

(ii) The merchandise is being returned within 45 days of departure from the United States;

(iii) The merchandise did not leave the custody of the carrier or foreign customs;

(iv) The merchandise is being returned to the United States because it was undeliverable to the foreign consignee; and

(v) The merchandise was not sent abroad to receive benefit from, or fulfill obligations to, the United States as a result of exportation.

(2) Upon request by Customs, the person claiming the exemption shall provide evidence required to support the claim for exemption.

(d) *Railway locomotives and freight cars.* To be excepted from entry, railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, and railway freight cars from Canada described in subheading 9905.86.05 or 9905.86.10, HTSUS, are subject to the following requirements, as applicable:

(1) For a railway freight car described in subheading 9905.86.05, HTSUS, the importer shall certify, subject to Customs verification, that the freight car was produced before July 1, 1991, or if admitted after July 1, 1994, that the freight car was produced not less than 3 years before the date of importation;

(2) For a railway freight car described in subheading 9905.86.10, HTSUS, the importer shall certify, subject to Customs verification, that the freight car will be exported within 1 year from the date of importation. (Any railway freight car admitted into the United States under this provision which is not exported within the 1-year period becomes subject to entry and the payment of any applicable duties.);

(3) For railway locomotives and freight cars described in Additional U.S. Note 1 of Chapter 86, HTSUS, and railway freight cars described in subheading 9905.86.05 or 9905.86.10, HTSUS, to be released in accordance with paragraph (b)(4) of this section, the importer shall first file a bond on Customs Form 301, containing the bond conditions set forth in either §113.62 or 113.64 of this chapter.

(e) *Informal entry.* Merchandise qualifying for informal entry by regulation, pursuant to 19 U.S.C. 1498, is exempt from formal entry under 19 U.S.C. 1484 and this part, but must be entered as required under applicable regulations (see part 143, subpart C, and §§10.151 through 10.153, 128.24, 145.31, 145.32, 148.12, 148.13, 148.51, and 148.62 of this chapter).

[T.D. 94-51, 59 FR 30295, June 13, 1994; T.D. 95-29, 60 FR 18348, Apr. 11, 1995; 60 FR 21043, May 1, 1995; T.D. 97-82, 62 FR 51770, Oct. 3, 1997; T.D. 00-81, 65 FR 68887, Nov. 15, 2000; T.D. 02-14, 67 FR 15098, Mar. 29, 2002]

§ 141.5 Time limit for entry.

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 or report of the vehicle, or after the 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 port director in writing. Merchandise for which timely entry is not made shall be treated in accordance with §4.37 and part 127 of this chapter.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 77-12, 41 FR 56629, Dec. 29, 1976; T.D. 79-221, 44 FR 46816, Aug. 9, 1979]

Subpart B—Right to Make Entry and Declarations on Entry

§ 141.11 Evidence of right to make entry for importations by common carrier.

(a) *Merchandise not released directly to carrier.* Except where merchandise is released directly to the carrier in accordance with paragraph (b) of this section, one of the following types of evidence of the right to make entry shall be filed in connection with the entry of merchandise imported by common carrier:

(1) A bill of lading or air waybill, presented by the holder thereof, properly endorsed when endorsement is required under the law. A nonnegotiable bill of lading, or air waybill, may not be endorsed by the named consignee to give someone else the right to make entry. If the person making entry intends to use the original bill of lading or air waybill to obtain a duplicate bill of

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lading, duplicate air waybill, or carrier's certificate from the carrier, the exchange shall be made before the entry is filed, and the duplicate bill of lading, duplicate air waybill, or carrier's certificate shall be used to make entry in accordance with paragraph (a) (3) or (4) of this section. For purposes of this part, the rights of the consignor relating to an air waybill as prescribed by the Warsaw Convention (49 Stat. 3017) shall be protected.

(2) An extract from a bill of lading or air waybill certified to be genuine by the carrier bringing the merchandise to the port of entry. Customs officers shall not certify extracts from bills of lading or air waybills.

(3) A certified duplicate bill of lading or air waybill, with the carrier's certificate being in substantially the following form:

DUPLICATE BILL OF LADING OR AIR WAYBILL
CERTIFICATE

The undersigned carrier, _____, 19—
bringing the within-described merchandise to this port, hereby certifies that this signed copy of the bill of lading or air waybill is genuine and may be used for the purpose of making Customs entry as provided for in section 484(i), Tariff Act of 1930.

(Name of carrier)

(Agent)

(4) A carrier's certificate, which may be executed on the official entry form, or, in appropriate cases, by means of a rubber-stamped or typewritten combined carrier's certificate and release order with one signature on a copy of the bill of lading, airway bill, shipping receipt, or other comparable document. The rubber-stamped or typewritten certificate shall be in substantially the following form, which may be varied to include any of the qualifications on release shown in §141.111(d):

Date _____

The undersigned carrier, to whom or upon whose order the articles described herein or in the attached document must be released, hereby certifies that the consignee named in this document is the owner or consignee of such articles within the purview of section 484(h), Tariff Act of 1930. In accordance with the provisions of section 484(j), Tariff Act of 1930, authority is hereby given to release the

articles covered by the aforementioned statement to such consignee.

