

deemed necessary for the protection of the revenue.

(3) *Waiver*. Except as provided in § 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the port director, accompanied by such proof of exportation and landing abroad as may be available.

(d) *Articles less than \$10*. In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed \$10 and which are exported without Customs supervision, but within the period during which the articles are authorized to remain in the Customs territory of the United States under bond (including any lawful extension), the bond may be cancelled upon production of evidence of exportation satisfactory to the port director.

Subpart G—Customs Bond Conditions

§ 113.61 General.

Each section in this subpart identifies specific coverage for a particular Customs activity. When an individual or organization files a bond with Customs the activity in which they plan on engaging will be identified on the bond. The bond conditions listed in this subpart which correspond to that activity will be incorporated by reference into the bond.

§ 113.62 Basic importation and entry bond conditions.

A bond for basic importation and entry shall contain the conditions listed in this section and may be either a single entry or a continuous bond.

BASIC IMPORTATION AND ENTRY BOND CONDITIONS

(a) *Agreement to Pay Duties, Taxes, and Charges*. (1) If merchandise is imported and released from Customs custody or withdrawn from a Customs bonded warehouse into the commerce of, or for consumption in, the United States, or under § 181.53 of this chapter is withdrawn from a duty-deferral program for exportation to Canada or Mexico or for entry into a duty-defer-

ral program in Canada or Mexico, the obligors (principal and surety, jointly and severally) agree to:

(i) Deposit, within the time prescribed by law or regulation, any duties, taxes, and charges imposed, or estimated to be due, at the time of release or withdrawal; and

(ii) Pay, as demanded by Customs, all additional duties, taxes, and charges subsequently found due, legally fixed, and imposed on any entry secured by this bond.

(2) If the principal enters any merchandise into a Customs bonded warehouse, the obligors agree;

(i) To pay any duties, taxes, and charges found to be due on any of that merchandise which remains in the warehouse at the expiration of the warehousing time limit set by law; and

(ii) That the obligation to pay duties, taxes, and charges on the merchandise applies whether it is properly withdrawn by the principal, or by the principal's transferee, or is unlawfully removed by the principal or any other person, without regard to whether the merchandise is manipulated, unless payment was made or secured to be made by some other person.

(3) Under this agreement, the obligation to pay any and all duties, taxes, and charges due on any entry ceases on the date the principal timely files with the port director a bond of the owner in which the owner agrees to pay all duties, taxes, and charges found due on that entry; provided a declaration of the owner has also been properly filed.

(b) *Agreement to Make or Complete Entry*. If all or part of imported merchandise is released before entry under the provisions of the special delivery permit procedures under 19 U.S.C. 1448(b), released before completion of the entry under 19 U.S.C. 1484(a), or withdrawn from warehouse under 19 U.S.C. 1557(a) (see § 10.62b of this chapter), the principal agrees to file within the time and in the manner prescribed by law and regulation, documentation to enable Customs to:

(1) Determine whether the merchandise may be released from Customs custody;

(2) Properly assess duties on the merchandise;

(3) Collect accurate statistics with respect to the merchandise; and

(4) Determine whether applicable requirements of law and regulation are met.

(c) *Agreement to Produce Documents and Evidence.* If merchandise is released conditionally to the principal before all required documents or other evidence is produced, the principal agrees to furnish Customs with any document or evidence as required by law or regulation, and within the time specified by law or regulations.

(d) *Agreement to Redeliver Merchandise.* If merchandise is released conditionally from Customs custody to the principal before all required evidence is produced, before its quantity and value are determined, or before its right of admission into the United States is determined, the principal agrees to redeliver timely, on demand by Customs, the merchandise released if it:

(1) Fails to comply with the laws or regulations governing admission into the United States;

(2) Must be examined, inspected, or appraised as required by 19 U.S.C. 1499; or

(3) Must be marked with the country of origin as required by law or regulation.

It is understood that any demand for redelivery will be made no later than 30 days after the date that the merchandise was released or 30 days after the end of the conditional release period (whichever is later).

(e) *Agreement to Rectify Any Non-Compliance with Provisions of Admission.* If merchandise is released conditionally to the principal before its right of admission into the United States is determined, the principal, after notification, agrees to mark, clean, fumigate, destroy, export or do any other thing to the merchandise in order to comply with the law and regulations governing its admission into the United States within the time period set in the notification.

