

§ 181.48

(E) Evidence of exportation, as provided in paragraph (b)(2)(ii)(G) of this section.

(iv) *Meats cured with imported salt.* The provisions of paragraph (b)(2)(i) of this section relating to direct identification manufacturing drawback shall apply to claims for drawback on meats cured with imported salt filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart, and the forms referred to in that paragraph shall be modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

(v) *Jet aircraft engines.* The provisions of paragraph (b)(2)(i) of this section relating to direct identification manufacturing drawback shall apply to claims for drawback on foreign-built jet aircraft engines repaired or reconditioned in the United States filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart and the provisions of subpart N of part 191 of this chapter.

(c) *Evidence of exportation and of duties paid in Canada or Mexico.* For purposes of this subpart, evidence of exportation and satisfactory evidence of payment of duties in Canada or Mexico shall consist of one of the following types of documentation, provided that, for purposes of evidence of duties paid, such documentation includes the import entry number, the date of importation, the tariff classification number, the rate of duty and the amount of duties paid:

(1) In the case of Canada, the Canadian entry document, referred to as the Canada Customs Invoice or B-3, presented with either the K-84 Statement or the Detailed Coding Statement. A Canadian customs document that is not accompanied by a valid receipt is not adequate evidence of exportation and payment of duty in Canada;

(2) In the case of Mexico, the Mexican entry document (the "pedimento");

(3) The final customs duty determination of Canada or Mexico, or a copy thereof, respecting the relevant entry; or

(4) An affidavit, from the person claiming drawback, which is based on

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information received from the importer of the good in Canada or Mexico.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 98-16, 63 FR 11005, Mar. 5, 1998]

§ 181.48 Person entitled to receive drawback.

(a) *Manufacturing drawback.* The person named as exporter on the notice of exportation or on the bill of lading, air waybill, freight waybill, Canadian or Mexican customs manifest, cargo manifest, or certified copies of these documents, shall be considered the exporter and entitled to manufacturing drawback, unless the manufacturer or producer shall reserve the right to claim drawback. The manufacturer or producer who reserves this right may claim drawback, and he shall receive payment upon production of satisfactory evidence that the reservation was made with the knowledge and consent of the exporter. Drawback also may be granted to the agent of the manufacturer, producer, or exporter, or to the person the manufacturer, producer, exporter, or agent directs in writing to receive the drawback of duties.

(b) *Nonconforming or improperly shipped goods drawback.* Only the importer of record or the actual owner of the merchandise or its agent may claim drawback under 19 U.S.C. 1313(c).

(c) *Same condition drawback.* The importer of record on the consumption entry is entitled to claim same condition drawback under 19 U.S.C. 1313(j)(1) unless he has in writing waived his right to claim drawback.

§ 181.49 Retention of records.

All records required to be kept by the exporter, importer, manufacturer or producer under this subpart with respect to manufacturing drawback claims, and all records kept by others which complement the records of the importer, exporter, manufacturer or producer (see § 191.15 (see also §§ 191.26(f), 191.38, 191.175(c)) of this chapter) shall be retained for at least three years after payment of such claims. However, any person who issues a drawback certificate that enables another person to make or perfect a drawback claim shall keep records in support of that certificate commencing

on the date that the certificate is issued and shall retain those records for three years following the date of payment of the claim.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 98-16, 63 FR 11006, Mar. 5, 1998]

§ 181.50 Liquidation and payment of drawback claims.

(a) *General.* When the drawback claim has been fully completed by the filing of all required documents, and exportation of the articles has been established and the amount of duties paid to Canada or Mexico has been established, the entry will be liquidated to determine the proper amount of drawback due either in accordance with the limitation on drawback set forth in §181.44 of this part or in accordance with the regular drawback calculation. The liquidation procedures of subpart G of part 191 of this chapter shall control for purposes of this subpart.

(b) *Time for liquidation.* A drawback claim shall not be liquidated until either a written waiver of the right to protest under 19 U.S.C. 1514 is filed with Customs or the liquidation of the import entry has become final under U.S. law. In addition, except in the case of goods covered by §181.45 of this part, a drawback claim shall not be liquidated for a period of 3 years after the date of entry of the goods in Canada or Mexico. A drawback claim may be adjusted pursuant to 19 U.S.C. 1508(b)(2)(B)(iii) even after liquidation of the U.S. import entry has become final.

(c) *Accelerated payment.* Accelerated drawback payment procedures shall apply as set forth in §191.92 of this chapter. However, a person who receives drawback of duties under this procedure shall repay the duties paid if a NAFTA drawback claim is adversely affected thereafter by administrative or court action.

[T.D. 95-68, 60 FR 46364, Sept. 6, 1995, as amended by T.D. 98-16, 63 FR 11006, Mar. 5, 1998]

§ 181.51 Prevention of improper payment of claims.

(a) *Double payment of claim.* The drawback claimant shall certify to Customs that he has not earlier received pay-

ment on the same import entry for the same designation of goods. If, notwithstanding such a certification, such an earlier payment was in fact made to the claimant, the claimant shall repay any amount paid on the second claim.

(b) *Preparation of Certificate of Origin.* The drawback claimant shall, within 30 calendar days after the filing of the drawback claim under this subpart, submit to Customs a written statement as to whether he has prepared, or has knowledge that another person has prepared, a Certificate of Origin provided for under §181.11(a) of this part and pertaining to the goods which are covered by the claim. If, following such 30-day period, the claimant prepares, or otherwise learns of the existence of, any such Certificate of Origin, the claimant shall, within 30 calendar days thereafter, disclose that fact to Customs.

§ 181.52 Subsequent claims for preferential tariff treatment.

If a claim for a refund of duties is allowed by the Canadian or Mexican customs administration under Article 502(3) of the NAFTA (post-importation claim) or under any other circumstance after drawback has been granted under this subpart, the appropriate Customs officer shall reliquidate the drawback claim and obtain a refund of the amount paid in drawback in excess of the amount permitted to be paid under §181.44 of this part.

§ 181.53 Collection and waiver or reduction of duty under duty-deferral programs.

(a) *General—(1) Definitions.* The following definitions shall apply for purposes of this section:

(i) *Date of exportation.* “Date of exportation” means the date of importation into Canada or Mexico as reflected on the applicable Canadian or Mexican entry document (see §181.47(c) (1) and (2)).

(ii) *Duty-deferral program.* A “duty-deferral program” means any measure which postpones duty payment upon arrival of a good in the United States until withdrawn or removed for exportation to Canada or Mexico or for entry into a Canadian or Mexican duty-deferral program. Such measures govern