

**§ 158.6 Deficiencies in contents of examination packages.**

Allowance for deficiency in the contents of any examination package reported to the port director by a Customs officer shall be made in the liquidation of the entry. No Customs officer except one making an examination contemplated by section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), shall report a supposed deficiency to the port director unless it is established to the satisfaction of the reporting officer that the merchandise was not imported.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

**§ 158.7 Allowance for reduction or loss of merchandise by a natural force or by leakage.**

Merchandise subject to ad valorem, specific, or compound rates of duty found at the time of importation to be reduced or diminished by a natural force, such as evaporation, or by leakage, shall be appraised in its condition as imported, with an allowance made in the value, weight, quantity, or measure to the extent of the reduction or loss, except when forbidden by law or regulation.

(R.S. 251, as amended, sec. 499, sec. 624, 46 Stat. 728, as amended, 759 (19 U.S.C. 66, 1499, 1624))

[T.D. 78-448, 43 FR 53713, Nov. 17, 1978]

**Subpart B—Damaged or Defective Merchandise****§ 158.11 Merchandise completely worthless at time of importation.**

(a) *Nonperishable merchandise.* When a shipment of nonperishable merchandise, or any portion thereof which shall have been segregated from the remainder of the shipment under Customs supervision at the expense of the importer, is found by the port director to be entirely without commercial value at the time of importation by reason of damage or deterioration, an allowance in duties on such merchandise on the ground of nonimportation shall be made in the liquidation of the entry.

(b) *Perishable merchandise.* In the case of perishable merchandise, an allow-

ance in duties may be made under the following conditions:

(1) An application for such allowance shall be filed with the port director on Customs Form 4315 in duplicate, within 96 hours after the unloading of the merchandise and before any of the shipment involved has been removed from the pier (or other area permitted under § 142.2(b)(2) of this chapter) pursuant to the entry permit.

(2) Should an application filed in accordance with paragraph (b)(1) of this section be withdrawn, the merchandise involved shall thereafter be released upon presentation of an appropriate permit.

(3) Allowance in duty shall be made in the liquidation of the entry on such of the merchandise covered by the application as is found by the port director to be entirely without commercial value by reason of damage or deterioration.

(Sec. 506, 46 Stat. 732, as amended; 19 U.S.C. 1506)

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 76-220, 41 FR 33248, Aug. 9, 1976]

**§ 158.12 Merchandise partially damaged at time of importation.**

(a) *Allowance in value.* Merchandise which is subject to ad valorem or compound duties and found by the port director to be partially damaged at the time of importation shall be appraised in its condition as imported, with an allowance made in the value to the extent of the damage. However, no allowance shall be made when forbidden by law or regulation; for example, Chapter 72, Additional U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), provides that no allowance or reduction of duties for partial damage or loss in consequence of discoloration or rust occurring before importation shall be made upon iron or steel or upon any article of iron or steel.

(b) *No allowance in specific duties.* In the case of merchandise subject to specific or compound duties and found to be partially damaged at the time of importation, no allowance may be made in the specific duties or in the weight, quantity, or measure (except that an allowance for any excessive moisture