listed on Customs Form 7519 in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of each statistical value and charge.

(3) In the case of related parties, if the district director is satisfied that the person filing the form cannot reasonably ascertain or estimate the equivalent port of exportation value (EPEX) that would exist had the transaction occurred between parties who were not related, he may permit that person to use the entered value adjusted, if necessary, to the port of exportation value, as provided for in subparagraph (xv), General Statistical Headnote 1(a), TSUSA, or any other value the district director considers appropriate. However, if the transaction value between related parties is higher than the entered value, the transaction value shall be used.

(2) *Responsibility.* The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section. If the information required by subparagraph (xiv), (xv) and (xvi) General Statistical Headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation, as follows:

(i) Except for merchandise entered for warehouse, the documentation shall be produced within 50 days after the entry summary (or the entry, if there is no entry summary) is required to be filed.

(ii) If merchandise is entered for warehouse, the documentation shall be produced within 2 months after the date of withdrawal, except that if an invoice is part of the documentation, the invoice shall be produced within 50 days after the entry summary for warehouse is required to be filed.

The district director may grant a reasonable extension of time to produce the required documentation for good cause shown. (See § 141.91(d) for bond requirements relating to failure to produce an invoice.)

(3) *Estimates of statistical information.* When the person filing the form estimates any of the values or charges, as provided for in subparagraph (v), General Statistical Headnote 1(b), TSUSA, except Canadian rail and truck charges, he shall place either "(estimate)", "(est)", or ("E") after the amount of each value or charge.

(4) *Rejection of form.* The district director shall reject a form for failure to provide required statistical information if the information is omitted or if the information provided clearly appears on its face, or is known to the Customs officer, to be erroneous.

(5) *Penalty procedures; when not invoked.* Penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA.

(f) *Value of each invoice.*—(1) *Single invoice.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers a single invoice, the invoice information shall be restated to show:

(i) Gross amount of the invoice;

(ii) Deduction of the aggregate amount of any non-dutiable charges involved in the amount;

(iii) Further deduction of the aggregate of any deductions from the invoice values to make entered values; and

(iv) Addition of the aggregate of any dutiable charges not included in the gross amount of the invoice and of any other additions to the invoice values to make entered values. The final amount in the summary computations shall represent the aggregate of the entered values of all the merchandise covered by the invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs Form 7501 and 7502, and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

(2) *Multiple invoices.* If the entry, entry summary, or withdrawal documentation, as specified in paragraph (e)(1)(i) of this section, covers mulitple invoices, the information required to be restated by paragraph (f)(i) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(ii) The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered values.

(iii) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet.

8. Section 141.62 is amended to read as follows:

§ 141.62 Place and time of filing.

(a) *Place.* An application for immediate delivery and entry, entry summary, or withdrawal documentation shall be filed at the customhouse or at any other Customs location approved by the district director in the district where the merchandise is to be or has been released.

(b) *Time.*—(1) *Normal business hours.* (i) Except as provided in paragraph (b)(2) of this section, an application for immediate delivery or entry documentation shall be filed when the customhouse is open for the general transaction of business, or when Customs has established a regular tour of duty in accordance with § 101.6(f) of this chapter.

(ii) Except as provided in paragraph (b)(2) of this section, entry summary or withdrawal documentation shall be filed when the customhouse is open for the general transaction of business, as provided in § 101.6 of this chapter.

(2) *Overtime services.*— (i) *Generally.* Except as provided in paragraph (b)(2)(ii) of this section, an application for immediate delivery or entry documentation may be filed when the customhouse is not open for the general transaction of Customs business and no regular tour of duty has been established; and entry summary or withdrawal documentation may be filed when the customhouse is not open for the general transaction of business, if—

(A) The person desiring to transact business has applied for and received authorization for overtime services on a reimbursable basis, as provided for in § 24.16 of this chapter, and

(B) Overtime services of Customs officers are available.

(ii) *Quota-class merchandise.* Overtime shall not be authorized for the presentation of entry summary documentation which serves as both the entry and entry summary or withdrawal documentation, for quota-class merchandise without Headquarters authorization. If Headquarters authorization is granted, the time of delivery of the entry summary or withdrawal documentation, with the estimated duties attached, shall be the time of presentation for quota purposes. However, if an entry summary or withdrawal for quota-class merchandise is delivered inadvertently during overtime hours without Headquarters authorization, the time of presentation for quota purposes shall be the opening of business on the next business day.

9. Section 141.63 is amended to read as follows:

§ 141.63 Submission of entry summary documentation for preliminary review.

(a) *Before arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time before arrival of the merchandise as may be fixed by the district director—

(1) If the entry summary documentation will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b) of this chapter, or

(2) In the case of quota-class merchandise, if the entry summary for consumption will be presented at time of entry, as provided in § 132.11a of this chapter.

Estimated duties shall not be accepted before arrival of the merchandise within the port limits.

(b) *After arrival of merchandise.* Entry summary documentation may be submitted at the customhouse for preliminary review, without estimated duties attached, within such time after arrival of quota-class merchandise as may be fixed by the district director, if the entry summary for consumption will be presented at the opening of the quota period, as provided in § 132.12(a) of this chapter. Estimated duties shall not be accepted before the opening of the quota period.

10. Section 141.64 is amended to read as follows:

§ 141.64 Review and correction of entry and entry summary documentation.

Entry and entry summary documentation shall be reviewed before acceptance to ensure that all entry and statistical requirements are complied with and that the indicated values and rates of duty appear to be correct. If any errors are found, the entry and the entry summary documentation shall not be considered to have been filed in proper form and shall be returned to the importer for correction.

§ 141.65 [Deleted]

11. Part 141 is amended by deleting § 141.65.

12. Section 141.67 is amended to read as follows:

§ 141.67 Recall of documentation.

The importer may recall the entry and entry summary documentation at any time before the effective time of entry set forth in § 141.68. The entry shall be considered canceled, and documents shall be returned to the importer.

13. Section 141.68 is amended to read as follows:

§ 141.68 Time of entry.

(a) *When entry documentation is filed without entry summary.* When the entry documentation is filed in proper form without an entry summary, the "time of entry" shall be:

(1) The time the appropriate Customs officer authorizes the release of the merchandise or any part of the merchandise covered by the entry documentation, or

(2) The time the entry documentation is filed, if requested by the importer on the entry documentation at the time of filing, and the merchandise already has arrived within the port limits; or

(3) The time the merchandise arrives within the port limits, if the entry documentation is submitted before arrival, and if requested by the importer on the entry documentation at the time of submission.

(b) *When entry summary serves as entry and entry summary.* When an entry summary serves as both the entry documentation and entry summary, in accordance with § 142.3(b) of this chapter, the time of entry shall be the time the entry summary is filed in proper form with estimated duties attached.

(c) *When merchandise is released under the immediate delivery procedure.* The time of entry of merchandise released under the immediate delivery procedure shall be the time the entry summary is filed in proper form, with estimated duties attached.

(d) *Quota-class merchandise.* The time of entry for quota-class merchandise shall be the time of presentation of the entry summary or withdrawal for consumption in proper form, with estimated duties attached, as provided in § 132.11a of this chapter.

(e) *When merchandise has not arrived.* Merchandise shall not be authorized for release, nor shall an entry or an entry summary which serves as both the entry and entry summary be considered filed or presented, until the merchandise has arrived within the port limits with the intent to unlade.

(f) *Informal mail entry.* The time of entry of merchandise under an informal mail entry, Customs Form 3419 or 5110-A, is the time the preparation of the entry documentation by a Customs employee is completed.