(Name of carrier)

(Agent)

(5) A blanket carrier's release order on an appropriately modified bill of lading or air waybill covering any or all shipments which will arrive at the port on the carrier's conveyance during the period specified in the release order.

(6) A shipping receipt or other document presented in lieu of a bill of lading or air waybill shall be accepted as authority for making entry only if it bears a carrier's certificate in accordance with paragraph (a)(4) of this section, or if entry is made by the actual consignee in person or in his name by a duly authorized agent.

(b) *Merchandise released directly to carrier.* Where, in accordance with subsection (j) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), merchandise is released from Customs custody (either under immediate delivery procedures in accordance with the provisions of subpart C of part 142 of this chapter, or after an entry has been filed in accordance with subpart A of part 142 of this chapter, or after an entry summary, which shall serve as both the entry and entry summary has been filed with estimated duties attached where appropriate in accordance with subpart B of part 142 of this chapter), to the carrier by whom the merchandise was brought to the port, the delivery of the merchandise by the carrier to the person filing the entry summary with estimated duties attached shall be deemed to be the certification required by subsection (h), section 484, Tariff Act of 1930. Customs responsibility under this optional entry procedure is limited to the collection of duties, and constitutes no representation whatsoever regarding the right of any person to obtain possession of the merchandise from the carrier. Consequently, no Customs official shall be liable to any person in respect to the delivery of merchandise

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released from Customs custody in accordance with the provisions of this paragraph.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 78-394, 43 FR 49787, Oct. 25, 1978; T.D. 82-224, 47 FR 53727, Nov. 29, 1982; T.D. 87-75, 52 FR 20068, May 29, 1987; T.D. 90-87, 55 FR 47052, Nov. 9, 1990; T.D. 97-82, 62 FR 51770, Oct. 3, 1997]

§ 141.12 Right to make entry of importations by other than common carrier.

When merchandise is not imported by a common carrier, possession of the merchandise at the time of arrival in the United States shall be deemed sufficient evidence of the right to make entry.

§ 141.13 Right to make entry of abandoned or salvaged merchandise.

Underwriters of abandoned merchandise or salvors of merchandise saved from a wreck who are unable to produce a bill of lading, air waybill, certified duplicate bill of lading or air waybill, or carrier's certificate, shall produce evidence satisfactory to the port director of their right to act.

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

§ 141.14 Deceased or insolvent consignees and court-appointed administrators.

The executor or administrator of the estate of a deceased consignee, the receiver or other legal representative of an insolvent consignee, or the representative appointed in any action or proceeding at law to act for a consignee shall not be permitted to make entry unless he produces a duly endorsed bill of lading or air waybill, a carrier's certificate, or a duplicate bill of lading or air waybill, executed in accordance with subsections (h) or (i) of section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), showing him to be the consignee for Customs purposes.

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

§ 141.15 Bond for production of bill of lading or air waybill.

(a) *When appropriate.* If the person desiring to make entry is unable to present a bill of lading, air waybill, or other evidence of right to make entry

in accordance with § 141.11, the port director may accept a bond for the production of a bill of lading or air waybill under the provisions of section 484(c), Tariff Act of 1930, as amended (19 U.S.C. 1484(c)). The bond shall be for the production of a bill of lading or air waybill, unless the person making entry intends to produce a carrier's certificate or certified duplicate bill of lading or air waybill. In that case, no bond is required because section 484(c) does not apply to entries made on a carrier's certificate or certified duplicate bill of lading or air waybill. If the port director is in doubt as to the propriety of accepting entry on a bond for the production of a bill of lading or air waybill, he shall request authority to do so from the Commissioner of Customs.

(b) *Form.* The bond shall be on Customs Form 301 and contain the bond conditions set forth in § 113.69 of this chapter.

(c) *Documents acceptable to satisfy bond.* A bond given for the production of a bill of lading or air waybill shall be considered as canceled upon production of a bill of lading or air waybill, and may be considered as satisfied but shall not be canceled upon the production of a carrier's certificate or certified duplicate bill of lading or air waybill.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 84-213, 49 FR 41184, Oct. 19, 1984]

§ 141.16 Disposition of documents.

(a) *Bill of lading or air waybill.* When the return of the bill of lading or air waybill to the person making entry is requested in accordance with section 484(j), Tariff Act of 1930, as amended (19 U.S.C. 1484(j)), the port director shall obtain a receipt showing sufficient data from the bill of lading or air waybill to completely identify it and enable the auditor to verify the production of proper evidence of the right to make entry. The receipt shall also show any freight charges and weights that appear on the bill of lading or air waybill. The port director shall then return the bill of lading or air waybill to the person making entry with a notation thereon to the effect that entry has been made for the merchandise.