

§ 1230.44

21 CFR Ch. I (4-1-03 Edition)

Food and Drug Administration, Department of Health and Human Services, per (initials of inspecting officer).”

(3) If samples are desired, the Chief of district shall immediately notify the District Director of Customs.

(4) The District Director of Customs at once shall forward samples, accompanied by description of shipment.

(5) When samples are desired from each shipment of containers, the chief of district shall furnish to District Director of Customs and deputies at ports within the district's territory a list of such containers, indicating the size of sample necessary. Samples should then be sent promptly on arrival of containers without awaiting special request.

(6) In all other particulars the procedure shall be the same at nonlaboratory ports as at laboratory ports, except that the time consumed in delivery of notices by mail shall be allowed for.

§ 1230.44 Samples.

On the same day that samples are requested by the district, the District Director of Customs or appraiser shall notify the importer that samples will be taken, that the containers must be held intact pending a notice of the result of inspection and analysis, and that in case the containers do not comply with the requirements of the Federal Caustic Poison Act, they must be returned to the District Director of Customs for disposition. This notification may be given by the District Director of Customs or appraiser through individual notices to the importer or by suitable bulletin notices posted daily in the customhouse.

§ 1230.45 No violation; release.

As soon as examination of the samples is completed, if no violation of the act is detected, the chief of the district shall send a notice of release to the importer and a copy of this notice to the District Director of Customs for his information.

§ 1230.46 Violation.

(a) If a violation of the Federal Caustic Poison Act is disclosed, the chief of the district shall send to the importer

due notice of the nature of the violation and of the time and place where evidence may be presented, showing that the containers should not be refused admission. At the same time similar notice regarding detention of the containers shall be sent to the District Director of Customs, requesting him to refuse delivery thereof or to require their return to customs custody if by any chance the containers were released without the bond referred to in §1230.41. The time allowed the importer for representations regarding the shipment may be extended at his request for a reasonable period to permit him to secure such evidence.

(b) If the importer does not reply to the notice of hearing in person or by letter within the time allowed on the notice, a second notice, marked “second and last notice,” shall be sent at once by the chief of the district, advising him that failure to reply will cause definite recommendation to the District Director of Customs that the containers be refused admission and that the containers be exported within 3 months under customs supervision.

§ 1230.47 Rejected containers.

(a) In all cases where the containers are to be refused admission, the chief of the district within 1 day after hearing, or, if the importer does not appear or reply within 3 days after second notice, shall notify the District Director of Customs in duplicate accordingly.

(b) Not later than 1 day after receipt of this notice the District Director of Customs shall sign and transmit to the importer one of the copies, which shall serve as notification to the importer that the containers must be exported under customs supervision within 3 months from such date, as provided by law; the other notice shall be retained as office record and later returned as a report to the chief of the district. In all cases the importer shall return his notice to the District Director of Customs, properly certified as to the information required, as the form provides.

§ 1230.48 Relabeling of containers.

(a) If containers are to be released after relabeling, a notice shall be sent by the chief of district direct to the importer, a carbon copy being sent to the

District Director of Customs. This notice must state specifically the conditions to be performed, so as to bring the performance thereof under the provisions of the customs bonds on consumption and warehouse entries, these bonds including provisions requiring compliance with all of the requirements of the Federal Caustic Poison Act and all regulations and instructions issued thereunder. The notice will also state the officer to be notified by the importer when the containers are ready for inspection.

(b) The importer must return the notice to the District Director of Customs or chief of district, as designated, with the certificate thereon filled out, stating that he has complied with the prescribed conditions and that the containers are ready for inspection at the place named.

(c) This notice will be delivered to the inspection officer, who, after inspection, will endorse the result thereof on the back of the notice and return the same to the District Director of Customs or to the chief of district, as the case may be.

(d) When the conditions to be complied with are under the supervision of the chief of district, and these conditions have been fully met, he shall release the containers to the importer, sending a copy of the notice of release to the District Director of Customs for his information. If the containers have not been properly relabeled within the period allowed, the chief of district shall immediately give notice in duplicate to the District Director of Customs of the results of inspection. The District Director of Customs shall sign and immediately transmit one copy of the notice to the importer and proceed in the usual manner.

(e) If the containers are detained subject to relabeling to be performed under the supervision of the District Director of Customs, the District Director of Customs, as soon as relabeling is accomplished, will notify the importer that the containers are released.

(f) If the containers have not been properly relabeled within the period allowed, their sale after labeling as required by the act or other disposition

must be effected by the District Director of Customs.

(g) When the final action has been taken on containers which have been refused admission, sold, or otherwise disposed of as provided for by the act or which have been relabeled under the supervision of the District Director of Customs, he shall send to the chief of district a notice of such final action, giving the date and disposition.

(h) When relabeling is allowed the importer must furnish satisfactory evidence as to the identity of the containers before release is given. The relabeling must be done at a stated place and apart from other containers of a similar nature.

(i) When containers are shipped to another port for relabeling or exportation, they must be shipped under customs carrier's manifest, in the same manner as shipments in bond.

(j) District Directors of Customs will perform the inspection service whenever containers are to be exported, sold, or otherwise disposed of, and in other cases when there is no officer of the district available.

(k) District Directors of Customs and representatives of the district will confer and arrange the apportionment of the inspection service according to local conditions. Officers of the district will, whenever feasible, perform the inspection service in connection with relabeling.

§ 1230.49 Penalties.

(a) In case of failure to comply with the instructions or recommendations of the chief of district as to conditions under which containers may be disposed of, the District Director of Customs shall notify the chief of district in all cases coming to his attention within 3 days after inspection or after the expiration of the 3 months allowed by law if no action is taken.

(b) The chief of district, upon receipt of the above-described notice, and in all cases of failure to meet the conditions imposed in order to comply with the provisions of the Federal Caustic Poison Act coming directly under his supervision, shall transmit to the District Director of Customs such evidence as he may have at hand tending