

§ 132.13

19 CFR Ch. I (4-1-01 Edition)

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.

[T.D. 79-221, 44 FR 46814, Aug. 9, 1979]

§ 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 port 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 as provided for in §142.21 (e)(2) and (g) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure. 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.

(iii) *Quota Proration.* When it is determined that entry summaries for consumption or withdrawals for consumption must be amended to permit only the quantity of tariff-rate and absolute quota merchandise determined to be within the quota, the entry summaries for consumption or withdrawals for consumption must be returned to the importer for adjustment. The time of presentation for quota purposes in that event shall be the same as the time of the initial presentation of the entry summaries for consumption or withdrawals for consumption provided:

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

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

(2) *Report of time of presentation.* The date, hour and minute that an entry summary for consumption or withdrawal for consumption is presented at a port of entry must be indicated on the document by a method deemed acceptable by Customs. The appropriate Customs officer shall report this information to Headquarters.

(b) *Closing of the quota.* Except as provided by §132.12, at the closing of a quota all entries or withdrawals for consumption which have acquired quota status due to priority of presentation shall be entitled to quota benefits. All other entries or withdrawals are without quota status and are not entitled to any quota benefits. All the

latter shall be disposed of in accordance with §132.5.

[T.D. 73-203, 38 FR 20230, July 30, 1973, as amended by T.D. 79-221, 44 FR 46815, Aug. 9, 1979; T.D. 80-26, 45 FR 3901, Jan. 21, 1980; T.D. 81-260, 46 FR 49841, Oct. 8, 1981; T.D. 88-27, 53 FR 19897, June 1, 1988]

§ 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 proper presentation of an entry summary for consumption, or a withdrawal for consumption, pursuant to §132.1 of this part. 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 proper presentation of an entry summary for consumption, or a withdrawal for consumption, pursuant to §132.1 of this part, 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 proper presentation of an entry summary for consumption, or a withdrawal for consumption, pursuant to §132.1 of this part, 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 proper presentation of an entry summary for consumption, or a withdrawal for consumption, pursuant to §132.1 of this part, and the quota is nearing fulfillment:

(A) The port director may demand the return to Customs custody of the

released merchandise in accordance with §141.113 of this chapter;

(B) The port director shall require the timely presentation of the entry summary for consumption, or a withdrawal for consumption, with the estimated duties attached;

(C) The port director may assess liquidated damages under the bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in §113.62 of this chapter 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; and

(D) The Fines, Penalties, and Forfeitures Officer 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 port 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 proper presentation of an entry summary for consumption, or a withdrawal for consumption, pursuant to §132.1 of this part, and the quota is not nearing fulfillment:

(A) The port director shall require the timely presentation of the entry