

PART 134—COUNTRY OF ORIGIN MARKING

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§ 134.0 Scope.

This part sets forth regulations implementing the country of origin marking requirements and exceptions of section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking provisions of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). The consequences and procedures to be followed when articles are not legally marked are set forth in this part. The consequences and procedures to be followed when articles are falsely marked are set forth in §11.13 of this chapter. Special marking and labeling requirements are covered elsewhere. Provisions regarding the review and appeal rights of exporters and producers resulting from adverse North American Free Trade Agreement marking decisions are contained in subpart J of part 181 of this chapter.

[T.D. 81-290, 46 FR 58070, Nov. 30, 1981, as amended by T.D. 89-1, 53 FR 51255, Dec. 21, 1988; T.D. 94-1, 58 FR 69471, Dec. 30, 1993]

Subpart A—General Provisions

§ 134.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *Country*. "Country" means the political entity known as a nation. Colonies, possessions, or protectorates outside the boundaries of the mother country are considered separate countries.

(b) *Country of origin*. "Country of origin" means the country of manufacture, production, or growth of any article of foreign origin entering the United States. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin" within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

(c) *Foreign origin*. "Foreign origin" refers to a country of origin other than the United States, as defined in paragraph (e) of this section, or its possessions and territories.

(d) *Ultimate purchaser*. The "ultimate purchaser" is generally the last person in the United States who will receive the article in the form in which it was imported; however, for a good of a NAFTA country, the "ultimate purchaser" is the last person in the United States who purchases the good in the form in which it was imported. It is not feasible to state who will be the "ultimate purchaser" in every circumstance. The following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article, or for a good of a NAFTA country, a process which results in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the "ultimate purchaser." With respect to a good of a NAFTA country, if the manufacturing process does not result in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in

the article's country of origin, the consumer who purchases the article after processing will be regarded as the ultimate purchaser.

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser."

(4) If the imported article is distributed as a gift the recipient is the "ultimate purchaser", unless the good is a good of a NAFTA country. In that case, the purchaser of the gift is the ultimate purchaser.

(e) *United States*. "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(f) *Customs territory of the United States*. "Customs territory of the United States," as used in this chapter includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(g) *Good of a NAFTA country*. A "good of a NAFTA country" is an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.

(h) *NAFTA*. "NAFTA" means the North American Free Trade Agreement entered into by the United States, Canada and Mexico on August 13, 1992.

(i) *NAFTA country*. "NAFTA country" means the territory of the United States, Canada or Mexico, as defined in Annex 201.1 of the NAFTA.

(j) *NAFTA Marking Rules*. The "NAFTA Marking Rules" are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country.

(k) *Conspicuous*. "Conspicuous" means capable of being easily seen with normal handling of the article or container.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94-1, 58 FR 69471, Dec. 30, 1993; T.D. 95-68, 60 FR 46362, Sept. 6, 1995]

§ 134.2 Additional duties.

Articles not marked as required by this part shall be subject to additional duties of 10 percent of the final appraised value unless exported or destroyed under Customs supervision prior to liquidation of the entry, as provided in 19 U.S.C. 1304(f). The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90-51, 55 FR 28190, July 10, 1990]

§ 134.3 Delivery withheld until marked and redelivery ordered.

(a) Any imported article (or its container) held in CBP custody for inspection, examination, or appraisement will not be delivered until marked with its country of origin, or until estimated duties payable under 19 U.S.C. 1304(f), or adequate security for those duties (see §134.53(a)(2)), are deposited.

(b) The port director may demand redelivery to CBP custody of any article (or its container) previously released which is found to be not marked legally with its country of origin for the purpose of requiring the article (or its container) to be properly marked. A demand for redelivery will be made, as required under §141.113(a) of this chapter, not later than 30 days after—

(1) The date of entry, in the case of merchandise examined in public stores and places of arrival, such as docks, wharfs, or piers; or

(2) 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.

(c) Nothing in this part shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of law.

[T.D. 80-88, 45 FR 18921, Mar. 24, 1980, as amended by T.D. 90-51, 55 FR 28190, July 10, 1990; CBP Dec. 08-25, 73 FR 40726, July 16, 2008]

§ 134.4 Penalties for removal, defacement, or alteration of marking.

