

the treatment provided for in part 122 of this chapter, unless entered under the provisions of §§ 10.31, 10.183, or paragraph (d) of this section.

(d) Any foreign-owned locomotive or other railroad equipment, truck, bus, taxicab, or other vehicle, aircraft, or undocumented boat brought into the United States for the purpose of carrying merchandise or passengers between points in the United States for hire or as an element of a commercial transaction, except as provided at §§ 123.12 (a) and (b), 123.14(c), and 141.4(b)(4), is subject to treatment as an importation of merchandise from a foreign country and a regular entry for such vehicle, aircraft or boat will be made. The use of any such vehicle, aircraft, or boat without a proper entry having been made may result in liabilities being incurred under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

(e) [Reserved]

(f) Material for the maintenance or repair of international cables under the high seas, if requiring storage in special tanks for preservation, may be placed in tanks specially bonded for the purpose and withdrawn therefrom for high-seas installation without the payment of duty and without limitation of the storage period to the usual 3-year warehousing period. International cables laid under the territorial waters of the United States but not brought on shore in the United States shall be admitted without entry or the payment of duty. With respect to international cables laid under the territorial waters of the United States but brought on shore in the United States, only that part of the cable in the United States between the point of entry into the territorial waters of the United States and the first point of support on land in the United States shall be admitted without the payment of duty.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 70-121, 35 FR 8222, May 26, 1970; T.D. 79-160, 44 FR 31956, June 4, 1979; T.D. 84-109, 49 FR 19450, May 8, 1984; T.D. 88-12, 53 FR 9315, Mar. 22, 1988; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 99-79, 64 FR 61205, Nov. 10, 1999]

§ 10.41a Lift vans, cargo vans, shipping tanks, skids, pallets, and similar instruments of international traffic; repair components.

(a)(1) Lift vans, cargo vans, shipping tanks, skids, pallets, caul boards, and cores for textile fabrics, arriving (whether loaded or empty) in use or to be used in the shipment of merchandise in international traffic are hereby designated as “instruments of international traffic” within the meaning of section 322(a), Tariff Act of 1930, as amended. The Commissioner of Customs is authorized to designate as instruments of international traffic, in decisions to be published in the weekly Customs Bulletin, such additional articles or classes of articles as he shall find should be so designated. Such instruments may be released without entry or the payment of duty, subject to the provisions of this section.

(2) Repair components, accessories, and equipment for any container of foreign production which is an instrument of international traffic may be entered or withdrawn from warehouse for consumption without the deposit of duty if the person making the entry or withdrawal from warehouse files a declaration that the repair component was imported to be used in the repair of a container of foreign production which is an instrument of international traffic, or that the accessory or equipment is for a container of foreign production which is an instrument of international traffic. The port director must be satisfied that the importer of the repair component, accessory, or equipment had the declared intention at the time of importation.

(3) As used in this section, “instruments of international traffic” includes the normal accessories and equipment imported with any such instrument which is a “container” as defined in Article 1 of the Customs Convention on Containers.

(b) The reexportation of a container, as defined in Article 1 of the Customs Convention on Containers, which has become badly damaged, shall not be required in the case of a duly authenticated accident if the container (1) is subjected to applicable import duties and import taxes, or (2) is abandoned free of all expense to the Government

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or destroyed under Customs supervision at the expense of the parties concerned, following the procedure outlined in §158.43(c) of this chapter. Any salvaged parts and materials shall be subjected to applicable import duties and import taxes. Replaced parts which are not reexported shall be subjected to import duties and import taxes except where abandoned free of expense to the Government or destroyed under Customs supervision at the expense of the parties concerned.

(c) The instruments of international traffic designated in paragraph (a) of this section may be released in accordance with the provisions of that paragraph only after the applicant for such release has filed a bond on Customs Form 301, containing the bond conditions set forth in §113.66 of this chapter. The required application may be filed at the port of arrival or at a subsequent port to which an instrument shall have been transported in bond or to which a container shall have been moved under cover of a TIR carnet (see part 114 of this chapter) showing the characteristics and value of the container on the Goods Manifest of the carnet. If the container is listed on the Goods Manifest of the carnet, the application may be filed at the port of arrival or at the subsequent port. If the container is not listed on the Goods Manifest, the application shall be filed at the port of arrival. When the application is filed at a port other than the port at which the bond is on file, the following procedure applies:

(1) When the application is filed before the fact of approval of the applicant's bond has been established, the applicant must submit with the application, or the Customs officer to whom the application is made must obtain, evidence that a current bond is on file at another port. That evidence may consist of a certified copy of the bond, or any other evidence which will satisfy the Customs officer to whom the application is made that a current bond is on file at another port.

