

§ 327.13

9 CFR Ch. III (1-1-06 Edition)

inspected for soundness and checked for net weight. Samples may be collected for laboratory examination, but the products may be released under customs' bond pending the report of laboratory findings.

(c) Samples shall be taken from foreign canned products or packaged products as required by § 327.6 (a) and (j) of this part.

[35 FR 15610, Oct. 3, 1970, as amended at 49 FR 36818, Sept. 20, 1984]

**§ 327.13 Foreign products offered for importation; reporting of findings to customs; handling of articles refused entry.**

(a)(1) Program inspectors shall report their findings as to any product which has been inspected in accordance with this part, to the Director of Customs at the original port of entry where the same is offered for clearance through Customs inspection.

(2) When product has been identified as "U.S. refused entry," the inspector shall request the Director of Customs to refuse admission to such product and to direct that it be exported by the owner or consignee within the time specified in this section, unless the owner or consignee, within the specified time, causes it to be destroyed by disposing of it under the supervision of a Program employee so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or consignee of the refused entry product shall not transfer legal title to such product, except to a foreign consignee for direct and immediate exportation, or to an end user, e.g., an animal food manufacturer or a renderer, for destruction for human food purposes. "Refused entry" product must be delivered to and used by the manufacturer or renderer within the 45-day time limit. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product or have it destroyed as specified in the notice under paragraph (a)(5) of this section.

(3) No lot of product which has been refused entry may be subdivided during disposition pursuant to paragraph (a)(2) of this section, except that re-

moval and destruction of any damaged or otherwise unsound product from a lot destined for reexportation is permitted under supervision of USDA prior to exportation. Additionally, such refused entry lot may not be shipped for export from any port other than that through which the product came into the United States, without the expressed consent of the Administrator based on full information concerning the product's disposition, including the name of the vessel and the date of export. For the purposes of this paragraph, the term "lot" shall refer to that product identified on MP Form 410 in the original request for inspection for importation pursuant to § 327.5.

(4) Product which has been refused entry solely because of misbranding, in lieu of exportation or destruction pursuant to paragraph (a)(2) of this section, may be brought into compliance with the requirements of this part, under supervision of an authorized representative of the Administrator.

(5) The owner or consignee shall have 45 days after notice is given by FSIS to the Director of Customs at the original port of entry to take the action required in paragraph (a)(2) of this section for "refused entry" product. Extension beyond the 45-day period may be granted by the Administrator when extreme circumstances warrant it; e.g., a dock workers' strike or an unforeseeable vessel delay.

(6) If the owner or consignee fails to take the required action within the time specified under paragraph (a)(5) of this section, the Department will take such action as may be necessary to effectuate its order to have the product destroyed for human food purposes. The Department shall seek court costs and fees, storage, and proper expense in the appropriate legal forum.

(7) No product which has been refused entry and exported to another country pursuant to paragraph (a)(2) of this section may be returned to the United States under any circumstance. Any such product so returned to the United States shall be subject to administrative detention in accordance with section 402 of the Act and seizure and condemnation in accordance with section 403 of the Act.

(b) Upon the request of the Director of Customs at the port where a product is offered for clearance through the customs, the consignee of the product shall, at the consignee's own expense, immediately return to the Director any product which has been delivered to consignee under §327.7 and subsequently designated "U.S. Refused Entry" or found in any respect not to comply with the requirements in this part.

(c) All charges for storage, cartage, and labor with respect to any product which was imported contrary to the Act shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against such product and any other product thereafter imported by or for such owner or consignee.

[35 FR 15610, Oct. 3, 1970, as amended at 48 FR 15889, Apr. 13, 1983; 49 FR 29568, July 23, 1984; 50 FR 19907, May 13, 1985; 53 FR 17015, May 13, 1988; 54 FR 50735, Dec. 11, 1989]

**§327.14 Marking of products and labeling of immediate containers thereof for importation.**

(a) Product which is offered for importation, and which is susceptible of marking, shall, whether or not enclosed in an immediate container, bear the name of the country of origin, preceded by the words "product of"; the establishment number assigned by the foreign meat inspection system and certified to the Program; and such other markings as are necessary for compliance with part 316 of this subchapter. When such markings are imprints of stamps or brands made with branding ink, such ink shall be harmless and shall create permanent imprints. In case the name of the country of origin appears as part of an official mark of the national foreign government and such name is prominently and legibly displayed, the words "product of" may be omitted.

(b) In addition to the marking of products required under paragraph (a) of this section, the immediate container of any product offered for importation:

(1) Shall bear a label showing in accordance with §317.2 of this subchapter all information required by that section (except that the establishment

number assigned by the foreign meat inspection system and certified to the Program and the official inspection mark of the foreign meat inspection system shall be shown instead of the official inspection legend of the United States) and in addition the name of the country of origin preceded by the words "product of," immediately under the name or descriptive designation of the product as required by §317.2: *Provided*, That such establishment number may be omitted from a label lithographed directly on a can if said number is lithographed or embossed elsewhere on the can; and

(2) Shall, if such immediate container is a sealed metal container, have the establishment number assigned by the foreign meat inspection authority and certified by the Program embossed or lithographed on the sealed metal container, and such establishment number shall not be covered or obscured by any label or other means.

(c) All marks and other labeling for use on or with immediate containers, as well as private brands on carcasses or parts of carcasses, shall be approved by the Food Safety and Inspection Service in accordance with part 317 of this subchapter before products bearing such marks, labeling, or brands will be entered into the United States. The marks of inspection of foreign systems embossed on metal containers or branded on carcasses or parts thereof need not be submitted to the Food Safety and Inspection Service for approval, and such marks of inspection put on stencils, box dies, labels, and brands may be used on such immediate containers as tierces, barrels, drums, boxes, crates, and large-size fiberboard containers of foreign products without such marks of inspection being submitted for approval, provided the markings made by such articles are applicable to the product and are not false or misleading.

[35 FR 15610, Oct. 3, 1970, as amended at 51 FR 37707, Oct. 24, 1986; 60 FR 67456, Dec. 29, 1995]

**§327.15 Outside containers of foreign products; marking and labeling; application of official inspection legend.**

(a) The outside container in which any immediate container of foreign