(g) *Withdrawal from warehouse for consumption.* The time of entry of merchandise withdrawn from warehouse for consumption (the process preparatory to the issuance of a permit for the release of the merchandise to or upon the order of the warehouse proprietor) is when:

(1) Customs Form 7505 is executed in proper form and filed together with any related documentation required by these regulations to be filed at the time of withdrawal, and

(2) Estimated duties, if any, required to be paid at the time of withdrawal have been deposited.

Unless the requirements of this paragraph and section 315(a), Tariff Act of 1930, as amended (19 U.S.C. 1315(a)), including the deposit of estimated duties, if any, are completed within 60 days from the date of presentation of Customs Form 7505, the request for withdrawal shall be considered abandoned.

(h) *Appraisement entry, informal entry, combined entry for rewarehouse and withdrawal for consumption, and entry under carnet.* The time of entry of merchandise under an appraisement entry, Customs Form 7500, an informal entry, Customs Form 5119-A (or other form prescribed in § 143.23 or elsewhere in the chapter for use as an informal entry), a combined entry for rewarehouse and withdrawal for consumption, Customs Form 7519, or an A.T.A. carnet issued under Part 114 of this chapter, shall be the time the specified form is executed in proper form and filed, together with any related documents required by these regulations, and estimated duties, if any, have been deposited. If merchandise eligible for informal entry is released under a special permit for immediate delivery and Customs Form 5119-A or 7501 is filed in accordance with § 142.23 of this chapter, the time of entry shall be the time Customs Form 5119-A or 7501 is filed in proper form, together with any related documents required by this chapter, and estimated duties, if any, have been deposited. However, if merchandise eligible for informal entry is released under the entry documentation set forth in § 142.3(a) of this chapter and Customs Form 5119–A or 7501 is filed in accordance with § 142.23, the time of entry shall be in accordance with paragraph (a) of this section.

14. The introductory text and paragraph (a) of § 141.69 are amended to read as follows:

§ 141.69 Applicable rates of duty.

The rates of duty applicable to merchandise shall be the rates in effect at time of entry, as specified in § 141.68, except as otherwise specifically provided for by Executive Order, and in the following cases:

(a) *Warehouse entries.* Merchandise entered for warehouse is dutiable at the rates in effect at the time withdrawal from warehouse for consumption is made in accordance with § 141.68(f).

* * * * *

15. The first sentence of § 141.81 is amended to read as follows:

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time the entry summary is filed, subject to the conditions set forth in these regulations. * * *

16. The first sentence of § 141.83(a) and § 141.83(c) are amended to read as follows:

§ 141.83 Type of invoice required.

(a) *Special Customs Invoice.* A Special Customs Invoice, (Customs Form 5515) shall be filed for each shipment of merchandise (1) which is subject to a rate of duty dependent in any manner on value (including such merchandise entered under a conditionally free provision when all free entry documents and evidence required to establish the exemption from duty are not produced at the time of filing the entry summary), and (2) which is determined by the district director to have an aggregate purchase price over $500, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, or in the case of merchandise not imported in pursuance of a purchase or agreement to purchase, an aggregate value over $500 as determined in accordance with § 152.21 of this chapter. * * *

* * * * *

(c) *Commercial invoice.* (1) A commercial invoice shall be filed for each shipment of imported merchandise not required by paragraph (a) to have a Special Customs Invoice and and not exempted by paragraph (d) from both a Special Customs Invoice and a commercial invoice. The commercial invoice shall be prepared in the manner customary in the trade, contain the information required by §§ 141.86 through 141.89, and substantiate the statistical information required by § 141.61(e) to be given on the entry, entry summary, or withdrawal documentation.

(2) The district director may accept a copy of a required commercial invoice in place of the original. A copy, other than a photostatic or photographic copy, shall contain a declaration by the foreign seller, the shipper, or the importer that it is a true copy.

17. Subparagraphs (3) and (4) of § 141.83(d) are deleted and the introductory language is amended to read as follows:

(d) *Special Customs or commercial invoice not required.* A Special Customs Invoice or a commercial invoice shall not be required in connection with the filing of the entry, entry summary, or withdrawal documentation for merchandise listed in this paragraph. The importer, however, shall present any invoice, memorandum invoice, or bill pertaining to the merchandise which may be in his possession or available to him. If no invoice or bill is available, a pro forma (or substitute) invoice, as provided for in § 141.85, shall be filed, and shall contain information adequate for the examination of merchandise and the determination of duties, and information and documentation which verify the information required for statistical purposes by § 141.61(e). The merchandise subject to the foregoing requirements is as follows:

* * * * *

18. The introductory language of paragraph (a), paragraph (a)(8), and paragraph (c) of § 141.86 are amended, and a new paragraph (j) is added to read as follows:

§ 141.86 Contents of invoices and general requirements.

(a) *General information required on the invoice.* Each invoice of imported merchandise, except the Special Customs Invoice (Customs Form 5515) (see paragraph (j) of this section), shall set forth the following information:

* * * * *

(8) All charges upon the merchandise itemized by name and amount, including freight, insurance, commission, cases, containers, coverings, and cost of packing; and if not included above, all charges, costs, and expenses incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first United States port of entry. The cost of packing, cases, containers, and inland freight to the port of exportation need not be itemized by amount if included in the invoice price, and so identified. Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and

* * * * *

(c) *Merchandise sold in transit.* If the merchandise is sold on the documents while in transit from the port of exportation to the port of entry, the original invoice reflecting the transaction under which the merchandise actually began its journey to the United States, and the resale invoice or a statement of sale showing the price paid for each item by the purchaser, shall be filed as part of the entry, entry summary, or withdrawal documentation. If the original invoice cannot be obtained, a pro forma invoice showing the values and transaction reflected by the original invoice shall be filed together with the resale invoice or statement.

* * * * *

(j) *Special Customs Invoice.* Each Special Customs Invoice, Customs Form 5515, required by § 141.83(a) shall set forth the following information:

(1) Names and addresses of seller, consignee, and buyer (if other than consignee);

(2) Origin of goods;

(3) Terms and conditions of sale, payment, and discount;

(4) Currency used, and exchange rate (whether fixed or agreed);

(5) Date order was accepted for purchased goods;

(6) Marks and numbers on shipping packages, number of packages; full description of goods, and quantity;

(7) Home market unit price, invoice unit price, and invoice totals;

(8) An explanation if the production of the goods involved furnishing goods or services to the seller and the value is not included in the invoice price, if previously requested by the district director as provided for in § 141.88;

(9) Packing costs, ocean or international freight charges, domestic freight charges, insurance costs, and other costs;

(10) Declaration of seller/shipper (or agent).

19. The introductory paragraph to § 141.89(b)(1) and § 141.89(b)(1)(E) are amended to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

* * * * *

(b) *Special Summary Steel Invoice.* (1) A Special Summary Steel Invoice (Customs Form 5520) shall be filed in duplicate at the time of filing the entry summary for each shipment which is determined by the district director to have an aggregate purchase price of $10,000 or over or, if from a contiguous country, of $5,000 or over, including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, and which contains any of the articles of steel listed in paragraph (b)(2) of this section. In addition to the information required by § 141.86, the Special Summary Steel Invoice shall set forth the following:

* * * * *

(E) The name of the producer, the importer, and the price paid by the first unrelated purchaser in the United States, if that price is available at the time of filing the entry summary. One or more continuation sheets may be used to supply this information, if necessary.

* * * * *

20. The introductory language and paragraphs (c) and (d) of § 141.91 are amended to read as follows:

§ 141.91 Entry without required invoice.

