the donation’s scope, purpose, expected benefits, intended use, costs, and attached conditions, as applicable, that is sufficient to enable CBP to evaluate the donation and make a determination as to whether to accept it. CBP will notify the donor, in writing, if additional information is requested or if CBP has determined that it will not accept the donation.

(c) Agreement to accept donation. If CBP accepts a donation of hardware, software, equipment, technologies, or related support services and training, for the purpose of enforcing intellectual property rights, CBP will enter into a signed, written agreement with an authorized representative of the donor. The agreement must contain all applicable terms and conditions of the donation. An agreement to accept a donation must provide that the hardware, software, equipment, technologies, or related support services and training are offered without the expectation of payment, and that the donor expressly waives any future claims, except those expressly reserved in the agreement, against the government related to the donation.

PART 134—COUNTRY OF ORIGIN MARKING

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Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1304, 1624.

Source: T.D. 72–262, 37 FR 20318, Sept. 29, 1972, unless otherwise noted.


§ 134.0 Scope.

This part sets forth regulations implementing the country of origin marking requirements and exceptions of section 34 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.


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.
§ 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 this country shall be marked with additional descriptive words such

"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 does 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 container 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 (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).

§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 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.

§ 134.24 Containers or holders not designed for or capable of reuse.

(a) Containers ordinarily discarded after use. Disposable containers or holders subject to the provisions of this section are the usual ordinary types of containers or holders, including cans, bottles, paper or polyethylene bags, paperboard boxes, and similar containers or holders which are ordinarily discarded after the contents have been consumed.

(b) Imported empty. Disposable containers or holders imported for distribution or sale are subject to treatment as imported articles in accordance with the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and shall be marked to indicate clearly the country of their own origin. However, when the containers are packed and sold in multiple units (dozens, gross, etc.), this requirement ordinarily may be met by marking the outermost container which reaches the ultimate purchaser.

(c) Imported to be filled—(1) If unmarked. When disposable containers or holders or usual containers which are goods of a NAFTA country are imported by persons or firms who fill or package them with various products which they sell, these persons or firms are the “ultimate purchasers” of these containers or holders or usual containers which are goods of a NAFTA country and they may be excepted from individual marking pursuant to 19 U.S.C. 1304(a)(3)(D). The outside wrappings or packages containing the containers shall be marked to indicate the country of origin of their contents.

(2) If marked. If the disposable containers or holders or the usual containers which are goods of a NAFTA country are marked with the country of origin at the time of importation and the marking will be visible after they are filled, the marking shall clearly indicate that the container only and not the contents were made in the named country. For example, bottles, drums, or other containers imported empty, to be filled in the United States, shall be marked with such words as “Bottle (or container) made in (name of country).”

(d) Imported full—(1) When contents are excepted from marking. Usual disposable containers in use as such at the time of importation shall not be required to be marked to show the country of their own origin, but shall be marked to indicate the origin of their contents regardless of the fact that the contents are excepted from marking requirements; however, such marking is not required if the contents are excepted from marking requirements under paragraph (f), (g), or (h) of §134.32 or, in the case of a good of a NAFTA country, under paragraph (e), (f), (g), (h), (l), (p) or (q) of that section.

(2) Sealed containers or holders. Disposable containers or holders of imported merchandise, which are sold without normally being opened by the ultimate purchaser (e.g., individually wrapped soap bars or tennis balls in a vacuum sealed can), shall be marked to indicate the country of origin of their contents.

(3) Unsealed containers. Unsealed disposable containers of imported merchandise normally unopened by the ultimate purchaser, may be excepted from marking if the article is so marked that the country of origin is clearly visible without unpacking the container. However, if the container is normally opened by the ultimate purchaser prior to purchase, only the article need be marked.


§ 134.25 Containers or holders for repacked J-list articles and articles incapable of being marked.

(a) Certification requirements. If an article subject to these requirements is intended to be repacked in new containers for sale to an ultimate purchaser after its release from Customs custody, or if the Center director has reason to believe such article will be repacked after its release, the importer shall certify to the Center director that: (1) If the importer does the repacking, the new container shall be marked to indicate the country of origin of the article in accordance with the requirements of this part; or (2) if the article is intended to be sold or transferred to a subsequent purchaser or repacker, the importer shall notify
§ 134.26 Imported articles repacked or manipulated.

(a) Certification requirements. If an article subject to these requirements is intended to be repacked in retail containers (e.g., blister packs) after its release from Customs custody, or if the Center director has reason to believe such article will be repacked after its release, the importer shall certify to the Center director that: (1) If the importer does the repacking, he shall not obscure or conceal the country of origin marking appearing on the article, or else the new container shall be marked to indicate the country of origin of the article in accordance with the requirements of this part; or (2) if the article is intended to be sold or transferred to a subsequent purchaser or repacker, the importer shall notify such purchaser or transferee, in writing, at the time of sale or transfer, that any repacking of the article must conform to these requirements. The importer, or his authorized agent, shall sign the following statement.

