

## § 141.113

## 19 CFR Ch. I (4-1-08 Edition)

after such merchandise is taken into Customs custody, unless proof is submitted that the claim for contribution in general average has been paid or secured.

(d) *Merchandise entered for immediate transportation.* A notice of lien upon merchandise entered for immediate transportation shall be filed by the claimant with the port director at the destination.

(e) *Limitations on acceptance of notice of lien.* A notice of lien shall be rejected and returned with the reason for rejection noted thereon if it is filed after any of the following actions have been taken concerning the merchandise:

- (1) Release from Customs custody;
- (2) Forfeiture under any provision of law;
- (3) Sale as unclaimed or abandoned merchandise under section 491 or 559, Tariff Act of 1930, as amended (19 U.S.C. 1491 or 1559); or
- (4) Receipt and acceptance of a notice of abandonment to the Government under section 506(1) or 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1506(1) or 1563(b)).

(f) *Forfeited or abandoned merchandise.* The acceptance of a notice of lien shall not in any manner affect the order of disposition and accounting for the proceeds of sales of forfeited and abandoned property provided for in Subpart D of part 127 and §§ 158.44 and 162.51 of this chapter.

(g) *Bond may be required.* When any doubt exists as to the validity of a lien filed with the port director, he may require a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, to hold him harmless from any liability which may result from withholding the release of the merchandise.

(h) *Satisfaction of lien.* The port director shall not adjudicate any dispute respecting the validity of any lien, but when the amount of such lien depends upon the quantity or weight of merchandise actually landed, the port director shall hold the lien satisfied upon the payment of an amount computed upon the basis of the official Customs report of quantity and weight. In all other cases, proof that the lien has been satisfied or discharged shall consist of a written release or receipt

signed by the claimant and filed with the port director, showing payment of the claim in full.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-114, 39 FR 32023, Apr. 3, 1974; T.D. 84-213, 49 FR 41184, Oct. 19, 1984; T.D. 88-7, 53 FR 4962, Feb. 19, 1988; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

### § 141.113 Recall of merchandise released from Customs and Border Protection custody.

(a)(1) *Merchandise not legally marked.* Certain merchandise is required to be marked or labeled pursuant to the following provisions:

- (i) Section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), pertaining to marking with country of origin;
- (ii) Textile Fiber Products Identification Act (15 U.S.C. 70);
- (iii) Wool Products Labeling Act (15 U.S.C. 68);
- (iv) Fur Products Labeling Act (15 U.S.C. 69); and
- (v) Chapter 91, Additional U.S. Note 4, Harmonized Tariff Schedule of the United States (HTSUS), pertaining to special marking for watch and clock movements, cases, and dials.

(2) If such merchandise is found after release to be not legally marked, the port director may demand its return to CBP custody for the purpose of requiring it to be properly marked or labeled. The demand for marking or labeling shall be made not later than 30 days after the date of entry in the case of merchandise examined in public stores, and places of arrival, such as docks, wharfs, or piers. Demand may be made no later than 30 days after the date of examination in the case of merchandise examined at the importer's premises or such other appropriate places as determined by the port director.

(b) *Textiles and textile products.* For purposes of determining whether the country of origin of textiles and textile products subject to the provisions of § 102.21 or § 102.22 of this chapter, as applicable, has been accurately represented to CBP, the release from CBP custody of any such textile or textile product shall be deemed conditional during the 180-day period following the date of release. If the port director finds during the conditional release period that a textile or textile product is

not entitled to admission into the commerce of the United States because the country of origin of the textile or textile product was not accurately represented to CBP, he shall promptly demand its return to CBP custody. Notwithstanding the provisions of paragraph (h) of this section and § 113.62(l)(1) of this chapter, a failure to comply with a demand for return to CBP custody made under this paragraph shall result in the assessment of liquidated damages equal to the value of the merchandise involved.

(c) *Food, drugs, devices, and cosmetics—(1) Conditional release period.* For purposes of determining the admissibility of any food, drug, device, or cosmetic imported pursuant to section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), as amended, the release from CBP custody of any such product will be deemed conditional. Unless extended in accordance with paragraph (c)(2) of this section, the conditional release period will terminate upon the earliest occurring of the following events:

- (i) The date that FDA issues a notice of refusal of admission;
- (ii) The date that FDA issues a notice that the merchandise may proceed; or
- (iii) Upon the end of the 30-day period following the date of release.