If a required invoice, other than a special summary invoice, is not available in proper form at the time the entry or entry summary documentation is filed and a waiver is not granted in accordance with § 141.92, the entry or entry summary documentation shall be accepted only under the following conditions:

* * * * *

(c) The invoices and other documents contain information adequate for the examination of merchandise, the determination of estimated duties, if any, and statistical purposes; and

(d) The importer gives an appropriate bond for the production of the required invoice, which must be produced within 6 months after the date of the filing of the entry summary (or the entry, if there is no entry summary) documentation, unless the invoice is needed for statistical purposes. If needed for statistical purposes, the invoice shall be produced within 50 days after the date of the entry summary (or the entry, if there is no entry summary) is required to be filed, unless a reasonable extension of time is granted by the district director for good cause shown.

21. Sections 141.92(a)(2) and (b)(4) are amended to read as follows:

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice, except a special summary invoice required by § 141.83(b), when he is satisfied that either: * * *

(2) The examination of merchandise, final determination of duties, and collection of statistics can be effected properly without the production of the required invoice.

(b) *Documents to be filed by importer.* As a condition to the granting of a waiver, the importer shall file the following documents with the entry or entry summary: * * *

(4) Any other information required by the district director for either appraisement or classification of the merchandise, or for statistical purposes.

22. Section 141.101 is amended by redesignating paragraphs (a), (b), (c), and (d) as paragraphs (b), (c), (d), and (e), respectively, by amending the introductory language, and by adding a new paragraph (a) to read as follows:

§ 141.101 Time of deposit.

Estimated duties shall be deposited with the Customs officer designated to receive the duties at the time of the filing of the entry documentation or the entry summary documentation when it serves as both the entry and entry summary, except in the following cases:

(a) *Merchandise released under entry documentation.* In the case of merchandise released under the entry documentation listed in § 142.3 of this chapter before filing of the entry summary, deposit of estimated duties shall be made at the time the entry summary is filed unless the merchandise is entered for warehouse. If the merchandise is entered for warehouse, estimated duties shall be deposited in accordance with paragraph (b) of this section.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 142—ENTRY PROCESS

It is proposed to revise Part 142 to read as follows:

Authority: R.S. 251, as amended, secs. 448, 484, 624, 46 Stat. 714, as amended, 722, as amended, 759; 19 U.S.C. 66, 1448, 1484, 1624, Pub. L. 95–410 (92 Stat. 888). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

§ 142.0 Scope.

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

Subpart A—Entry Documentation

§ 142.1 Definitions.

For definitions of "entry", "entry summary", "submission", "filing", "presentation", "entered for consumption", "entered for warehouse", and "entered under a temporary importation bond", as these terms relate to the entry of merchandise, see § 141.0a of this chapter.

§ 142.2 Time for filing entry.

(a) *General rule: After arrival of merchandise.* Merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond, unless a longer time is authorized by law or regulation, or by the district director in writing.

(b) *Before arrival of merchandise*—(1) *Entry.* The entry documentation required by § 142.3(a) may be submitted before the merchandise arrives within the limits of the port where entry is to be made, in which case the time of entry shall be the time specified in § 141.68(a).

(2) *When entry summary serves as entry.* The entry summary when it will be filed at time of entry to serve as both the entry and the entry summary, as provided in § 142.3(b), may be submitted for preliminary review in accordance with §§ 141.63(a) and 142.12(a)(2).

§ 142.3 Entry documentation required.

(a) *Contents.* Except as provided in paragraph (b) of this section, the entry documentation required to secure the release of merchandise shall consist of the following:

(1) *Entry.* Customs Form 3461 (appropriately modified), except that Customs Form 7533 (appropriately modified), in duplicate, may be used in place of Customs Form 3461 for merchandise imported from a contiguous country. The form used shall be prepared in accordance with § 141.61(a)(1) of this chapter.

(2) *Evidence of the right to make entry.* Evidence of the right to make entry, as set forth in § 141.11 of this chapter.

(3) *Commercial invoice.* A commercial invoice, except that in those instances listed in § 141.83(d) of this chapter where a commercial invoice is not required, a pro forma invoice or other acceptable documentation listed in that section may be submitted in place of a commercial invoice.

(4) *Packing list.* A packing list, where appropriate.

(5) *Other documentation.* Other documents which may be required by Customs or other Federal, State, or local agencies for a particular shipment.

(b) *Entry summary filed at time of entry.* When the entry summary is filed at time of entry, in accordance with § 142.12(a)(1) or § 142.13.

() Customs Form 3461 or 7533 shall not be required, and

(2) Customs Form 7501, 7502, or 3311, as appropriate (see § 142.11), shall serve as both the entry and the entry summary documentation if the additional documentation set out in paragraphs (a)(2), (3), (4), and (5) of this section and § 142.16(b) is filed.

(c) *Extra copies.* The district director may require additional copies of the documentation.

§ 142.3a Assigned entry numbers.

(a) *Request and authorization.* Upon the written request of an importer or broker, the district director shall assign sufficient entry numbers for use by the importer or broker at any port within the district during the fiscal year. Numbers shall be assigned in blocks of not less than 100, unless the district director determines that an assignment of a block of less than 100 is warranted. Additional requests and assignments may be made during the fiscal year if additional numbers are needed.

(b) *"Fiscal year" defined.* For purposes of this section, the initial "fiscal year" shall begin on October 1, 1979, and end on September 30, 1980. Thereafter, each fiscal year shall begin on October 1 and end on September 30.

(c) *Assigned entry number and its use.* The assigned entry number shall be a six-digit number preceded by the last two digits of the fiscal year and a space: for example, 79 100001. The importer or broker shall place the assigned entry number on the entry and the corresponding entry summary documentation. The number shall be preprinted, stamped, typed or written legibly. Each number shall be used only once.

(d) *Report.* Within 30 days after the end of the fiscal year, each importer or broker to whom entry numbers have been assigned shall account in writing to the district director for each entry number which has not been used. Entry numbers assigned but not used during the fiscal year shall be cancelled.

(e) *Refusal to assign entry numbers; cancellation.* The district director may refuse to assign entry numbers to an importer or broker, or may cancel entry numbers previously assigned and remaining unused, if the importer or broker:

(1) Fails to account satisfactorily to the district director for any numbers assigned but not used, or

(2) Misuses numbers which have been assigned to him.

(f) *Alternative procedure.* If an importer or broker does not request assignment of entry numbers, or if the district director, in accordance with paragraph (e) of this section, refuses to assign entry numbers, or cancels entry numbers, previously assigned, the importer or broker shall obtain an entry number at the customhouse before his merchandise may be released. The entry number so obtained shall be placed on the entry and the corresponding entry summary documentation.

§ 142.4 Bond requirements.

(a) *At time of entry.* Except as provided in § 10.101(d) of this chapter, merchandise shall not be released from Customs custody at the time Customs receives the entry documentation or the entry summary documentation which serves as both the entry and the entry summary, as required by § 142.3, unless one of the following types of bonds, executed by an approved corporate surety, or secured by cash deposits or obligations of the United States, as provided for in § 113.39(a) of this chapter, has been filed.

(1) *Single entry bond.* A single entry bond on Customs Form 7551, with the amount of the bond determined in accordance with § 113.14(g)(1) of this chapter. When any of the imported merchandise is subject to a tariff-rate quota and is to be released at a time when the applicable quota is filled, the full rates shall be used in computing the estimated duties to determine the amount of the bond.

(2) *Term bond.* A term bond on Customs Form 7553, with the amount of the bond determined in accordance with § 113.14(g)(2) of this chapter.

(3) *General term bond.* A general term bond on Customs Form 7595, with the amount of the bond determined in accordance with §§ 113.14(s) and 113.62 of this chapter.

