

York, the carrier is required to include each split portion on the manifest. Hence, it is asserted that the manifest should constitute the advance notification to Customs that the shipment has been split. If the importer does not file a separate entry for each arriving portion, it should be understood that the importer intends to file a single entry for the entire split shipment.

**Customs Response:** Customs disagrees. The advance notice is a statutory requirement which lets Customs know that the importer has elected to file a single entry for all portions of the split shipment. Mere notification that the shipment has been split is not notification by the importer that a single entry will be filed for the shipment.

*Entry or Permit for Immediate Delivery—Proposed § 141.57(d)*

**Comment:** It appears that the immediate delivery procedures for a split shipment require that the merchandise in the shipment be delivered to the carrier in the foreign country under one invoice. However, it is a common business practice for a shipment to contain merchandise covered by multiple invoices. As long as the merchandise is tendered to the carrier at the same time, there should be no limitation on the number of invoices involved.

**Customs Response:** Customs agrees. Provided the merchandise is delivered to the carrier as set forth in proposed § 141.57(b)(1), there should be no limitation on the number of invoices involved. Paragraphs (d)(1) and (d)(2) of proposed § 141.57 are amended accordingly in this final rule; and a conforming change to proposed § 142.21(g) is made as well in this final rule.

**Comment:** The release procedures in proposed § 141.57(d)(1) and (d)(2) should allow for one Customs Form (CF) 3461 to be filed and applied against all portions of the shipment. Then, if any portion of the shipment still has not arrived within the prescribed 10 day period, such portion would be deducted from the invoice(s) used on the entry summary for the shipment, and that portion would then be entered separately. In the alternative, should Customs determine that adjusted CF 3461 copies are necessary, it is suggested that Customs allow the electronic filing of the adjusted CF 3461s.

**Customs Response:** It is initially noted that under the release procedure in § 141.57(d)(1), only one CF 3461 will need to be filed. By contrast, under the

procedure in § 141.57(d)(2) which provides for the separate release of each portion of a split shipment as it arrives, Customs finds that requiring an adjusted copy of the CF 3461 to be submitted for each portion of the shipment is necessary in order to afford a mechanism by which the importer and Customs may easily and effectively keep track of the specific merchandise contained in any given portion of the shipment. However, Customs agrees that multiple CF 3461 copies are unnecessary when both the carrier and the importer are automated. In the case of such automation, adjustments may be made electronically to show the quantity of merchandise contained in each portion of the shipment as it arrives. Proposed § 141.57(d)(2) is thus amended in this final rule to reflect that if both the carrier and the importer are automated, such adjustments may be made electronically through the Customs ACS (Automated Commercial System).

**Comment:** Under the incremental release procedure in proposed § 141.57(d)(2), clarification is needed as to what is meant by the quantity of merchandise that must be reflected on the adjusted Customs Form (CF) 3461 that is submitted to Customs upon the arrival of each portion of a split shipment.

**Customs Response:** The quantity means the number of pieces, boxes, cartons, and the like, which are contained in the particular portion of the split shipment as it arrives, relative to the total number delivered by the shipper to the foreign carrier. To minimize confusion in this regard, proposed § 141.57(d)(2) is revised in this final rule to make clear that the adjusted quantity will reflect the quantity in that particular portion relative to the quantity contained in the entire shipment as delivered to and accepted by the carrier in the exporting country.

**Comment:** It is contended that 19 U.S.C. 1484(j)(2) represents a statutory exception to the well established principle that entry may only be made after merchandise has been imported. As such, instead of the procedure in proposed § 141.57(d)(2), which requires a special permit for immediate delivery for portions of a split shipment that are released incrementally following their arrival, Customs should allow the entire shipment to be entered at the time that the first portion of the shipment is imported.

**Customs Response:** Customs disagrees. Section 1484(j)(2) is not an exception to the general rule that importation must precede entry. Rather,

the law simply allows one shipment which is split by the carrier and which arrives in the United States at different times to be covered under one entry. Previously, each portion would have required a separate entry. Under section 1484(j)(2), however, importers of merchandise whose shipments have been split by the carrier may either continue to file a separate entry for each portion, or they may file a single entry for all of the portions which arrive within a prescribed period of time.

Nevertheless, resort to the immediate delivery procedure of § 141.57(d)(2) is only necessary when the importer wishes to file one entry, but wants each portion to be released as it arrives. Under this immediate delivery procedure, since the time of entry occurs, not upon release, but upon the filing of the entry summary, § 141.57(d)(2) ensures that all portions of the split shipment are imported prior to the entry being filed. Importers who want to file one entry but who object to using the immediate delivery procedure in § 141.57(d)(2) may instead opt to use the procedure in § 141.57(d)(1), under which one entry may be filed but release of the merchandise is delayed until all portions of the shipment have arrived.

*Necessary Manifest Data to Secure Release of Shipment—Proposed § 141.57(e)*

**Comment:** Further elaboration is requested concerning the process by which a carrier would make adjustments to the quantity set forth in the manifest as necessary to secure the incremental release of the shipment under proposed § 141.57(d)(2). It is specifically asked how such adjustments would be administered.

**Customs Response:** Carriers are required under § 141.57(e) to present manifest information to Customs which reflects exact information for each portion of a split shipment in order to qualify the split shipment for incremental release, pursuant to § 141.57(d)(2), as each portion of the shipment arrives. Carriers may accomplish the presentation of this adjusted manifest information either on a paper manifest or electronically if both the carrier and the importer are operational on the Customs Automated Commercial System (ACS), as noted above.

*Filing of Entry Summary for Split Shipment—Proposed § 141.57(g)*

**Comment:** Proposed § 141.57(g)(2)(ii) contains a technical contradiction in requiring the entry summary to be filed no later than 10 working days after the first cargo release, while in effect not