Any intentional removal, defacement, destruction, or alteration of a marking of the country of origin required by section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), and this part in order to conceal this information may result in criminal penalties of up to \$5,000 and/or imprisonment for 1 year, as provided in 19 U.S.C. 1304(h).

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90-51, 55 FR 28191, July 10, 1990]

Subpart B—Articles Subject to Marking

§ 134.11 Country of origin marking required.

Unless excepted by law, section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that every article of foreign origin (or its container) imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article, at the time of importation into the Customs territory of the United States. Containers of articles excepted from marking shall be marked with the name of the country of origin of the article unless the container is also excepted from marking.

§ 134.12 Foreign articles reshipped from a U.S. possession.

Articles of foreign origin imported into any possession of the United States outside its Customs territory and reshipped to the United States are subject to all marking requirements applicable to like articles of foreign origin imported directly from a foreign country to the United States.

§ 134.13 Imported articles repacked or manipulated.

(a) *Marking requirement*. An article within the provisions of this section shall be marked with the name of the country of origin at the time the article is withdrawn for consumption unless the article and its container are exempted from marking under provisions of subpart D of this part at the time of importation.

(b) *Applicability*. The provisions of this section are applicable to the following articles:

(1) Articles repacked in a bonded warehouse under §19.8 of this chapter;

(2) Articles manipulated under section 562, Tariff Act of 1930, as amended (19 U.S.C. 1562), and §19.11 of this chapter;

(3) Articles manipulated, but not manufactured, in a foreign-trade zone under §146.32 of this chapter.

§ 134.14 Articles usually combined.

(a) *Articles combined before delivery to purchaser.* When an imported article is of a kind which is usually combined with another article after importation but before delivery to an ultimate purchaser and the name indicating the country of origin of the article appears in a place on the article so that the name will be visible after such combining, the marking shall include, in addition to the name of the country of origin, words or symbols which shall clearly show that the origin indicated is that of the imported article only and not that of any other article with which the imported article may be combined after importation.

(b) *Example.* Labels and similar articles so marked that the name of the country of origin of the label or article is visible after it is affixed to another article in this country shall be marked with additional descriptive words such as "Label made (or printed) in (name of country)" or words of similar meaning. See subpart C of this part for marking of bottles, drums, or other containers.

(c) *Applicability.* This section shall not apply to articles of a kind which are ordinarily so substantially changed in the United States that the articles in their changed condition become products of the United States. An article excepted from marking under subpart D of this part is not within the scope of section 304(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(2)), and is not subject to the requirements of this section.

Subpart C—Marking of Containers or Holders

§ 134.21 Special marking.

This subpart includes only country of origin marking requirements and exceptions under section 304(b), Tariff Act of 1930, as amended (19 U.S.C. 1304(b)), for containers or holders. Special marking may be required by the Internal Revenue Service on alcoholic beverage bottles and other requirements may be imposed by reason of the nature of the contents by other Government agencies.

§ 134.22 General rules for marking of containers or holders.

(a) *Contents excepted from marking.* When an article is excepted from the marking requirements by subpart D of this part, the outermost container or holder in which the article ordinarily reaches the ultimate purchaser shall be marked to indicate the country of origin of the article whether or not the article is marked to indicate its country of origin.

(b) *Containers or holders treated as imported articles.* Containers or holders for imported merchandise which are subject to treatment as imported articles under the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be marked to indicate clearly the country of their own origin in addition to any marking which may be required to show the country of origin of their contents; however, no marking is required for any good of a NAFTA country which is a usual container.

(c) *Containers or holders bearing a U.S. address.* Containers or holders of imported merchandise bearing the name and address of an importer, distributor, or other person or company in the United States shall be marked in close proximity to the U.S. address to indicate clearly the country of origin of the contents with a marking such as "Contents made in France" or "Contents Product of Spain."