(b) *If entry summary is filed after entry.* (1) Except as provided in § 141.102(d) of this chapter, if the entry summary is filed after the entry, the bond filed at the time of entry, as required by paragraph (a) of this section or by § 142.19, shall continue to be obligated unless a superseding bond is filed, as provided in § 141.20 of this chapter, or unless a bond of the type described in paragraph (a) of this section is filed under the circumstances described in paragraph (b)(2) of this section. If a superseding bond is filed, or if a bond is filed under the circumstances described in paragraph (b)(2) of this section, the obligations of the initial bond shall be terminated as to any liability which may accrue after the superseding or other bond becomes effective.

(2) If entry is made in the name of an agent, supported by the agent's bond, or in the name of a principal, supported by the principal's bond, and the entry summary thereafter is filed in the name of the other party, the party named in the entry summary shall file one of the bonds enumerated in paragraph (a) of this section. In this circumstance, the

bond obligation of the party in whose name entry was made shall be terminated, as to liability which may accrue after the bond filed by the party named in the entry summary becomes effective, and the party filing the entry summary need not file the separate declaration of the actual owner and the superseding bond otherwise required under § 141.20 of this chapter.

§ 142.5 **Bond rider.**

A bond rider in the following form shall be executed and attached to any entry bond provided for in § 142.4, utilized by an importer who makes entry under the provisions of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484):

Rider "R"

(To be attached to all entry bonds)

Whereas certain merchandise which is referred to in a bond-dated———, in the amount of ———, executed by ———, as principal, and———, as surety, to which this rider relates has been imported at the port of———, and entered at said port on entry No. ——, dated———19—, or the principal expects to enter merchandise during the period covered by a term bond to which this rider relates dated———19—, in the amount of———, executed by———, as principal, and———, as surety.

Whereas the merchandise, in whole or in part, may be entered under the provisions of section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), and duties deposited under the provisions of section 505(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1505(a)).

It is hereby expressly agreed by the prinicpal and surety on the bond referenced above that the following condition, in addition to the conditions appearing in the bond, shall apply: And if where entry is made pursuant to section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), the bounden principal, within the time prescribed in the Customs Regulations, shall file with the appropriate Customs officer the documentation required by the Customs Regulations to enable Customs to (1) determine whether the merchandise may be released from Customs custody, (2) properly assess duties on the merchandise, (3) collect accurate statistics with respect to the merchandise, and (4) determine whether applicable requirements of law or regulation are met; and if the bounden principal, within the time prescribed in the Customs Regulations, shall deposit the duties and taxes imposed upon or by reason of importation estimated to be due thereon; or if, in the event of failure to file the documentation or to deposit duties and taxes, he shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise as to which there shall have been default, plus the duties and taxes thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of the merchandise as determined by the district director, and that the decision of the district director as to the status of the merchandise, whether free or dutiable, together with the rate and amount of duties and taxes, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ——— 19—.

(Seal)

Principal ———————

(Seal)

Surety———————

Certificate as to Corporate Principal

I, ——— certify that I am the [1]——— of the corporation named as principal in the rider; that ———, who signed the said rider on behalf of the principal was then ——— of said corporation, that I know this signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

§ 142.6 **Invoice requirements.**

(a) *Contents.* The commercial invoice, or the documentation acceptable in place of a commerical invoice in those instances listed in § 141.83(d) of this chapter, shall be furnished with the entry and before release of the merchandise is authorized. The commercial invoice or other acceptable documentation shall contain:

(1) An adequate description of the merchandise.

(2) The quantities of the merchandise.

(3) The values or approximate values of the merchandise.

(4) The appropriate five-digit item number from the Tariff Schedules of the United States. If the importer is uncertain of the appropriate tariff item number, Customs shall assist him at his request. The district director may waive this requirement if he is satisfied that the information is not available at the time release of the merchandise is authorized.

(b) *Information not required when filing entry.* In addition to the information specified in paragraph (a) of this section, the commercial invoice or substitute document filed with the entry documentation also may include any other invoice information required by §§ 141.86 through 141.89 of this chapter. However, if this information does not appear on the invoice or substitute document filed with the entry documentation, it shall be included in the invoice or substitute document presented at the time the entry summary documentation is filed.

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

§ 142.7 **Examination of merchandise.**

No merchandise for which the entry documentation required by § 142.3 has been filed shall be released until it has been examined, or until adequate samples have been taken in the case of merchandise which is to be classified and appraised by means of samples, unless this requirement is waived by the district director in accordance with section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499).

§ 142.8 **Failure to file entry timely.**

Merchandise for which timely entry is not filed as required by § 142.2 shall be treated in accordance with § 4.37 and Part 127 of this chapter.

Subpart B—Entry Summary Documentation

§ 142.11 **Entry summary form.**

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for both merchandise formally entered for consumption, and formally entered under a temporary importation bond under § 10.31. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1(g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501, and the entry summary for warehouse entries shall be on Customs Form 7502. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

(b) *Extra copies.* The district director may require additional copies of the entry summary.

§ 142.12 **Time for filing or submission for preliminary review.**

(a) *At option of importer*—(1) *Filing.* Except as provided in § 142.13, the importer may file the entry summary documentation at the time of entry in which case the entry summary, with estimated duties attached, shall serve as both the entry and the entry summary.

(2) *Submission for preliminary review.* If the importer intends to file the entry summary documentation at the time of entry, he may submit the entry summary documentation for preliminary review before arrival of the merchandise, in accordance with § 141.63(a) of this chapter. After preliminary review is completed, the entry summary shall be returned to the importer for filing in accordance with paragraph (a)(1) of this section.

(b) *When required.* If the importer is not required to file the entry summary documentation at the time of entry under the provisions of § 142.13, or if he does not elect to do so, the entry summary documentation shall be filed, with estimated duties attached, within 10 working days after the time of entry.

(c) *Estimated duties.* Estimated duties, if any, shall be deposited in accordance with the provisions of Subpart G of Part 141 of this chapter.

§ 142.13 When entry summary must be filed at time of entry.

(a) *Authority of district director.* The district director may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer:

(1) Has failed repeatedly to file timely entry summary documentation without justification,

(2) Has not taken prompt action to settle a claim for liquidated damages issued under § 142.15 for failure to file entry summary documentation timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages, shall petition for relief or pay the amount claimed and, in appropriate cases, file the entry summary documentation and deposit estimated duties, if any, or

(3) Has repeatedly delivered entry summary documentation, which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may require that the entry summary documentation be filed and that estimated duties, if any, be deposited at the time of entry before the merchandise is released if the importer is substantially or habitually delinquent in the payment of Customs bills. See § 142.14.

(c) *Special classes of merchandise.*—(1) *Quota-class merchandise.* Quota-class merchandise shall not be released upon delivery of entry documentation before presentation of an entry summary for consumption, with estimated duties attached, or a withdrawal for consumption, with estimated duties attached. (See Part 132 of this chapter.)

(2) *Other classes of merchandise.* Entry summary documentation, with estimated duties attached, or a withdrawal for consumption with estimated duties attached, shall be filed at the time of entry before release of any other merchandise of a class designated by Headquarters.

(d) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.14 Delinquent payment of Customs bills.

The following procedure shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that he shall file the entry summary documentation with estimated duties attached, before his merchandise may be released from Customs custody in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, he shall be required to file the entry summary document with estimated duties attached, before his merchandise may be released in any Customs region. In either case, the entry summary shall serve as both the entry and the entry summary.

(b) *Removal or requirement by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the requirement shall be removed, and the importer need file only the entry documentation specified in § 142.3 to secure release of his merchandise.