(b) Facsimile signatures. The certification statement may be signed by means of an authorized facsimile signature.

(c) Time of filing. The certification statement shall be filed with the Center director at the time of entry summary. If the certification is not available at that time, a bond shall be given for its production in accordance with §141.66. In case of repeated failure to timely file the certification required under this section, the Center director may decline to accept a bond for the missing document and demand redelivery of the merchandise under §134.51, Customs Regulations (19 CFR 134.51).

(d) Notice to subsequent purchaser or repacker. If the article is sold or transferred to a subsequent purchaser or repacker the following notice shall be given to the purchaser or repacker:

NOTICE TO SUBSEQUENT PURCHASER OR REPACKER

These articles are imported. The requirements of 19 U.S.C. 1304 and 19 CFR part 134 provide that the articles or their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container will permit, in such a manner as to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article.

(e) Duties and penalties. Failure to comply with the certification requirements in paragraph (a) may subject the importer to a demand for liquidated damages under §134.54(a) and for the additional duty under 19 U.S.C. 1304. Fraud or negligence by any person in furnishing the required certification may also result in a penalty under 19 U.S.C. 1592.

§ 134.31  Certificate of marking by importer—repacked articles subject to marking

(Port of entry)

I, __________ of __________, certify that if the article(s) covered by this entry (entry no.(s) ______ dated ______), is (are) repacked in retail container(s), e.g., blister pack(s), while still in my possession, the new container(s) will not conceal or obscure the country of origin marking appearing on the article(s), or else the new container(s), unless excepted, shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the container(s) will permit, in such manner as to indicate the country of origin of the article(s) to the ultimate purchaser(s) in accordance with the requirements of 19 U.S.C. 1304 and 19 CFR part 134. I further certify that if the article(s) is (are) intended to be sold or transferred by me to a subsequent purchaser or repacker, I will notify such purchaser or transferee, in writing, at the time of sale or transfer, of the marking requirements.

Date

Importer

The certification statement may appear as a typed or stamped statement on an appropriate entry document or commercial invoice, or on a preprinted attachment to such entry or invoice; or it may be submitted in blanket form to cover all importations of a particular product for a given period (e.g., calendar year). If the blanket procedure is used, a certification must be filed with CBP, either at the port of entry or electronically.

(b) Facsimile signatures. The certification statement may be signed by means of an authorized facsimile signature.

(c) Time of filing. The certification statement shall be filed with the Center director at the time of entry summary. If the certification is not available at that time, a bond shall be given for its production in accordance with §141.66, Customs Regulations (19 CFR 141.66). In case of repeated failure to timely file the certification required under this subsection, the Center director may decline to accept a bond for the missing document and demand re-delivery of the merchandise under §134.51, Customs Regulations (19 CFR 134.51).

(d) Notice to subsequent purchaser or repacker. If the article is sold or transferred to a subsequent purchaser or repacker the following notice shall be given to the purchaser or repacker:

NOTICE TO SUBSEQUENT PURCHASER OR REPACKER

These articles are imported. The requirements of 19 U.S.C. 1304 and 19 CFR part 134 provide that the articles in their containers must be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article or container will permit, in such a manner as to indicate to an ultimate purchaser in the United States, the English name of the country of origin of the article.

(e) Duties and penalties. Failure to comply with the certification requirements in paragraph (a) may subject the importer to a demand for liquidated damages under §134.54(a) and for the additional duty under 19 U.S.C. 1304. Fraud or negligence by any person in furnishing the required certification may also result in a penalty under 19 U.S.C. 1592.

(f) Exceptions. The requirements of this section do not apply to repackaging in a container that can readily be opened for inspection by the ultimate purchaser in the United States, unless such container bears a U.S. address or other potentially misleading marking.

[T.D. 84–127, 49 FR 22795, June 1, 1984, as amended by CBP Dec. 16–26, 81 FR 93018, Dec. 20, 2016]

Subpart D—Exceptions to Marking Requirements

§ 134.31 Requirements of other agencies.

Nothing in this subpart shall be construed as excepting any article (or its container) from the particular requirements of marking provided for in any other provision of any law, such as those of the Federal Trade Commission, Food and Drug Administration, and other agencies.

§ 134.32 General exceptions to marking requirements.