(f) *Agreement for Examination of Merchandise.* If the principal obtains permission to have any merchandise examined elsewhere than at a wharf or other place in charge of a Customs officer, the principal agrees to:

(1) Hold the merchandise at the place of examination until the merchandise is properly released;

(2) Transfer the merchandise to another place on receipt of instructions from Customs made before release; and

(3) Keep any Customs seal or cording on the merchandise intact until the merchandise is examined by Customs.

(g) *Reimbursement and Exoneration of the United States.* The obligors agree to:

(1) Pay the compensation and expenses of any Customs officer, as required by law or regulation; and

(2) Exonerate the United States and its officers from any risk, loss, or expense arising out of principal's importation, entry, or withdrawal of merchandise.

(h) *Agreement on Duty-Free Entries or Withdrawals.* If the principal enters or withdraws any merchandise, without payment of duty and tax, or at a reduced rate of duty and tax, as permitted under the law, the principal agrees:

(1) To use and handle the merchandise in the manner and for the purpose entitling it to duty-free treatment;

(2) If a fishing vessel, to present the original approved application to Customs within 24 hours on each arrival of the vessel in the Customs territory of the United States from a fishing voyage;

(3) To furnish timely proof to Customs that any merchandise entered or withdrawn under any law permitting duty-free treatment was used in accordance with that law; and

(4) To keep safely all withdrawn beverages remaining on board while the vessel is in port, as may be required by Customs.

(i) *Agreement to comply with Customs Regulations applicable to Customs security areas at airports.* If access to the Customs security areas at airports is desired, the principal (including its employees, agents, and contractors) agrees to comply with the Customs Regulations in this chapter applicable to Customs security areas at airports. If the principal defaults, the obligors (principal and surety, joint and severally) agree to pay liquidated damages of \$1000 for each default or such other amount as may be authorized by law or regulation.

(j) *Agreement to comply with electronic entry and/or advance cargo information filing requirements.* (1) If the principal is qualified to utilize electronic entry filing as provided for in part 143, subpart D, of this chapter, the principal agrees to comply with all conditions set forth in that subpart and to send and accept electronic transmissions without the necessity of paper copies.

(2) If the principal elects to provide advance inward air or truck cargo information to Customs and Border Protection (CBP) electronically, the principal agrees to provide such cargo information to CBP in the manner and in the time period required, respectively, under § 122.48a or 123.92 of this chapter. If the principal defaults with regard to these obligations, the principal and surety (jointly and severally) agree to pay liquidated damages of \$5,000 for each regulation violated.

(k) *Agreement to ensure and establish issuance of softwood lumber export permit and collection of export fees.* In the case of a softwood lumber product imported from Canada that is subject to the requirement that the Government of Canada issue an export permit pursuant to the Softwood Lumber Agreement, the principal agrees, as set forth in § 12.140(a) of this chapter, to assume the obligation to ensure within 20 working days of release of the merchandise, and establish to the satisfaction of Customs, that the applicable export permit has been issued by the Government of Canada.

(l) *Consequence of default.* (1) If the principal defaults on agreements in this condition other than conditions in paragraphs (a), (g), (i), (j)(2), or (k) of this section the obligors agree to pay liquidated damages equal to the value of the merchandise involved in the default, or three times the value of the merchandise involved in the default if the merchandise is restricted or prohibited merchandise or alcoholic beverages, or such other amount as may be authorized by law or regulation.

(2) It is understood and agreed that whether the default involves merchandise is determined by Customs and that the amount to be collected under these conditions shall be based upon the quantity and value of the merchandise as determined by Customs. Value as

used in these provisions means value as determined under 19 U.S.C. 1401a.

(3) If the principal defaults on agreements in this condition other than conditions (a) or (g) and the default does not involve merchandise, the obligors agree to pay liquidated damages of \$1,000 for each default or such other amount as may be authorized by law or regulation.

(4) If the principal defaults on agreements in the condition set forth in paragraph (a)(1)(i) of this section only, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the unpaid duties, taxes and charges estimated to be due or \$1,000, whichever is greater. A default on the condition set forth in paragraph (a)(1)(i) of this section shall be presumed if any monetary instrument authorized for the payment of estimated duties, taxes and charges by § 24.1(a) of this chapter is returned unpaid by a financial institution, or if a payment authorized under Automated Clearinghouse (see § 24.25 of this chapter) is not transmitted electronically to Customs in a timely manner. If the principal defaults on agreements in both of the conditions as set forth in paragraphs (a)(1)(i) and (b) of this section, the measure of liquidated damages assessed shall be as provided in paragraph (1)(1) of this section for a default of the agreements in the condition set forth in paragraph (b) of this section. For purposes of this paragraph, the phrase “unpaid duties, taxes and charges” shall include any appropriate ad valorem fees described in § 24.23 of this chapter, fees relating to dutiable mail described in § 24.22(f) of this chapter, and harbor maintenance fees described in § 24.24(e)(3) (i) and (ii) of this chapter.