(d) *Usual containers—(1) "Usual container" defined.* For purposes of this subpart, a usual container means the con-

tainer in which a good will ordinarily reach its ultimate purchaser. Containers which are not included in the price of the goods with which they are sold, or which impart the essential character to the whole, or which have significant uses, or lasting value independent of the contents, will generally not be regarded as usual containers. However, the fact that a container is sturdy and capable of repeated use with its contents does not preclude it from being considered a usual container so long as it is the type of container in which its contents are ordinarily sold. A usual container may be any type of container, including one which is specially shaped or fitted to contain a specific good or set of goods such as a camera case or an eyeglass case, or packing, storage and transportation materials.

(2) *A good of a NAFTA country which is a usual container.* A good of a NAFTA country which is a usual container, whether or not disposable and whether or not imported empty or filled, is not required to be marked with its own country of origin. If imported empty, the importer must be able to provide satisfactory evidence to Customs at the time of importation that it will be used only as a usual container (that it is to be filled with goods after importation and that such container is of a type in which these goods ordinarily reach the ultimate purchaser).

(e) *Exceptions.* Containers or holders of imported articles are not required to be marked if:

(1) *Excepted articles.* They are containers or holders of articles within the exceptions set forth in paragraph (f), (g), or (h) in §134.32 or they are containers of a good of a NAFTA country within the exceptions set forth in paragraph (e), (f), (g), (h), (i), (p) or (q) of §134.32.

(2) *Excepted containers or holders.* The container or holder itself is within an exception set forth in subpart D of this part.

(3) *To be filled by the importer.* The container or holder is within the exception set forth in §134.24(c).

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69471, Dec. 30, 1993]

§ 134.23 Containers or holders designed for or capable of reuse.

(a) *Usual and ordinary reusable containers or holders.* Except for goods of a NAFTA country which are usual containers, containers or holders designed for or capable of reuse after the contents have been consumed, whether imported full or empty, must be individually marked to indicate the country of their own origin with a marking such as, "Container Made in (name of country)." Examples of the containers or holders contemplated are heavy duty steel drums, tanks, and other similar shipping, storage, transportation containers or holders capable of reuse. These containers or holders are subject to the treatment specified in General Rule of Interpretation 5(b), Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Other reusable containers or holders.* Containers or holders which give the whole importation its essential character, as described in General Rule of Interpretation 5(a) (19 U.S.C. 1202), must be individually marked to clearly indicate their own origin with a marking such as, "Container made in (name of country)." Examples of the containers contemplated are mustard jars reusable as beer mugs; shaving soap containers reusable as shaving mugs; fancy cologne bottles reusable as flower vases, and other containers which have a lasting value or decorative use.

Articles	References
Stamps, postage and revenue, and other articles covered in subheadings 9704.00.00 and 4807.00.00, Harmonized Tariff Schedule of the United States.	T.D. 66–153.
Staves (wood), barrel.	
Steel, hoop.	
Sugar, maple.	
Ties (wood), railroad.	
Tides, not over 1 inch in greatest dimension.	
Timbers, sawed.	
Tips, penholder.	
Trees, Christmas.	
Weights, analytical and precision in sets	T.D.s 49750; 51802.
Wicking, candle.	
Wire, except barbed.	

[T.D. 72–262, 35 FR 20318, Sept. 29, 1972, as amended by T.D. 85–123, 50 FR 29954, July 23, 1985; T.D. 89–1, 53 FR 51256, Dec. 21, 1988; T.D. 95–79, 60 FR, 49752, Sept. 27, 1995]

§ 134.34 Certain repacked articles.

(a) *Exception for repacked articles.* An exception under §134.32(d) may be authorized in the discretion of the port director for imported articles which are to be repacked after release from Customs custody under the following conditions:

(1) The containers in which the articles are repacked will indicate the origin of the articles to an ultimate purchaser in the United States.

(2) The importer arranges for supervision of the marking of the containers by Customs officers at the importer's expense or secures such verification, as may be necessary, by certification and the submission of a sample or otherwise, of the marking prior to the liquidation of the entry.

(b) *Liquidation of entries.* The liquidation of such entries may be deferred for a period of not more than 60 days from the date that a request for repacking is granted. Extensions of the 60-day deferral period may be granted by the port director in his discretion upon written application by the importer.