The articles described or meeting the specified conditions set forth below are excepted from marking requirements (see subpart C of this part for marking of the containers):
(a) Articles that are incapable of being marked;
(b) Articles that cannot be marked prior to shipment to the United States without injury;
(c) Articles that cannot be marked prior to shipment to the United States except at an expense economically prohibitive of its importation;
(d) Articles for which the marking of the containers will reasonably indicate the origin of the articles;
(e) Articles which are crude substances;
(f) Articles imported for use by the importer and not intended for sale in their imported or any other form;
(g) Articles to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such articles and in such manner that any mark contemplated by this part would necessarily be obliterated, destroyed, or permanently concealed;
(h) Articles for which the ultimate purchaser must necessarily know, or in the case of a good of a NAFTA country, must reasonably know, the country of origin by reason of the circumstances of their importation or by reason of the character of the articles even though they are not marked to indicate their origin;
(i) Articles which were produced more than 20 years prior to their importation into the United States;
(j) Articles entered or withdrawn from warehouse for immediate exportation or for transportation and exportation;
(k) Products of American fisheries which are free of duty;
(l) Products of possessions of the United States;
(m) Products of the United States exported and returned;
(n) Articles exempt from duty under §§ 10.151 through 10.153, § 145.31 or § 145.32 of this chapter;
(o) Articles which cannot be marked after importation except at an expense that would be economically prohibitive unless the importer, producer, seller, or shipper failed to mark the articles before importation to avoid meeting the requirements of the law;
(p) Goods of a NAFTA country which are original works of art; and
(q) Goods of a NAFTA country which are provided for in subheading 6904.10 or heading 8541 or 8542 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).


§ 134.33 J-List exceptions.

Articles of a class or kind listed below are excepted from the requirements of country of origin marking in accordance with the provisions of section 304(a)(3)(J), Tariff Act of 1930, as amended (19 U.S.C. 1304(a)(3)(J)). However, in the case of any article described in this list which is imported in a container, the outermost container in which the article ordinarily reaches the ultimate purchaser is required to be marked to indicate the origin of its contents in accordance with the requirements of subpart C of this part. All articles are listed in Treasury Decisions 49690, 49835, and 49896. A reference different from the foregoing indicates an amendment.

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<tr>
<th>Articles</th>
<th>References</th>
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<tr>
<td>Articles classified under subheadings 9810.00.15, 9810.00.25, 9810.00.40 and 9810.00.45, Harmonized Schedule of the United States.</td>
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<td>Articles entered in good faith as antiques and rejected as unauthentic.</td>
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<td>Bagging, waste.</td>
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<td>Bags, jute.</td>
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<td>Beads, unstrung.</td>
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<td>Bearings, ball, 5/8-inch or less in diameter.</td>
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<td>Blanks, metal, to be plated.</td>
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<td>Bodies, harvest hat.</td>
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<td>Bolts, nuts, and washers.</td>
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<td>Briarwood in blocks.</td>
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<td>Briquettes, coal or coke.</td>
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<td>Buckles, 1 inch or less in greatest dimension.</td>
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<td>Burlap.</td>
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<td>Buttons.</td>
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<td>Cards, playing.</td>
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<td>Cellophane and celluloid in sheets, bands, or strips.</td>
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<td>Chemicals, drugs, medicinal, and similar substances, when imported in capsules, pills, tablets, lozenges, or troches.</td>
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<td>Cigars and cigarettes.</td>
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<td>Covers, straw bottle.</td>
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<td>Dies, diamond wire, unmounted.</td>
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<tr>
<td>(q) Goods of a NAFTA country which are provided for in subheading 6904.10 or heading 8541 or 8542 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).</td>
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§ 134.34 Certain repacked articles.

(a) Exception for repacked articles. An exception under §134.32(d) may be authorized in the discretion of the Center 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 Center director in his discretion upon written application by the importer.

§ 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.


§ 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)), if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing.

§ 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
§ 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.

§ 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 Center director shall notify the importer on Customs Form 4647, or its electronic equivalent, to arrange with the Center 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 Center 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 Center 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. Center directors may accept certificates of marking supported by samples of articles required to be marked, for which Customs Form 4647, or its electronic equivalent, 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 CBP, either at the port of entry or electronically, and a sample of the marked merchandise shall accompany the certificate. The Center 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 Center 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 Center 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 Center 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 Center 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
§ 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 Center 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.

§ 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 Center 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.

§ 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 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 provi-
sions of §§24.16 or 24.17(a)(3), respec-
tively, of this chapter when such super-
vision is performed during a regularly-
scheduled tour of duty.

(2) Overtime. When such supervision is
performed by a Customs Officer or em-
ployee in an overtime status, the com-
pensation with respect to the overtime
shall be computed in accordance with
the provisions of §24.16 or §24.17, re-
spectively, of this chapter.

(c) Expenses included. In formulating
charges for expenses pertaining to su-
 pervision 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 sta-
tion until he returns thereto.

(d) Services rendered for more than one
importer. If the importations of more
than one importer are concurrently su-
pervised, the service rendered for each
importer shall be regarded as a sepa-
rate assignment, but the total amount
of the compensation, and any expenses
properly applicable to more than one
importer, shall be equitably apporti-
toned among the importers concerned.

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PARTS 135–140 [RESERVED]