(c) *Removal of requirement by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, he also shall be required to file the entry summary documentation, with estimated duties attached, in each Customs region. In this case, the entry summary shall serve as both the entry and the entry summary. This requirement shall remain in effect in each port of entry until notification is received from Headquarters that the requirement is removed and that the importer need submit only the entry documentation listed in § 142.3 to secure release of his merchandise.

§ 142.15 Failure to file entry summary timely.

If the entry summary documentation is not filed timely, the district director shall make an immediate demand for liquidated damages in the entire amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application to cancel liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* When the entry documentation is filed before the entry summary documentation, one copy of the entry document and the commercial invoice, or the documentation filed in place of a commercial invoice in the instances listed in § 141.83(d) of this chapter, shall be returned to the importer after Customs authorizes release of the Merchandise. The importer may use these documents in preparing the entry summary. Customs Form 7501, and shall file them with the entry summary documentation within the time period stated in § 142.3. The entry summary documentation also shall include Customs Form 5101 and any other documents required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515, unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

(b) *Entry summary filed at time of entry.* When the entry summary documentation is filed at time of entry, the documentation listed in § 142.3 shall be filed at the same time, except that Customs Form 3461 or 7533 shall not be required. The importer also shall file Customs Form 5101 and any additional invoice required for a particular shipment, such as a Special Customs Invoice, Customs Form 5515.

§ 142.17 One entry summary for multiple entries.

(a) *Requirements.* Except as provided in paragraph (b) of this section, the district director may permit the filing of one entry summary for merchandise the subject of separate entries if:

(1) The merchandise has the same country of exportation, and the same country of origin,

(2) The merchandise arrives by land, by the same vessel or by the same air carrier,

(3) The merchandise is consigned to the same consignee,

(4) The time between the date of the first entry and the date of the last entry does not exceed 1 week,

(5) The entry summary document is filed within 10 working days from the date of the first entry, and

(6) Each entry is identified separately by entry number on the entry summary.

(b) *Merchandise not eligible.* One entry summary shall not be used for multiple entries of the following:

(1) Quota-class merchandise,

(2) Prohibited merchandise,

(3) Merchandise subject to restrictions which require processing and documentation more frequently than on a weekly basis,

(4) Merchandise for which liquidation has been withheld, and

(5) Merchandise classifiable under the same Tariff Schedules of the United States item number having different rates of duty for which entries or immediate transportation entries have been filed. However, this provision is not applicable in the following circumstances:

(i) *Entries.* Entries may be consolidated if the time of entry is—

(A) Before the date of change in rate of duty, or

(B) On or after the date of change in rate of duty.

(ii) *Immediate transportation entries.* Immediate transportation entries may be consolidated if the date of acceptance is—

(A) Before the date of change in the rate of duty, or

(B) On or after the date of change in rate of duty.

(c) *Entry documentation not in proper form.* If an entry summary covering multiple entries refers to entry documentation which is not in proper form, the entry summary and the entry documentation shall be returned for correction.

§ 142.17a One consolidated entry summary for multiple ultimate consignees.

(a) *Applicability.* The district director may permit a broker as nominal consignee to file a consolidated entry summary in his own name under his own bond covering shipments of like or similar merchandise consigned to various ultimate consignees provided that all the merchandise is—

(1) Imported on the same day,

(2) Itemized as to each category of merchandise by Tariff Schedules of the United States Annotated statistical reporting number, and

(3) Released on the same day, either under the entry documentation specified in § 142.3, or under a special permit for immediate delivery. A consolidated entry summary may be filed for merchandise arriving by land, by the same vessel, or by the same air carrier.

(b) *Information required on the entry summary*—(1) *Separate listing according to ultimate consignee.* The broker shall list separately on the face of the consolidated entry summary the merchandise for each ultimate consignee, together with the appropriate entry or special permit numbers.

(2) *If different land carriers are involved.* If merchandise arriving by different land carriers is included on one entry summary, necessary information pertaining to each carrier shall be shown on the face of the entry summary, related to the applicable shipment.

§ 142.18 Entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released at time of entry is later found to be prohibited, the district director shall demand its return to Customs custody in accordance with § 141.113 of this chapter, and an entry summary and the deposit of estimated duties, if any, shall not be required provided:

(1) An entry for exportation, Customs Form 7512, or an application to destroy the merchandise under Customs supervision is made within 10 days after the time of entry, and the exportation or destruction is accomplished promptly, or

(2) An entry for transportation and exportation, Customs Form 7512, is made within 10 days after the time of entry and domestic carriage of the merchandise does not conflict with the requirements of another Federal agency.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise as required by paragraph (a) shall be in accordance with §§ 158.41 and 158.45(c) of this chapter.

§ 142.19 Release of merchandise under the entry summary.

Merchandise, for which an entry summary serves as both an entry and an entry summary, shall not be released from Customs custody until an appropriate bond has been filed, or the entry has been liquidated, as follows:

(a) *Bond.* Merchandise not designated for examination may be released to, or upon the order of, the carrier if an entry bond is filed on Customs Form 7551, 7555, or 7595, in an amount determined in accordance with Part 113 of this chapter. Merchandise designated for examination may be released under the entry bond after examination has been completed if:

(1) It has been found to be truly and correctly invoiced,

(2) It is entitled to admission into the commerce of the United States, and

(3) Its release is not precluded by any law or regulation. If merchandise is entered by or on behalf of a United States Government department or agency, the stipulation prescribed in § 141.102(d) of this chapter shall be accepted in place of a bond.

(b) *After liquidation.* If a bond has not been filed in accordance with paragraph (a) of this section, the merchandise shall not be released before:

(1) The entry has been liquidated and the full amount of all duties and taxes due, including dumping or other special duties and charges, has been paid, or the right to free entry established.

(2) The district director determines that the merchandise may be admitted into the commerce of the United States, and

(3) All documents relating to the merchandise which are required by law or regulation have been filed.

Subpart C—Special Permit for Immediate Delivery

§ 142.21 Merchandise eligible for special permit for immediate delivery.

Merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), in the following circumstances:

(a) *Contiguous countries.* At the discretion of the district director, merchandise arriving by land from Canada or Mexico may be released under a special permit for immediate delivery provided the importer has on file one of the types of Customs bonds described in § 142.4. An entry summary shall be filed in accordance with § 142.22(b)(1), and estimated duties, if any, shall be deposited, within the time period specified in § 142.23 for all merchandise from contiguous countries released under a special permit except for fresh fruits and vegetables for human consumption released under the provisions of paragraph (b) of this section.

(b) *Fresh fruits and vegetables.* (1) An application for a special permit for immediate delivery may be made for the transportation of fresh fruits and vegetables for human consumption arriving from Canada or Mexico to the importer's premises within the port of importation, but removed from the area immediately contiguous to the border.

(2) The application shall be supported by a term bond on Customs Form 7553, or a general term bond on Customs Form 7595 as prescribed in § 142.4, to which a rider in the following format has been added:

Immediate Delivery of Fresh Fruits and Vegetables Arriving from Canada or Mexico—to be added to Customs Forms 7553 and 7595.

In addition to the conditions appearing in the bond dated ———, in the amount of

———, executed by ————, as principal and ————, as surety, to which this stipulation relates. It is hereby expressly agreed by the principal and surety thereon that the following additional condition shall apply:

If, pursuant to section 448(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), and § 142.21(a) of the Customs Regulations, fresh fruits and vegetables have been released for immediate delivery from ———— to the importer's premises at ————, the produce shall be transported and stored in accordance with the regulations, and may be examined and disposed of according to § 158.11(b) of the Customs Regulations; the balance of the produce shall be entered for consumption, entered for transportation and exportation, or transported in bond under an entry for immediate transportation without appraisement. In the event of failure to make an appropriate entry or deposit the estimated duties due, when so required, the above-bounden principal shall pay to the district director of Customs as liquidated damages an amount equal to the value of the merchandise plus the charges and duties thereon (it being understood and agreed that the amount to be collected shall be based upon the quantity and value of such merchandise as determined by the district director of Customs, and that the decision of the district director of Customs as to the status of such merchandise, whether free or dutiable, together with the rate and amount of duties, also shall be binding on all parties to this obligation).

