

paragraph, any repairs which may have been made to the instrument while it was abroad are not subject to entry or the payment of duty whether the instrument is of foreign or domestic manufacture, whether it left the United States empty or loaded, and whether or not the repairs made abroad were in contemplation when the instrument left the United States.

(j) Containers and other articles designated as instruments of international traffic in accordance with this section are nevertheless subject to the application of the coastwise laws of the United States, with particular reference to Section 883, Title 46, United States Code (see § 4.93 of this chapter).

[28 FR 14663, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 10.41a, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 10.41b Clearance of serially numbered substantial holders or outer containers.

(a) The holders and containers described in this section may be released without entry or the payment of duty, subject to the provisions of this section.

(b) Subject to the approval of a port director pursuant to the procedures described in this paragraph, certain foreign- or U.S.-made shipping devices arriving from Canada or Mexico, including racks, holders, pallets, totes, boxes and cans, need not be serially numbered or marked if they are always transported on or within either intermodal and similar containers or containers which are themselves vehicles or vehicle appurtenances and accessories such as twenty and forty foot containers of general use and "igloo" air freight containers. The following or similar notation shall appear on the vehicle or vessel manifest in relation to such shipping devices which are exempt from serial numbering or marking requirements pursuant to this paragraph: "The shipping devices transported herein, which are not serially numbered or marked, have been exempted from such requirement pursuant to an application approved under 19 CFR 10.41b(b)." Also, pallets and

other solid wood shipping devices must be accompanied by an importer document, to the extent that this is required by the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, attesting to the admissibility of such devices as regards plant pest risk, as provided for in 7 CFR 319.40-3.

(1) An importer or his agent, regardless of whether the importer is the owner of the foreign- or U.S.-manufactured shipping devices, may apply to a port director of Customs at one of the importer's chiefly utilized Customs ports or the port within which the importer's or agent's recordkeeping center is located for permission to have such shipping devices arriving from Canada or Mexico released without entry and payment of duty at the time of arrival and without the devices being serially numbered or marked. Application may be filed in only one port. Although no particular format is specified for the application, it must contain the information enumerated in paragraph (b)(2) of this section. Any duty which may be due on these shipping devices shall be tendered and paid cumulatively at the time specified in an approved application, which may be either before or after the arrival of the shipping devices in the U.S. (such as, at the time a contract, purchase order or lease agreement is issued).

(2) The application shall:

(i) Describe the types of shipping devices covered, their classification under the Harmonized Tariff Schedule of the U.S. (HTSUS), their countries of origin, and whether and to whom required duty was paid for them or when it will be paid for them, including duties for repair and modifications to such shipping devices while outside the U.S.;

(ii) Identify the intended ports where it is anticipated the shipping devices will be arriving and departing the U.S., as well as the particular movements and conveyances in which they are intended to be utilized;

(iii) Describe the applicant's proposed program for accounting for and reporting these shipping devices;

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(iv) Identify the reporting period (which shall in no event be less frequent than annual), as well as the payment period within which applicable duty and fees must be tendered (which shall in no event exceed 90 days following the close of the related reporting period);

(v) Describe the type of inventory control and recordkeeping, including the specific records, to be maintained to support the reports of the shipping devices; and

(vi) Provide the location in the United States, including the name and address, where the records supporting the reports will be retained by law and will be made available for inspection and audit upon reasonable notice. (The records supporting the reports of the shipping devices must be kept for a period of at least 3 years from the date such reports are filed with the port director.)

(3) The application shall be filed along with a continuous bond containing the conditions set forth in §113.66(c) of this chapter. If the application is approved by the port director and the conditions set forth in the application or of the bond are violated, the port director may issue a claim for liquidated damages equal to the domestic value of the container. If the domestic value exceeds the amount of the bond, the claim for liquidated damages will be equal to the amount of the bond.

(4) The port director receiving the application shall evaluate the program proposed to account for, report and maintain records of the shipping devices. The port director may suggest amendments to the applicant's proposal. The port director shall notify the applicant in writing of his decision on the application within 90 days of its receipt, unless this period is extended for good cause and the applicant is so informed in writing. Approval of the application by the port director with whom it is filed shall be binding on all Customs ports nationwide.

(5) If the decision is to deny the application, in whole or in part, the port director shall specify the reason for the denial in a written reply, and inform the applicant that such denial may be appealed to the Assistant Commis-

sioner, Office of Field Operations, Customs Headquarters, within 21 days of its date. The Assistant Commissioner's decision shall be issued, in writing, within 30 days of the receipt of the appeal, and shall constitute the final Customs determination concerning the application.