(5) If the principal defaults on agreements in the condition set forth in paragraph (k) of this section only, the

obligors agree to pay liquidated damages equal to \$100 per thousand board feet of the imported lumber.

[T.D. 84-213, 49 FR 41171, Oct. 19, 1984, as amended by T.D. 88-46, 53 FR 29230, Aug. 3, 1988; T.D. 88-72, 53 FR 45902, Nov. 15, 1988; T.D. 90-92, 55 FR 49884, Dec. 3, 1990; T.D. 93-37, 58 FR 30984, May 28, 1993; T.D. 96-14, 61 FR 2911, Jan. 30, 1996; T.D. 96-18, 61 FR 6780, Feb. 22, 1996; T.D. 97-9, 62 FR 8623, Feb. 26, 1997; T.D. 98-56, 63 FR 32945, June 16, 1998; T.D. 00-87, 65 FR 77815, Dec. 13, 2000; T.D. 01-26, 66 FR 16854, Mar. 28, 2001; CBP Dec. 03-32, 68 FR 68169, Dec. 5, 2003]

§ 113.63 Basic custodial bond conditions.

A basic custodial bond shall contain the conditions listed in this section and shall be a continuous bond.

BASIC CUSTODIAL BOND CONDITIONS

(a) *Receipt of Merchandise.* The principal agrees:

(1) To operate as a custodian of any bonded merchandise received, including merchandise collected for transport to his facility, and to comply with all regulations regarding the receipt, carriage, safekeeping, and disposition of such merchandise;

(2) To accept only merchandise authorized under Customs Regulations;

(3) To maintain all records required by regulations relating to merchandise received into bond, and to produce the records upon demand by an authorized Customs officer;

(4) If authorized to use the alternative transfer procedure set forth in §144.34(c) of this chapter, to operate as constructive custodian for all merchandise transferred under those procedures, thereby assuming primary responsibility for the continued proper custody of the merchandise notwithstanding its geographical location;

(5) If authorized to operate a container station under the Customs Regulations, to report promptly to Customs each arrival of a container and its merchandise by delivery of the manifest and the application for transfer, or by other approved notice.

(b) *Carriage and Safekeeping of Merchandise.* The principal agrees:

(1) If a bonded carrier, to use only authorized means of conveyance;

(2) To keep safe any merchandise placed in its custody including, when

approved by Customs, repacking and transferring such merchandise when necessary for its safety or preservation;

(3) To comply with Customs Regulations relating to the handling of bonded merchandise; and

(4) If authorized to use the alternative transfer procedure set forth in §144.34(c) of this chapter, to keep safe any merchandise so transferred.

(c) *Disposition of Merchandise.* The principal agrees:

(1) If a bonded carrier, to report promptly the arrival of merchandise at the destination port by delivering to Customs the manifest or other approved notice;

(2) If a cartage or lighterage business, to deliver promptly and safely to Customs any merchandise placed in the principal's custody together with any related cartage and lighterage ticket and manifest;

(3) To dispose of merchandise in a manner authorized by Customs Regulations; and

(4) To file timely with Customs any report required by Customs Regulations.

(5) In the case of Class 9 warehouses, to provide reasonable assurance of exportation of merchandise withdrawn under the sales ticket procedure of §144.37(h) of this chapter.

(d) *Agreement to Redeliver Merchandise to Customs.* If the principal is designated a bonded carrier, or licensed to operate a cartage or lighterage business, or authorized to use the alternative transfer procedure set forth in §144.34(c) of this chapter, the principal agrees to redeliver timely, on demand by Customs, any merchandise delivered to unauthorized locations or to the consignee without the permission of Customs. It is understood that the demand for redelivery shall be made no later than 30 days after Customs discovers the improper delivery.

(e) *Compliance with Licensing and Operating Requirements.* The principal agrees to comply with all Customs laws and regulations relating to principal's facilities, conveyances, and employees.