(2) *Extension of conditional release period.* The conditional release period provided under this paragraph (c) may be extended. The FDA must issue a written or electronic notice of sampling, detention, or other FDA action to the bond principal (*i.e.*, importer of record) within 30 days of the release of the merchandise in order for the extension of the conditional release period to be valid.

(3) *Issuance of a redelivery notice.* If FDA refuses admission of a food, drug, device or cosmetic into the United States, or if any notice of sampling or other request is not complied with, FDA will communicate that fact to the CBP port director who will demand the redelivery of the product to CBP custody. CBP will issue a notice of redelivery within 30 days from the date the product was refused admission by the FDA or from the date FDA determined the noncompliance with a notice of sampling or other request. The demand

for redelivery may be made contemporaneously with the notice of refusal issued by the FDA. Notwithstanding the provisions of paragraph (i) of this section, a failure to comply with a demand for redelivery made under this paragraph (c) will result in the assessment of liquidated damages equal to three times the value of the merchandise involved unless the port director has prescribed a bond equal to the domestic value of the merchandise pursuant to § 12.3(b) of this Chapter.

(d) *Other merchandise not entitled to admission.* If at any time after entry the port director finds that any merchandise contained in an importation is not entitled to admission into the commerce of the United States for any reason not enumerated in paragraph (a), (b), or (c) of this section, he shall promptly demand the return to CBP custody of any such merchandise which has been released.

(e) *Request for samples or additional examination packages not complied with by importer.* If the importer has not promptly complied with a request for samples or additional examination packages made by the port director pursuant to § 151.11 of this chapter, the port director may demand the return of the necessary merchandise to CBP custody.

(f) *Demand to importer of record or actual owner.* A demand for the return of merchandise to CBP custody shall be made on the importer of record, except that it shall be made on the actual owner if an actual owner's declaration and superseding bond have been filed in accordance with § 141.20 before the date of the demand.

(g) *Form of demand.* A demand for the return of merchandise to CBP custody shall be made on Customs Form 4647 or other appropriate form, or by letter. One copy, with the date of mailing or delivery noted thereon, shall be retained by the port director and made part of the entry record.

(h) *Time limitation.* A demand for the return of merchandise to CBP custody shall not be made after the liquidation of the entry covering such merchandise has become final.

(i) *Demand not complied with.* When the demand of the port director for return of merchandise to CBP custody is

not complied with, liquidated damages shall be assessed, except in the case of merchandise entered under chapter 98, subchapter XIII, HTSUS (19 U.S.C. 1202), in an amount equal to the value of the merchandise not returned or three times the value of the merchandise not returned if the merchandise is restricted or prohibited merchandise or alcoholic beverages, as determined at the time of entry. The amount of liquidated damages to be assessed on merchandise entered under chapter 98, subchapter XIII, HTSUS is set forth in § 10.39(d)(3) of this chapter.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-227, 39 FR 32023, Sept. 4, 1974; T.D. 89-1, 53 FR 51262, Dec. 21, 1988; T.D. 92-84, 57 FR 40607, Sept. 4, 1992; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 94-95, 59 FR 61800, Dec. 2, 1994; T.D. 99-64, 64 FR 43266, Aug. 10, 1999; T.D. 01-26, 66 FR 16854, Mar. 28, 2001; CBP Dec. 05-32, 70 FR 58016, Oct. 5, 2005; CBP Dec. 07-02, 72 FR 4429, Jan. 31, 2007]

## PART 142—ENTRY PROCESS

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AUTHORITY: 19 U.S.C. 66, 1448, 1484, 1624.

SOURCE: T.D. 79-221, 44 FR 46821, Aug. 9, 1979, unless otherwise noted.

#### § 142.0 Scope.

This part sets forth requirements and procedures relating to (a) the entry of merchandise, as authorized by section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), and (b) special permits for immediate delivery of merchandise, as authorized by section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)).

### Subpart A—Entry Documentation

#### § 142.1 Definitions.

For definitions of “entry”, “entry summary”, “submission”, “filing”, “presentation”, “entered for consumption”, “entered for warehouse”, and “entered temporarily under bond”, as