[T.D. 84–127, 49 FR 22795, June 1, 1984]

§ 134.35 Articles substantially changed by manufacture.

(a) *Articles other than goods of a NAFTA country.* An article used in the United States in manufacture which results in an article having a name, character, or use differing from that of the imported article, will be within the principle of the decision in the case of *United States v. Gibson-Thomsen Co., Inc.*, 27 C.C.P.A. 267 (C.A.D. 98). Under this principle, the manufacturer or processor in the United States who converts or combines the imported article into the different article will be considered the "ultimate purchaser" of the imported article within the contemplation of section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)), and the article shall be excepted from marking. The outermost containers of the imported articles shall be marked in accord with this part.

(b) *Goods of a NAFTA country.* A good of a NAFTA country which is to be processed in the United States in a manner that would result in the good becoming a good of the United States under the NAFTA Marking Rules is excepted from marking. Unless the good is processed by the importer or on

its behalf, the outermost container of the good shall be marked in accord with this part.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69472, Dec. 30, 1993]

§ 134.36 Inapplicability of marking exception for articles processed by importer.

An article which is to be processed in the United States by the importer or for his account shall not be considered to be within the specifications of section 304(a)(3)(G), of the Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(3)(G)), if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 97–72, 62 FR 44214, Aug. 20, 1997]

Subpart E—Method and Location of Marking Imported Articles

§ 134.41 Methods and manner of marking.

(a) *Suggested methods of marking.* Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), requires that the marking of the country of origin be legible, indelible, and permanent. Definite methods of marking are prescribed only for articles provided for in §134.43 and for articles which are the objects of special rulings by the Commissioner of Customs. As a general rule, marking requirements are best met by marking worked into the article at the time of manufacture. For example, it is suggested that the country of origin on metal articles be die sunk, molded in or etched; on earthenware or chinaware be glazed on in the process of firing; and on paper articles be imprinted.

(b) *Degree of permanence and visibility.* The degree of permanence should be at least sufficient to insure that in any reasonably foreseeable circumstance, the marking shall remain on the article (or its container) until it reaches the ultimate purchaser unless it is deliberately removed. The marking must survive normal distribution and store handling. The ultimate purchaser in the United States must be able to find the marking easily and read it without strain.

§ 134.42 Specific method may be required.

Marking merchandise by specific methods, such as die stamping, cast-in-the-mold lettering, etching, or engraving, or cloth labels may be required by the Commissioner of Customs in accordance with section 304(a), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)). Notices of such rulings shall be published in the Federal Register and the Customs Bulletin.

§ 134.43 Methods of marking specific articles.

(a) *Marking previously required by certain provisions of the Tariff Act of 1930.* Except for goods of a NAFTA country, articles of a class or kind listed below shall be marked legibly and conspicuously by die stamping, cast-in-the-mold lettering, etching (acid or electrolytic), engraving, or by means of metal plates which bear the prescribed marking and which are securely attached to the article in a conspicuous place by welding, screws, or rivets: knives, forks, steels, cleavers, clippers, shears, scissors, safety razors, blades for safety razors, surgical instruments, dental instruments, scientific and laboratory instruments, pliers, pincers, nippers and hinged hand tools for holding and splicing wire, vacuum containers, and parts of the above articles. Goods of a

NAFTA country shall be marked by any reasonable method which is legible, conspicuous and permanent as otherwise provided in this part.

(b) *Watch, clock, and timing apparatus.* The country of origin marking requirements on watches, clocks, and timing apparatus are intensive and require special methods. (See §11.9 of this chapter and Chapter 91, Additional U.S. Note 4, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202)).

(c) *Native American-style jewelry—(1) Definition.* For the purpose of this provision, Native American-style jewelry is jewelry which incorporates traditional Native American design motifs, materials and/or construction and therefore looks like, and could possibly be mistaken for, jewelry made by Native Americans.

(2) *Method of marking.* Except as provided in 19 U.S.C. 1304(a)(3) and in paragraph (c)(3) of this section, Native American-style jewelry must be indelibly marked with the country of origin by cutting, die-sinking, engraving, stamping, or some other permanent method. The indelible marking must appear legibly on the clasp or in some other conspicuous location, or alternatively, on a metal or plastic tag indelibly marked with the country of origin and permanently attached to the article.

