

**§ 191.156 Bill of lading.**

(a) *Filing.* In order to complete the claim for drawback under this subpart, a bill of lading covering the merchandise described in the drawback entry (Customs Form 7551) shall be filed within 2 years after the merchandise is exported.

(b) *Contents.* The bill of lading shall either show that the merchandise was shipped by the person making the claim or bear an endorsement of the person in whose name the merchandise was shipped showing that the person making the claim is authorized to do so.

(c) *Limitation of the bill of lading.* The terms of the bill of lading may limit and define its use by stating that it is for Customs purposes only and not negotiable.

(d) *Inability to produce bill of lading.* When a required bill of lading cannot be produced, the person making the drawback entry may request the drawback office, within the time required for the filing of the bill of lading, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the drawback office is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so. If the drawback office is not so satisfied, such office shall transmit the request and its accompanying evidence to the Office of Field Operations, Customs Headquarters, for final determination.

(e) *Extracts of bills of lading.* Drawback offices may issue extracts of bills of lading filed with drawback claims.

**§ 191.157 Landing certificates.**

When required, a landing certificate shall be filed within the time prescribed in § 191.76 of this part.

**§ 191.158 Procedures.**

When the drawback claim has been completed and the bill of lading filed, together with the landing certificate, if required, the reports of inspection and lading made, and the clearance of the

exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the drawback office shall verify the importation by referring to the import records to ascertain the amount of duty paid on the merchandise exported. To the extent appropriate and not inconsistent with the provisions of this subpart, drawback entries shall be liquidated in accordance with the provisions of § 191.81 of this part.

**§ 191.159 Amount of drawback.**

Drawback due under this subpart shall not be subject to the deduction of 1 percent.

### Subpart P—Distilled Spirits, Wines, or Beer Which Are Unmerchantable or Do Not Conform to Sample or Specifications

**§ 191.161 Refund of taxes.**

Section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), provides for the refund, remission, abatement or credit to the importer of internal-revenue taxes paid or determined incident to importation, upon the exportation, or destruction under Customs supervision, of imported distilled spirits, wines, or beer found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody.

**§ 191.162 Procedure.**

The export procedure shall be the same as that provided in § 191.42 except that the claimant must be the importer and as otherwise provided in this subpart.

**§ 191.163 Documentation.**

(a) *Entry.* Customs Form 7551 shall be used to claim drawback under this subpart.

(b) *Documentation.* The drawback entry for unmerchantable merchandise shall be accompanied by a certificate of the importer setting forth in detail the facts which cause the merchandise

to be unmerchtable and any additional evidence that the drawback office requires to establish that the merchandise is unmerchtable.

**§ 191.164 Return to Customs custody.**

There is no time limit for the return to Customs custody of distilled spirits, wine, or beer subject to refund of taxes under the provisions of this subpart.

**§ 191.165 No exportation by mail.**

Merchandise covered by this subpart shall not be exported by mail.

**§ 191.166 Destruction of merchandise.**

(a) *Action by the importer.* A drawback claimant who proposes to destroy rather than export the distilled spirits, wine, or beer shall state that fact on Customs Form 7551.

(b) *Action by Customs.* Distilled spirits, wine, or beer returned to Customs custody at the place approved by the drawback office where the drawback entry was filed shall be destroyed under the supervision of the Customs officer who shall certify the destruction on Customs Form 7553.

**§ 191.167 Liquidation.**

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing entries under § 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

**§ 191.168 Time limit for exportation or destruction.**

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the importer, prior to the expiration of the 90-day period, the drawback office grants an extension of not more than 90 days.

**Subpart Q—Substitution of Finished Petroleum Derivatives**

**§ 191.171 General; Drawback allowance.**

(a) *General.* Section 313(p), of the Act, as amended (19 U.S.C. 1313(p)), provides for drawback on the basis of qualified

articles which consist of either imported duty-paid petroleum derivatives, or petroleum derivatives manufactured or produced in the United States and qualified for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)).

(b) *Allowance of drawback.* Drawback may be granted under 19 U.S.C. 1313(p):

(1) In cases where there is no manufacture, upon exportation of the imported article, an article of the same kind and quality, or any combination thereof; or

(2) In cases where there is a manufacture or production, upon exportation of the manufactured or produced article, an article of the same kind and quality, or any combination thereof.

**§ 191.172 Definitions.**

The following are definitions for purposes of this subpart only:

(a) *Qualified article.* “Qualified article” means an article described in headings 2707, 2708, 2710 through 2715, 2901, 2902, or 3901 through 3914 of the Harmonized Tariff Schedule of the United States (HTSUS). In the case of headings 3901 through 3914, the definition is limited as those headings apply to liquids, pastes, powders, granules and flakes.

(b) *Same kind and quality article.* “Same kind and quality article” means an article which is commercially interchangeable with, or which is referred to under the same 8-digit classification of the HTSUS as, the article to which it is compared. (For example, unleaded gasoline and jet fuel (naphtha or kerosene-type), both falling under the same HTSUS classification (2710.00.15) would be considered same kind and quality articles because they fall under the same 8 digit HTSUS classification, even though they are not “commercially interchangeable”.)

(c) *Exported article.* “Exported article” means an article which has been exported and is the qualified article, an article of the same kind and quality as the qualified article, or any combination thereof.