Witness our hands and seals this —— day of ———, 19—.

(Seal)

Principal ————————

(Seal)

Surety————————

Certificate as to Corporate Principal

I, ————, certify that I am the[1] ———— of the corporation named as principal in the rider; that ————, who signed the said rider on behalf of the principal, was then ———— of said corporation; that I know his signature, and his signature thereto is genuine; and that said rider was duly signed, sealed, and attested for and in behalf of said corporation by authority of its governing body.

(Corporate Seal)

(To be used when no power of attorney has been filed with the district director of Customs)

(3) The fresh fruits and vegetables shall be transported to the importer's premises in the vehicles in which they crossed the border or, if transshipment is necessary in vehicles provided by the importer. The fresh fruits and vegetables may be examined at the importer's premises. Those portions without commercial value may be disposed of in accordance with the provisions of § 158.11(b) of this chapter, and the balance shall be entered for consumption or transported in bond under an entry for immediate transportation without appraisement or under an entry for transportation and exportation.

(c) *Agency of U.S. Government.* Merchandise may be released under the immediate delivery procedure if the shipment is consigned to or for the account of any agency or office of the United States Government, or to an officer or official of any such agency in his official capacity, as provided in § 10.101 of this chapter.

(d) *Articles of a trade fair.* Articles for a trade fair may be released under the immediate delivery procedure, as provided in § 147.13 of this chapter.

(e) *Quota-class merchandise.*—(1) *Tariff-rate.* At the discretion of the district director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file one of the type of bonds enumerated in § 142.4. An entry summary, with estimated duties attached, shall be presented within the time specified in § 142.23, or within the quota period, whichever expires first. If the entry summary, with estimated duties attached, is presented after the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall deposit duties at the over-quota rate.

(2) *Absolute.* At the discretion of the district director, perishable merchandise of a class approved by Headquarters which is subject to an absolute quota may be released under a special permit for immediate delivery for removal to the importer's premises, or to any other location approved by the district director, until an entry summary, with estimated duties attached, is presented. An entry summary, with estimated duties attached, shall be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. If the absolute quota is filled before the importer has presented an entry summary, with estimated duties attached, he either may present an entry summary for warehouse or, under Customs supervision, export or destroy the merchandise.

(f) *Release from warehouse followed by warehouse withdrawal for consumption.* At the discretion of the district director, merchandise may be released from warehouse under a special permit provided the importer has on file one of the types of Customs bonds provided for in § 142.4. The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

(g) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), and (f) of this section provided an appropriate bond is on file.

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery shall be made on Customs Form 3461 supported by the documentation provided for in § 142.3, except that a commercial invoice shall not be required. Instead of a commercial invoice, the importer may deliver to Customs a pro forma invoice, waybill, or other document setting forth an adequate description of the merchandise and the quantities, together with the values or approximate values when values are needed for the purpose of examination. If the merchandise is to be released under a term special permit, the documentation also shall show the term special permit number, as provided for in § 142.24.

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached, an entry summary for warehouse, or an entry summary for entry under a temporary importaton bond;

(2) A withdrawal for consumption, with estimated duties attached;

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation; or

(4) An application to destroy.

§ 142.23 Time limit for filing documentation after release.

The applicable documentation described in § 142.22(b) shall be filed, and estimated duties, if any, shall be deposited, within 10 working days after the merchandise or any part of the merchandise is authorized for release under a special permit for immediate delivery.

§ 142.24 Term special permit.

(a) *Conditions for issuance.* At the discretion of the district director, a term special permit for immediate delivery

[1] May be executed by the secretary, assistant secretary, or other officer of the corporation.

may be issued on Customs Form 3461, appropriately modified, for a class or classes of merchandise particularly described in the application for the permit, to be imported during a period not to exceed 1 year from the date of the permit.

(b) *Notation of value for each shipment.* When applying for the release of a shipment of merchandise under a term special permit for immediate delivery, the importer shall note a value for the shipment on the documentation presented. The value so noted shall not be less than the invoice value.

§ 142.25 Discontinuance of immediate delivery privileges.

(a) *Authority of district director.* The district director may discontinue immediate delivery privileges if the importer:

(1) Has failed repeatedly to file the applicable Customs documentation set forth in § 142.22(b) timely without justification, or

(2) Has not taken prompt action to settle a claim for liquidation damages issued under § 142.27 for failure to file the application Customs documentation set forth in § 142.22(b) timely. "Prompt action" means that the importer, within the time specified in a claim for liquidated damages shall petition for relief or pay the amount claimed and, file the applicable documentation and deposit estimated duties, if any.

(3) Has repeatedly delivered documentation required by § 142.22(b) which is incomplete or which contains erroneous information.

(b) *Authority of regional commissioner.* The regional commissioner may discontinue immediate delivery privileges if the importer is substantially delinquent in the payment of Customs bills. See § 142.26.

(c) *Brokers; restriction.* A broker shall not circumvent an action taken under this section by applying for the immediate release of the importer's merchandise in the broker's name and under the broker's bond.

§ 142.26 Delinquent payment of Customs bills.

The following procedures shall be followed if an importer is substantially or habitually delinquent in the payment of Customs bills:

(a) *Notice.* The importer shall be advised in writing by the regional commissioner of Customs for the region in which he is substantially or habitually delinquent that his immediate delivery privileges have been suspended in that region. The notice shall state the reason for the action and advise the importer that if payment of all his delinquent Customs bills is not made within 10 working days from the date of the notice, the importer's immediate delivery privileges also shall be suspended in all Customs regions.

(b) *Reinstatement of privileges by region.* If the importer pays all his delinquent Customs bills within 10 working days after the date of the notice, the suspension shall be removed, and the importer's immediate delivery privileges shall be reinstated.

(c) *Reinstatement of privileges by Headquarters.* If the importer has not paid all his delinquent Customs bills within 10 working days after the date of the notice, his immediate delivery privileges shall be suspended in all Customs regions. This suspension shall remain in effect in each port of entry until notification is received from Headquarters that the suspension is removed and that the importer's immediate delivery privileges have been reinstated.

§ 142.27 Failure to file documentation timely.

If the applicable Customs documentation set forth in § 142.22(b) is not filed within the time provided in § 142.23, the district director shall make an immediate demand for liquidated damages in the amount of the bond in the case of a single entry bond. When the transaction has been charged against a term bond, the demand shall be for the amount that would have been demanded if the merchandise had been released under a single entry bond. Any application for cancellation of liquidated damages incurred shall be made in accordance with Part 172 of this chapter.

§ 142.28 Withdrawal or entry summary not required for prohibited merchandise.

(a) *Exportation or destruction of prohibited merchandise.* If merchandise released under a special permit for immediate delivery later is found to be prohibited, the district director shall demand its recall in accordance with § 141.113 of this chapter (applicable to the recall of merchandise released from Customs custody), and withdrawal or entry summary documentation and the deposit of estimated duties, if any, shall not be required provided:

(1) the merchandise is exported or destroyed under Customs supervision within the time limit for entry specified in § 142.23, or

(2) An entry for exportation or for transportation and exportation on Customs form 7512, or an application to destroy the merchandise, is made within the specified time limit, and the exportation or destruction is accomplished promptly.