(3) *Exception.* If it is technically or commercially infeasible to mark in the manner specified in paragraph (c)(2) of this section, or in the case of a good of a NAFTA country, the article may be marked by means of a string tag or adhesive label securely affixed, or some other similar method.

(d) *Native American-style arts and crafts—(1) Definition.* For the purpose of this provision, Native American-style arts and crafts are arts and crafts, such as pottery, rugs, kachina dolls, baskets and beadwork, which incorporate traditional Native American design motifs, materials and/or construction and therefore look like, and could possibly be mistaken for, arts and crafts made by Native Americans.

(2) *Method of Marking.* Except as provided for in 19 U.S.C. 1304(a)(3) and §134.32 of this part, Native American-style arts and crafts must be indelibly marked with the country of origin by means of cutting, die-sinking, engraving, stamping, or some other equally permanent method. On textile articles, such as rugs, a sewn in label is considered to be an equally permanent method.

(3) *Exception.* Where it is technically or commercially infeasible to mark in the manner specified in paragraph (d)(2) of this section, or in the case of a good of a NAFTA country, the article may be marked by means of a string tag or adhesive label securely affixed, or some other similar method.

(e) *Assembled articles.* Where an article is produced as a result of an assembly operation and the country of origin of such article is determined under this chapter to be the country in which the article was finally assembled, such article may be marked, as appropriate, in a manner such as the following:

(1) Assembled in (country of final assembly);

(2) Assembled in (country of final assembly) from components of (name of country or countries of origin of all components); or

(3) Made in, or product of, (country of final assembly).

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 89–1, 53 FR 51255, Dec. 21, 1988; T.D. 89–88, 54 FR 39524, Sept. 27, 1989; T.D. 90–75, 55 FR 38317, Sept. 18, 1990; T.D. 90–78, 55 FR 40166, Oct. 2, 1990; T.D. 94–1, 58 FR 69472, Dec. 30, 1993; T.D. 94–4, 59 FR 140, Jan. 3, 1994; T.D. 96–48, 61 FR 28980, June 6, 1996]

§ 134.44 Location and other acceptable methods of marking.

(a) *Other acceptable methods.* Except for articles described in §134.43 of this part or the subject of a ruling by the Commissioner of Customs, any method of marking at any location insuring that country of origin will conspicuously appear on the article shall be acceptable. Such marking must be legible and sufficiently permanent so that it will remain on the article (or its container when the container and not the article is required to be marked) until it reaches the ultimate purchaser unless deliberately removed.

(b) *Articles marked with paper sticker labels.* If paper sticker or pressure sensitive labels are used, they must be affixed in a conspicuous place and so securely that unless deliberately removed they will remain on the article while it is in storage or on display and until it is delivered to the ultimate purchaser.

(c) *Articles marked with tags.* When tags are used, they must be attached in a conspicuous place and in a manner which assures that unless deliberately removed they will remain on the article until it reaches the ultimate purchaser.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69472, Dec. 30, 1993]

§ 134.45 Approved markings of country name.

(a) *Language.* (1) Except as otherwise provided in paragraph (a)(2) of this section, the markings required by this part shall include the full English name of the country of origin, unless another marking to indicate the English name of the country of origin is specifically authorized by the Commissioner of Customs. Notice of acceptable markings other than the full English name of the country of origin shall be published in the Federal Register and the Customs Bulletin.

(2) A good of a NAFTA country may be marked with the name of the country of origin in English, French or Spanish.

(b) *Abbreviations and variant spellings.* Abbreviations which unmistakably indicate the name of a country, such as "Gt. Britain" for "Great Britain" or "Luxemb" and "Luxembg" for "Luxembourg" are acceptable. Variant spellings which clearly indicate the English name of the country of origin, such as "Brasil" for "Brazil" and "Italie" for "Italy," are acceptable.

