

(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 port 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.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 84-213, 49 FR 41185, Oct. 19, 1984]

### 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 port 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 a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter. 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 accompanied by a continuous bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter.

(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 appraisalment 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 port director, merchandise subject to a tariff-rate quota may be released under a special permit for immediate delivery provided the importer has on file a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter. An entry summary shall be properly presented pursuant to §132.1 of this chapter within the time specified in §142.23, or within the quota period, whichever expires first. If proper presentation is not made until after

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the tariff-rate quota is filled, the merchandise shall not be entitled to the quota rate of duty, and the importer shall pay duties at the over-quota rate.

(2) *Absolute.* At the discretion of the port director, perishable merchandise of a class approved by Customs 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 port director, until an entry summary is properly presented pursuant to §132.1 of this chapter. A proper entry summary must 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 properly presented an entry summary, he may either 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.* Merchandise may be released from warehouse under a special permit:

(1) At the discretion of the port director when:

(i) The warehouse is located a considerable distance from the customhouse and actual release of the merchandise from the warehouse may not be effected within the next full business day after the day of the payment of duty, and

(ii) The port has sufficient manpower to permit such practice;

(2) The importer shall have on file a bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter; and

(3) 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 a bond on Customs Form 301, containing the bond

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conditions set forth in §113.62 of this chapter is on file.

(R.S. 251, as amended, secs. 623, as amended, 624, 46 Stat. 759, as amended (19 U.S.C. 66, 1623, 1624))

[T.D. 79-221, 44 FR 46821, Aug. 9, 1979, as amended by T.D. 81-260, 46 FR 49842, Oct. 8, 1981; T.D. 84-213, 49 FR 41185, Oct. 19, 1984; T.D. 89-104, 54 FR 50499, Dec. 7, 1989]

### § 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 of this part 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 consumption without estimated duties attached, if entry/entry summary information and a valid scheduled statement date (pursuant to §24.25 of this chapter) have successfully been received by Customs via the Automated Broker Interface; an entry summary for warehouse; or an entry summary for entry temporarily under bond, which may be filed in any of the circumstances under §142.21 of this part except for merchandise released from warehouse under §142.21(f) of this part;

(2) A withdrawal for consumption, with estimated duties attached, which shall be filed only for merchandise released from warehouse under §142.21(f) of this part;

(3) An entry for transportation and exportation, immediate transportation