(b) *Procedures for exportation or destruction.* The exportation or destruction of prohibited merchandise required by paragraph (a) of this section shall be under the same procedures as exportation or destruction of prohibited merchandise covered by a consumption entry with remission or refund of duties. See §§ 158.41 and 158.45(c) of this chapter.

(c) *Notation on exportation entry.* An entry for exportation or for transportation and exportation of prohibited merchandise for which no entry summary for consumption has been filed shall be stamped or imprinted conspicuously with the legend:

Prohibited Merchandise, No Other Entry Filed

§ 142.29 Other procedures applicable.

Merchandise released under a special permit for immediate delivery shall be subject to the same procedures applicable to all other imported merchandise, unless specific procedures are set forth in this subpart.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 143—APPRAISEMENT AND INFORMAL ENTRIES

§ 143.1 [Deleted]

§ 143.2 [Deleted]

§ 143.3 [Deleted]

1. Sections 143.1, 143.2, and 143.3 are deleted.

2. Section 143.23(f) is amended to read as follows:

§ 143.23 Form of entry.

* * * * *

(f) Merchandise released under the immediate delivery procedure or the entry documentaton required by section 142.3(a), and entry is made on Customs Form 7501, annotated "Informal Entry" in the upper right hand corner.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. Section 144.5 is amended to read as follows:

§ 144.5 Period of warehousing.

(a) *Generally.* Except as provided in paragraph (b) of this section, merchandise shall not remain in a bonded warehouse beyond 5 years from the date of importation.

(b) *Exception.* For merchandise remaining in a bonded warehouse on October 3, 1978, the date of enactment of Pub. L. 95–410 (92 Stat. 888), any period of time the merchandise was in a bonded warehouse before that date shall be disregarded and the 5-year period shall commence on that date.

§ 144.6 [Deleted]

2. Section 144.6 is deleted.

3. Section 144.7 is amended to read as follows:

§ 144.7 Disposition of merchandise after expiration of warehousing period.

Merchandise remaining in a bonded warehouse after the expiration of the warehousing period shall be disposed of in accordance with § 127.14 of this chapter.

4. Section 144.11 is amended to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the warehouse entry summary, Customs Form 7502, is filed at time of entry, it shall serve as both the entry and the entry summary, and Customs Forms 3461 or 7533 shall not be required. If the warehouse entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the warehouse entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7502.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on the Warehouse or Rewarehouse Entry, Customs Form 7502, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of the Warehouse or Rewarehouse Permit, Customs Form 7502–A, for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the warehouse entry summary, Customs Form 7502, the bonded warehouse in which he desires his merchandise deposited and the bonded cartman or lighterman by whom he wishes the goods transferred.

(d) *Specification list.* When packages which are not uniform in contents, quantities, values, or rates of duties are grouped together as one item on an entry summary, a specification list (original only) shall be furnished with the entry summary, showing separately opposite the marks or numbers of each package, the quantity of each class of merchandise, the entered value of each class, and the rates of duty claimed for each. However, a specification list is not needed if one withdrawal is to be filed for all the merchandise covered by the entry summary.

5. Section 144.12 is amended to read as follows:

§ 144.12 Contents of entry summary; estimated duties.

The entry summary, Customs Form 7502, shall show the value, classification, and rate of duty as approved by the district director at the time the entry summary is filed. However, no deposit of estimated duties shall be required until the merchandise is withdrawn for consumption.

6. Section 144.13 is amended to read as follows:

§ 144.13 Bond requirements.

(a) *Entry summary not filed at time of entry.* A bond on Customs Form 7551, 7553, or 7595 shall be required when the entry documentation is filed if the entry summary documentation is not filed at that time. When the entry summary is filed thereafter, as prescribed in § 142.13 of this chapter, a bond on Customs Form 7555 or 7595 shall be required if a bond on Customs Form 7551 or 7553 is on file in support of the entry documentation. If a bond on Customs Form 7595 is on file in support of the entry documentation, that bond shall be sufficient to support the entry summary.

(b) *Entry summary filed at time of entry.* If the entry summary is filed at time of entry, the entry summary shall serve as both the entry and the entry summary, and a bond on Customs Form 7555 or 7595 shall be required.

7. Section 144.14 is amended to read as follows:

§ 144.14 Removal to warehouse.

When the entry summary, Customs Form 7502, and the appropriate bond have been filed, the merchandise shall be sent to the bonded warehouse, except for:

(a) Merchandise for which an immediate dock withdrawal if filed, or

(b) Packages designated for examination elsewhere than at the warehouse, which shall be sent to the warehouse after examination.

8. The first sentence of § 144.36(b) is amended by substituting "entry summary, Customs Form 7502" for "warehouse entry".

9. Section 144.36(d) is amended to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * *

(d) *Information required.* In addition to the statement of quantity required by § 144.32, Customs Form 7512 shall show the following information for the merchandise being withdrawn:

(1) The original entry number, date of entry, date of entry summary, and port at which filed;

(2) The name of the consignee at the port of destination;

(3) Any ascertained weight, gauge, or measure;

(4) The entered value of the merchandise;

(5) Estimated duties, if any;

(6) A statement that the merchandise is or is not admissible for consumption and the reason for non-admissibility, if applicable; and

(7) The statistical information required by § 141.61(e) of this chapter.

When the withdrawal is made after the merchandise has been rewarehoused, the rewarehouse entry number, date, and port at which filed also shall be shown.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624)

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The first and last sentences of § 151.47 are amended to read as follows:

§ 151.47 Entered quantities of crude petroleum released under entry or immediate delivery.

(a) *Optional entry of net quantity.* As an alternative to stating on the entry summary the total quantity of crude petroleum released under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), the importer may file an entry summary for the net quantity of crude petroleum landed. * * *

The commercial laboratory report shall be filed with the entry summary.

2. The section heading and first sentence of § 151.63 are amended by inserting the word "summary" after the word "entry".

3. Section 151.64(a) is amended by inserting the word "summary" after the word "entry".

4. Section 151.64(b) is amended to read as follows:

§ 151.64 Additional documents.

* * * * *

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

5. The first sentence of § 151.65 is amended to read as follows:

§ 151.65 Duties.

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

6. The third and fourth sentences of § 151.65 are amended by inserting the word "summary" after the word "entry" each time it appears.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

1. The section heading and first sentence of § 158.2 are amended to read as follows:

§ 158.2 Shortages in packages released under immediate delivery or entry.

An importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and manifested number of packages in a shipment "permitted" and delivered to him or deposited in a bonded warehouse under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), if he files with the entry summary a Customs Form 5931 in triplicate.

* * * * *

§ 158.3 [Amended]

2. The section heading and first sentence of § 158.3 are amended by inserting the word "summary" after the word "entry".

3. Part 158 is amended by adding a new § 158.21a to read as follows:

§ 158.21a Time period.

An abatement or refund of duties shall be made in the case of injury to, or destruction of, merchandise in a bonded warehouse as a result of accidental fire or other casualty only if the fire or casualty occurs within 3 years from the date of importation.

§ 158.27 [Amended]

4. Section 158.27(b) is amended by inserting "the entry summary (where appropriate)," after "entry".

5. Section 158.43 is amended by changing the heading of paragraph (c) to *"Abandonment."*, by adding a new subheading entitled *"Costs."* to the existing paragraph, by redesignating the existing paragraph as "(c)(1)", and by adding a new paragraph (c)(2) to read as follows:

§ 158.43 Abandonment or destruction of merchandise in bond.