(c) *Adjectival form.* The adjectival form of the name of a country shall be accepted as a proper indication of the name of the country of origin of imported merchandise provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. For example, such terms as "English walnuts" or "Brazil nuts" are unacceptable.

(d) *Colonies, possessions, or protectorates.* The name of a colony, possession, or protectorate outside the boundaries of the mother country shall usually be considered acceptable marking. When the Commissioner of Customs finds that the name is not sufficiently well known to insure that the ultimate purchasers will be fully informed of the country of origin, or where the name appearing alone may cause confusion, deception, or mistake, clarifying words shall be required. In such cases, the Commissioner of Customs shall specify in decisions published in the Federal Register and the Customs Bulletin the additional wording to be used in conjunction with the name of the colony, possession, or protectorate.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69472, Dec. 30, 1993]

§ 134.46 Marking when name of country or locality other than country of origin appears.

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

[T.D. 97-72, 62 FR 44214, Aug. 20, 1997]

§ 134.47 Souvenirs and articles marked with trademarks or trade names.

When as part of a trademark or trade name or as part of a souvenir marking, the name of a location in the United States or "United States" or "America" appear, the article shall be legibly, conspicuously, and permanently marked to indicate the name of the country of origin of the article preceded by "Made in," "Product of," or other similar words, in close proximity or in some other conspicuous location.

Subpart F—Articles Found Not Legally Marked

§ 134.51 Procedure when importation found not legally marked.

(a) *Notice to mark or redeliver.* When articles or containers are found upon examination not to be legally marked, the port director shall notify the importer on Customs Form 4647 to arrange with the port director's office to properly mark the article or containers, or to return all released articles to Customs custody for marking, exportation, or destruction.

(b) *Identification of articles.* When an imported article which is not legally marked is to be exported, destroyed, or marked under Customs supervision, the identity of the imported article shall be established to the satisfaction of the port director.

(c) *Supervision.* Verification of marking, exportation, or destruction of articles found not to be legally marked shall be at the expense of the importer and shall be performed under Customs supervision unless the port director accepts a certificate of marking as provided for in §134.52 in lieu of marking under Customs supervision.

§ 134.52 Certificate of marking.

(a) *Applicability.* Port directors may accept certificates of marking supported by samples of articles required to be marked, for which Customs Form 4647 was issued, from importers or from actual owners complying with the provision of §141.20 of this chapter, to certify that marking of the country of origin on imported articles as required by this part has been accomplished.

(b) *Filing of certificates of marking.* The certificates of marking shall be filed in duplicate with the port director, and a sample of the marked merchandise shall accompany the certificate. The port director may waive the production of the marked sample when he is satisfied that the submission of such sample is impracticable.

(c) *Notice of acceptance.* The port director shall notify the importer or actual owner when the certificate of marking is

accepted. Such notice of acceptance may be granted on the duplicate copy of the certificate of marking by use of a stamped notation of acceptance. The port director is authorized to spot check the marking of articles on which a certificate has been filed. If a spot check is performed, the approved copy of the certificate, if approval is granted, shall be returned to the importer or actual owner after the spot check is completed.

(d) *Filing of false certificate of marking.* If a false certificate of marking is filed with the port director indicating that goods have been properly marked when in fact they have not been so marked, a seizure shall be made or claim for monetary penalty reported under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). In addition, in cases involving willful deceit, a criminal case report may be made charging a violation of section 1001, title 18, United States Code, which provides for a fine up to \$10,000 and/or imprisonment up to 5 years for anyone who willfully conceals a material fact or uses any document knowing the same to contain any false or fraudulent statement in connection with any matter within the jurisdiction of an agency of the United States.

(e) *Authority to require physical supervision when deemed necessary.* The port director may require physical supervision of marking as specified in §134.51(c) in those cases in which he determines that such action is necessary to insure compliance with this part. In such cases the expenses of the Customs officer shall be reimbursed to the Government as provided for in §134.55.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 73-175, 38 FR 17447, July 2, 1973; T.D. 84-18, 49 FR 1678, Jan. 13, 1984]

§ 134.53 Examination packages.

(a) *Site of marking—(1) Customs custody.* Articles (or containers) in examination packages may be marked by the importer at the place where they have been discharged from the importing or bonded carrier or in the public stores.