(6) If the application is approved, an importer may later apply to amend his application to add or delete particular types of shipping devices listed in the application in which the procedures set forth in the application may be utilized. If a requested amendment to an approved application should be denied, or if an approved application should be revoked, in whole or in part, by the port director, the procedures described in paragraph (b)(5) of this section shall apply.

(7) Application for and approval of a reporting program shall not limit or restrict the use of other alternative means for obtaining the release of holders, containers and shipping devices.

(c) In the case of serially numbered holders or containers of United States manufacture for which free clearance under subheading 9801.00.10, Harmonized Tariff Schedule of the United States, is claimed, the owner shall place thereon the following markings:

(1) 9801.00.10, unless the holder or container has permanently attached thereto the manufacturer's metal tag or plate showing, among other things, the name and address of the manufacturer who is located in the United States.

(2) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container.

(3) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 9801.00.10 * * * Zenda * * * 2468.

(d)(1) In the case of serially numbered holders or containers of foreign manufacture, other than those provided for in paragraph (d)(2) of this section, for which free clearance under the second provision in subheading 9803.00.50, HTSUS (19 U.S.C. 1202), is claimed, the owner shall place thereon the following markings:

(i) 9803.00.50.

(ii) The district and port code numbers of the port of entry, the entry number, and the last two digits of the fiscal year of entry covering the importation of the holders and containers on which duty was paid.

(iii) The name of the owner, either positioned as indicated in the example below, or elsewhere conspicuously shown on the holder or container.

(iv) The serial number assigned by the owner, which shall be one of consecutive numbers and not to be duplicated. For example: 9803.00.50 * * * 10-1-366-63 * * * Zenda * * * 2468.

(2) In the case of substantial holders or containers of either U.S. or foreign manufacture, specially designed and equipped to facilitate the carriage of goods by one or more modes of transport without intermediate reloading, each having a gross mass rating of at least 18,120 kilograms, for which duty-free entry is requested under either the first or the second proviso in sub-heading 9803.00.50, HTSUS (19 U.S.C. 1202), is claimed, only the following clear, conspicuous and durable markings are required to be on the container:

(i) The identity of the owner or operator of the container.

(ii) The serial number assigned by the owner or operator of the container, which shall be one of consecutive numbers and shall not be duplicated.

(e) The prescribed markings shall be clear and conspicuous, that is, they shall appear on an exposed side of the holder or container in letters and figures of such size as to be readily discernible. The markings will be stricken out or removed when the holders or containers are taken out of service or when ownership is transferred, except that appropriate changes may be made if a new owner wishes to use the holders and containers under this procedure.

(f) The owner shall keep adequate records open to inspection by Customs officers, which shall show the current status of the serially numbered holders and containers in service and the disposition made of such holders and containers taken out of service.

(g) Nothing in this procedure shall be deemed to affect:

(1) The requirements for outward or inward manifesting of such holders or containers. The manifests will show for each holder or container its markings as provided for herein.

(2) The requirements of the Department of Commerce on exportation with respect to the filing of "Shipper's Export Declaration," Form 7525-V.

(3) The treatment of articles covered herein under the coastwise laws of the United States, with particular reference to section 883, Title 46, United States Code.

(h) If the holder or container and its contents are to move in bond or under cover of a TIR carnet (see part 114 of this chapter) from the port of arrival intact, the holder or container shall appear on the inward foreign manifest so as to be related to the cargo contained therein and will be released under this procedure at a subsequent port. If the holder or container is to move in bond or under cover of a TIR carnet from the port of arrival not intact with its contents, the holder or container may appear on the inward foreign manifest separate from and not related to the cargo contained therein and will be released under this procedure at the port of arrival before it moves forward and will not appear on the in-bond document.

(i) A continuous bond containing the conditions set forth in §113.66 of this chapter shall be filed with the port director. If the conditions are violated the port director shall issue a claim for liquidated damages equal to the domestic value of the holder or container established in accordance with section 606, Tariff Act of 1930, as amended (19 U.S.C. 1606). If the domestic value exceeds the amount of the bond the claim for liquidated damages will be equal to the amount of the bond.

[T.D. 56542, 30 FR 15143, Dec. 8, 1965, as amended by T.D. 71-70, 36 FR 4485, Mar. 6, 1971; T.D. 84-213, 49 FR 41165, Oct. 19, 1984; T.D. 86-13, 51 FR 4164, Feb. 3, 1986; T.D. 89-1, 53 FR 51249, Dec. 21, 1988; T.D. 96-20, 61 FR 7989, Mar. 1, 1996; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 99-64, 64 FR 43265, Aug. 10, 1999]

ARTICLES FOR INSTITUTIONS

§ 10.43 Duty-free status.

(a) The port director may, at his discretion, require appropriate proof of