

(b) *Concurrence of warehouse proprietor.* An application to abandon or destroy warehoused merchandise shall not be approved unless concurred in by the warehouse proprietor.

(c) *Abandonment—(1) Costs.* When in the opinion of the port director the abandonment of merchandise under section 563(b), Tariff Act of 1930, as amended (19 U.S.C. 1563(b)), will involve any expense or cost to the Government, or if the merchandise is worthless or unsalable, or cannot be sold for a sum sufficient to pay the expenses of sale, such abandonment shall not be permitted unless the importer deposits a sum which in the opinion of the port director will be sufficient to save the Government harmless from any expense or cost resulting from such abandonment. The sum so advanced shall be placed in a special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining shall be refunded to the importer. However, the applicant may elect to destroy such merchandise under Customs supervision pursuant to the provisions of section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)).

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

(d) *Destruction—(1) Costs.* Destruction of merchandise under section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), shall be at the expense of the importer.

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

(e) *Action by port director.* When the conditions set forth in paragraphs (a) through (d) of this section are met, the port director may grant applications and make an allowance in duties for the merchandise abandoned or destroyed. In any case where doubt ex-

ists, the matter shall be referred to the Commissioner of Customs.

(Secs. 557, 563, 46 Stat. 744, as amended, 746, as amended; 19 U.S.C. 1557, 1563)

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 79-221, 44 FR 46829, Aug. 9, 1979]

§ 158.44 Disposition of abandoned merchandise.

(a) *General conditions.* The disposition of merchandise abandoned to the Government pursuant to § 158.42 or § 158.43, and not retained for official use, shall be governed by the regulations of the General Services Administration applicable to the United States Customs Service.

(b) *Sale of merchandise.* If the merchandise is cleared for sale, it shall be sold in accordance with the applicable provisions of part 127 of this chapter, unless it is worthless or it appears probable that the expenses of sale will exceed the proceeds. If the merchandise is sold, no part of the proceeds shall be returned to the importer.

(c) *Disposition of worthless merchandise.* If the merchandise or any part thereof is worthless or it appears probable that the expenses of its sale will exceed the proceeds, it shall be destroyed or otherwise disposed of as the port director shall specify. The port director shall insure that such merchandise is destroyed or removed from the control of the importer to avoid the possibility of any part of the same merchandise being made the subject of another application.

(Secs. 506(1), 563(b), 46 Stat. 732, as amended, 746, as amended; 19 U.S.C. 1506(1), 1563(b) R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 77-12, 41 FR 56629, Dec. 29, 1976]

§ 158.45 Exportation of merchandise.

(a) *From continuous Customs custody.* Merchandise in Customs custody for which entry has not been completed and merchandise which has remained in continuous Customs custody that is covered by a liquidated or unliquidated consumption entry may be exported

under Customs supervision in accordance with §§18.25 through 18.27 of this chapter, with refund of any duties that have been paid.

(b) *After release from Customs custody.* Except as provided for in paragraphs (c) and (d) of this section, no refund or other allowance in duties shall be made because of the exportation of merchandise after its release from Customs custody unless a drawback of duties is expressly provided for by law (see part 191 of this chapter).

(c) *Prohibited merchandise.* If merchandise has been regularly entered or withdrawn for consumption in good faith and is thereafter found to be prohibited entry under any law of the United States, it may be exported under Customs supervision in accordance with §§18.25 through 18.27 of this chapter, with refund of any duties that have been paid. In lieu of exportation, the merchandise may be destroyed in accordance with §158.41.

(d) *Not legally marked merchandise.* When merchandise found to be not legally marked is exported or destroyed under Customs supervision after once having been released from Customs custody, as provided for in section 304(f), Tariff Act of 1930, as amended (19 U.S.C. 1304(f)), such exportation or destruction shall not exempt such merchandise from the payment of duties other than the marking duties.

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558; R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 83-212, 48 FR 46771, Oct. 14, 1983; T.D. 90-51, 55 FR 28191, July 10, 1990]

PART 159—LIQUIDATION OF DUTIES

Sec.

159.0 Scope.

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AUTHORITY: 19 U.S.C. 66, 1500, 1504, 1624. Subpart C also issued under 31 U.S.C. 5151.

Sections 159.4, 159.5, and 159.21 also issued under 19 U.S.C. 1315;

Section 159.6 also issued under 19 U.S.C. 1321, 1505;

Section 159.7 also issued under 19 U.S.C. 1557;

Section 159.22 also issued under 19 U.S.C. 1507;