* * * * *

(c) *Abandonment.*—(1) *Costs.* * * *

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

6. Section 158.43 is amended by changing the heading of paragraph (d) to "Destruction", by adding a new subheading entitled "Costs." to the existing paragraph, by redesignating the existing paragraph as "(d)(1)", and by adding a new paragraph (d)(2) to read as follows:

§ 158.43 Abandonment of destruction of merchandise in bond.

* * * * *

(d) *Destruction*—(1) *Costs.* * * *

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 159—LIQUIDATION OF DUTIES

1. Section 159.9(c) is amended to read as follows:

§ 159.9 Notice of liquidation and date of liquidation for formal entries.

* * * * *

(c) *Date of liquidation*—(1) *Generally.* The bulletin notice of liquidation shall be dated with the date it is posted or lodged in the customhouse for the information of importers. The entries for which the bulletin notice of liquidation has been prepared shall be stamped "Liquidated", with the date of liquidation, which shall be the same as the date of the bulletin notice of liquidation. This stamping shall be deemed the legal evidence of liquidation.

(2) *Exception: Entries liquidated by operation of law.* (i) Entries liquidated by operation of law at the expiration of the time limitations prescribed in section 504, Tariff Act of 1930, as amended (19 U.S.C. 1504), and set out in §§ 159.11 and 159.12, shall be deemed liquidated as of the date of expiration of the appropriate statutory period.

(ii) The bulletin notice of liquidation shall be posted or lodged in the customhouse within a reasonable period after each liquidation by operation of law and shall be dated as of the date of expiration of the statutory period.

(iii) A protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174 of this chapter shall be filed within 90 days from the date the bulletin notice of liquidation of an entry by operation of law is posted or lodged in the customhouse.

2. Section 159.9 is amended by adding a new paragraph (d) to read as follows:

* * * * *

(d) *Courtesy notice of liquidation.* Customs will endeavor to provide importers or their agents with Customs Form 4333–A, "Courtesy Notice", for entries specified in § 159.9(a)(1), scheduled to be liquidated or deemed liquidated by operation of law. This notice shall serve as an informal, courtesy notice and not as a direct, formal, and decisive notice of liquidation.

3. Part 159 is amended by adding new §§ 159.11 and 159.12 to read as follows:

§ 159.11 Entries liquidated by operation of law.

(a) *Time limit generally.* Except as provided in section 159.12, an entry not liquidated within 1 year from the date of entry of the merchandise, or the date of final withdrawal of all merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duties asserted by the importer at the time of filing an entry summary for consumption in proper form, with estimated duties attached, or a withdrawal for consumption in proper form, with estimated duties attached. Notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d).

(b) *Applicability.* The provisions of this section and § 159.12 shall apply to entries of merchandise for consumption or withdrawals of merchandise for consumption made on or after April 1, 1979, but shall not apply to vessel repair entries or drawback entries.

§ 159.12 Extension of time for liquidation.

(a) *Reasons*—(1) *Extension.* The district director may extend the 1-year statutory period for liquidation for an additional period not to exceed 1 year if:

(i) *Information needed by Customs.* Information needed by Customs for the proper appraisement or classification of the merchandise is not available, or

(ii) *Importer's request.* The importer requests an extension in writing before the statutory period expires and shows good cause why the extension should be granted. "Good cause" is demonstrated when the importer satisfies the district director that more time is needed to present to Customs information which will affect the pending action, or there is a similar question under review by Customs.

(2) *Suspension.* The 1-year liquidation period may be suspended as required by statute or court order.

(b) *Notice of extension.* If the district director extends the time for liquidation, as provided in paragraph (a)(1) of this section, he promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, that the time has been extended and the reasons for doing so.

(c) *Notice of suspension.* If the liquidation of an entry is suspended as required by statute or court order, as provided in paragraph (a)(2) of this section, the district director promptly shall notify the importer or the consignee and his agent and surety on Customs Form 4333–A, appropriately modified, of the suspension.

(d) *Additional extensions*—(1) *Information needed by Customs.* If an extension has been granted because Customs needs more information and the district director thereafter determines that more time is needed, he may extend the time for liquidation for an additional period not to exceed 1 year provided he issues the notice required by paragraph (b) of this section before termination of the prior extension period.

(2) *At importer's request.* If the statutory period has been extended for 1 year at the importer's request, and the importer thereafter determines that additional time is necessary, he may request another extension in writing before the original extension expires, giving reasons for his request. If the district director finds that good cause (as defined in paragraph (a)(1)(ii) of this section) exists, he shall issue a notice extending the time for liquidation for an additional period not to exceed 1 year.

(e) *Limitation on extensions.* The total time for which extensions may be granted by the district director may not exceed 3 years.

(f) *Time limitation*—(1) *Generally.* An entry not liquidated within 4 years from either the date of entry, or the date of final withdrawal of all the merchandise covered by a warehouse entry, shall be deemed liquidated by operation of law at the rate of duty, value, quantity, and amount of duty asserted by the importer at the time of filing the entry summary for consumption in proper form, with estimated duties attached, or the withdrawal for consumption in proper form, with estimated duties attached, unless liquidation continues to be suspended by statute or court order. Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A, in accordance with § 159.9(d), in addition to the bulletin notice specified § 159.9(c)(2)(ii).

(2) *Suspension of liquidation by statute or court order.* When liquidation of an entry continues to be suspended beyond the 4-year period specified in paragraph (f)(1) of this section due to a statute or court order, the entry shall be liquidated within 90 days after removal of the suspension.

(g) *Notice of liquidation.* If an entry is liquidated after an extension expires or a suspension is removed, notice of liquidation shall be given on the bulletin notice of liquidation, Customs Form 4333 or 4335, as provided in §§ 159.9 and 159.10(c)(3). Customs will endeavor to provide a courtesy notice of liquidation on Customs Form 4333–A in accordance with § 159.9(d)

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 172—LIQUIDATED DAMAGES

1. The introductory paragraph of § 172.22(b) is amended to read as follows:

§ 172.22 Special cases acted on by district director of Customs.

* * * * *

(b) *Nonproduction of Special Customs Invoices or commercial invoices.* If a required Special Customs Invoice, Customs Form 5515, or a commercial invoice is not produced (1) on the date the entry or entry summary is filed, (2) within 6 months after the date the entry or entry summary is required to be filed, or (3) if the invoice is needed for statistical purposes, within 50 days after the date the entry or entry summary is required to be filed, then unless the production is waived under the provisions of § 141.92 of this chapter, the bond charge for the production thereof may be canceled by the district director upon the payment of $25 as liquidated damages, if: * * *

2. The introductory language of § 172.22(d) is amended to read as follows:

* * * * *

(d) *Failure to file timely entry summary after release under entry or immediate delivery permit.* If a timely entry summary for merchandise not subject to quota has not been filed after release under an entry or a special permit for immediate delivery, the district director may act upon an application for relief from liquidated damages assessed in accordance with § 142.15 or 142.27, respectively, of this chapter as follows: * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

1. The first sentence of § 173.1 is amended to read as follows:

§ 173.1 Authority to review for error.

District directors, or in the New York Customs Region, the Regional Commissioner of Customs, have broad responsibility and authority to review transactions to ensure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. * * *

2. The introductory language to § 173.4(b) is amended, § 173.4(c) is amended, and a new § 173.4(d) is added, to read as follows:

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

* * * * *

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), may be made in any entry, liquidation, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

* * * * *

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section shall be brought to the attention of the district director at the port of entry, or in the New York Customs Region, the Regional Commissioner of Customs, within 1 year after the date of liquidation or exaction.

(d) *"Liquidation" includes reliquidation.* "Liquidation" when used in section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), and in this section, includes reliquidation of an entry.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

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