(2) If the application is filed after the fact of approval of the applicant's bond has been established, a certified copy of that bond need not be filed at the port of release. Upon determination by the appropriate Customs officer that

the fact of approval of the applicant's bond has been established, and the bond has not been subsequently discontinued, the instruments of international traffic will be released as provided for in paragraph (a) of this section.

(3) Upon the request of the applicant, the appropriate Customs officer at the port at which the instruments of international traffic are to be released will determine whether or not the fact of approval of the applicant's bond has been established. If the approval has not been established, the Customs officer with whom the application has been filed will advise the applicant of the nature of the evidence required to establish the fact that a current bond is on file at another port.

(d) If an instrument of foreign origin, or of United States origin which has been increased in value or improved in condition by a process of manufacture or other means while abroad, is released under this section and is subsequently diverted to point-to-point local traffic within the United States, or is otherwise withdrawn in the United States from its use as an instrument of international traffic, it becomes subject to entry and the payment of any applicable duties. An instrument of United States origin which has not been increased in value or improved in condition by a process of manufacture or other means while abroad and which is released under this section shall not be subject to entry or the payment of duty if it is so diverted or otherwise withdrawn.

(e) The person who filed the application for release under paragraph (a)(1) of this section shall promptly notify a director of a port of entry in the United States as defined in Section 401(k), Tariff Act of 1930, as amended, (1) that the container is to be abandoned or destroyed, as described in paragraph (b) of this section, or (2) that the instrument is the subject of a diversion or withdrawal as described in paragraph (d) of this section, in which event he shall file with the port director a consumption entry for the instrument and pay all import duties and import taxes due on the container or instrument at the rate or rates in effect

and in its condition on the date of such diversion or withdrawal.

(f)(1) Except as provided in paragraph (j) of this section, an instrument of international traffic (other than a container as defined in Article 1 of the Customs Convention on Containers that is governed by paragraphs (g) (1)–(3) of this section) may be used as follows in point-to-point traffic, provided such traffic is incidental to the efficient and economical utilization of the instrument in the course of its use in international traffic:

(i) Picking up and delivering loads at intervening points in the United States while en route between the port of arrival and the point of destination of its imported cargo; or

(ii) Picking up and delivering loads at intervening points in the United States while en route from the point of destination of imported cargo to a point where export cargo is to be loaded or to an exterior port of departure by a reasonably direct route to, or nearer to, the place of such loading or departure.

(2) Neither use as enumerated in paragraph (f)(1)(i) or (ii) of this section constitutes a diversion to unpermitted point-to-point local traffic within the United States or a withdrawal of an instrument in the United States from its use as an instrument of international traffic under this section.

(g)(1) Except as provided in paragraph (j) of this section, a container (as defined in Article 1 of the Customs Convention on Containers) that is designated as an instrument of international traffic is deemed to remain in international traffic provided that the container exits the U.S. within 365 days of the date on that it was admitted under this section. An exit from the U.S. in this context means a movement across the border of the United States into a foreign country where either:

(i) All merchandise is unladen from the container; or

(ii) Merchandise is laden aboard the container (if the container is empty).

(2) The person who filed the application for release under paragraph (a)(1) of this section is responsible for keeping and maintaining such records, otherwise generated and retained in the ordinary course of business, as may be

necessary to establish the international movements of the containers. Such records shall be made available for inspection by Customs officials upon reasonable notice.

(3) If the container does not exit the U.S. within 365 days of the date on which it is admitted under this section, such container shall be considered to have been removed from international traffic, and entry for consumption must be made within 10 business days after the end of the month in which the container is deemed removed from international traffic. When entry is required under this section, any containers considered removed from international traffic in the same month may be listed on one entry. Such entry may be made at any port of entry. Under 19 U.S.C. 1484(a)(1)(B), the importer of record is required, using reasonable care, to complete the entry by filing with Customs the declared value, classification and rate of duty applicable to the merchandise. The importer of record must use the value of the container as determined in accordance with section 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by the Trade Agreements Act of 1979 (TAA).

(h) For failure promptly to report the diversion or withdrawal or promptly to make the required entry and pay the duties due, the applicant shall be liable for the payment of liquidated damages equal to the domestic value of the instrument established in accordance with Section 606, Tariff Act of 1930.

(i) When an instrument of international traffic, as provided in paragraph (a) of this section, is returned to the United States and released in accordance with the provisions of that 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

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States, with particular reference to Section 883, Title 46, United States Code (see § 4.93 of this chapter).

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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;

(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