(2) *Importer's premises or elsewhere.* If it is impracticable to mark the articles (or containers) in examination packages as provided in paragraph (a)(1) of this section, the merchandise may be turned over to the importer after the amount of duty, estimated to be payable under 19 U.S.C. 1304(f) has been deposited to insure compliance with the marking requirements and the payment of any additional expense which will be incurred on account of Customs supervision. (See §134.55.) The port director may at his discretion accept the bond on Customs Form 301, containing the basic importation and entry bond conditions set forth in §113.62 of this chapter as security for the requirements of 19 U.S.C. 1304 (f) and (g).

(b) *Failure to export, destroy, or properly mark merchandise in examination packages.* If the articles (or containers) in examination packages are not exported, destroyed, or properly marked by the importer within a reasonable time (not more than 30 days), they shall be sent to general-order stores for disposition in accordance with part 127 of this chapter, unless covered by a warehouse entry. If covered by a warehouse entry, they shall be sent to the warehouse containing the rest of the shipment for marking prior to withdrawal.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 78-99, 43 FR 13061, Mar. 29, 1978; T.D. 84-213, 49 FR 41183, Oct. 19, 1984; T.D. 90-51, 55 FR 28191, July 10, 1990]

§ 134.54 Articles released from Customs custody.

(a) *Demand for liquidated damages.* If within 30 days from the date of the notice of redelivery, or such additional period as the port director may allow for good cause shown, the importer does not properly mark or redeliver all merchandise previously released to him, the port director shall demand payment of liquidated damages incurred under the bond in an amount equal to the entered value of the articles not properly marked or redelivered.

(b) *Failure to petition for relief.* A written petition addressed to the Commissioner of Customs for relief from the payment of liquidated damages may be filed with the Fines, Penalties, and Forfeitures Officer in accord with part 172 of this chapter.

(c) *Relief from full liquidated damages.* Any relief from the payment of the full liquidated damages incurred will be contingent upon the deposit of the marking duty required by 19 U.S.C. 1304(f), and the satisfaction of the Fines, Penalties, and Forfeitures Officer that the importer was not guilty of bad faith in permitting the illegally marked articles to be distributed, has been diligent in attempting to secure compliance with the marking requirements, and has attempted by all reasonable means to effect redelivery of the merchandise.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 79-159, 44 FR 31969, June 4, 1979; T.D. 83-217, 48 FR 48659, Oct. 20, 1983; T.D. 90-51, 55 FR 28191, July 10, 1990; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 00-57, 65 FR 53575, Sept. 5, 2000]

§ 134.55 Compensation of Customs officers and employees.

(a) *Time for which compensation is charged.* The time for which compensation is charged shall include all periods

devoted to supervision and all periods during which Customs officers or employees are away from their regular posts of duty by reason of such assignment and for which compensation to such officers and employees is provided for by law.

(b) *Applicability—(1) Official hours.* The compensation of Customs Officers or employees assigned to supervise the exportation, destruction, or marking of articles so as to exempt them from the application of marking duties shall be computed in accordance with the provisions of §§24.16 or 24.17(a)(3), respectively, of this chapter when such supervision is performed during a regularly-scheduled tour of duty.

(2) *Overtime.* When such supervision is performed by a Customs Officer or employee in an overtime status, the compensation with respect to the overtime shall be computed in accordance with the provisions of §24.16 or §24.17, respectively, of this chapter.

(c) *Expenses included.* In formulating charges for expenses pertaining to supervision of exportation, destruction, or marking, there shall be included all expenses of transportation, per diem allowance in lieu of subsistence, and all other expenses incurred by reason of such supervision from the time the Customs officer leaves his official station until he returns thereto.

(d) *Services rendered for more than one importer.* If the importations of more than one importer are concurrently supervised, the service rendered for each importer shall be regarded as a separate assignment, but the total amount of the compensation, and any expenses properly applicable to more than one importer, shall be equitably apportioned among the importers concerned.

[T.D. 72-262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94-74, 59 FR 46757, Sept. 12, 1994]