

#### §4.12

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board while the vessel is in port and articles acquired abroad by officers and members of the crew, for which no permit to land has been issued, shall be placed under seal, unless the Customs officer is of the opinion that the circumstances do not require such action. Customs inspectors in charge of the vessel, from time to time, as in their judgment the necessity of the case requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew. (See §4.39.)

#### §4.12 Explanation of manifest discrepancy.

(a)(1) Vessel masters or agents shall notify the port director on Customs Form 5931 of shortages (merchandise manifested, but not found) or overages (merchandise found, but not manifested) of merchandise.

(2) Shortages shall be reported to the port director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in §158.3 of this chapter, or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonimportation or of proper disposition or other corrective action (see §4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for one year.

(3) Overages shall be reported to the port director within 60 days after the date of entry of the vessel by completion of a post entry or suitable explanation of corrective action (see §4.34) on the Customs Form 5931.

(4) The port director shall immediately advise the master or agent of those discrepancies which are not reported by the master or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days after the date of such notification, or within 60 days after entry of the vessel, whichever is later.

(5)(a) Unless the required notification and explanation is made timely and the port director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has

been no loss of revenue (and in the case of a discrepancy not initially reported by the master or agent that there was a valid reason for failing to so report), applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed (see §162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission (electronically or otherwise) of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing applicable penalties, the value of the merchandise shall be determined as prescribed in §162.43 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(b) Except as provided in paragraph (c) of this section, a correction in the manifest shall not be required in the case of bulk merchandise if the port director is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing vessel when the quantity and description of the merchandise in such packages are correctly given.

(c) Manifest discrepancies (shortages and overages) of petroleum and petroleum products imported in bulk shall be reported on Customs Form 5931, if the discrepancy exceeds one percent.

[T.D. 80-142, 45 FR 36383, May 30, 1980, as amended by T.D. 99-64, 64 FR 43265, Aug. 10, 1999]

#### §4.13 Alcoholic liquors on vessels of not over 500 net tons.

(a) When a vessel of not over 500 net tons which arrives from a foreign port

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or a hovering vessel has on board any alcoholic liquors, a certificate respecting the importation of any spirits, wines, or other alcoholic liquors on board, other than sea stores, shall be delivered to the appropriate Customs officer with the inward foreign manifest. Each such certificate shall consist of a declaration of the master of the vessel, together with the certificate of a consular officer of the United States or other authorized person, and shall cover only one shipment from one consignee to one consignee or firm of consignees. The document shall be in substantially the following form:

DECLARATION OF MASTER AND CERTIFICATE COVERING SHIPMENT OF SPIRITS, WINES, OR OTHER ALCOHOLIC LIQUORS ON A VESSEL OF 500 NET TONS OR LESS (19 U.S.C. 1707)

Declaration of Master. I declare that the following merchandise is being shipped in accordance with the facts here stated as true and correct to the best of my information and belief:

Date of shipment:
Marks, numbers, and quantities:
Port of arrival:
Consignor:
Full description of goods:
Consignee:

Master of the (Signature)
(Name of vessel)

(Port of shipment)
19
(Date)

(Use whichever alternative applies:)

Certificate of Consular Officer. I certify that the above declaration was this day produced and signed before me by the individual whose signature appears, that I am satisfied he is the person he represents himself to be, that I have delivered one copy hereof to him, and that I have retained a copy in my files. Service number not required.

Tariff item No. 58(a) (no fee). (Post)
(Date)

[CONSULAR IMPRESSION SEAL]

(Signature)
(Date)

Certificate of Other Authorized Person. I certify that I have been designated by letter of

\_\_\_\_\_, 19\_\_\_, from (insert name of Officer), American (title) at (place), to provide certifications upon declarations made by masters under §7 of the Anti-Smuggling Act of 1935 (19 U.S.C. 1707), that the above declaration was this day produced and signed before me by the individual whose signature appears, that I am satisfied he is the person he represents himself to be, that I have no interest in the shipment described, that I have delivered one copy hereof to the person making the declaration, and that I have forwarded one copy to the American (Embassy, Consulate General, Consulate) at (place).

(Port of shipment)
19 (Date)

[SEAL NOT REQUIRED]

(Signature)

(Title)

The provisions of this paragraph, read together with those of §91.4, title 22, Code of Federal Regulations, constitute the joint regulations contemplated for issuance by the Secretary of State and the Secretary of the Treasury under section 1707, title 19, United States Code.

(b) When any shipment of spirits, wines, or other alcoholic liquors found on board a vessel not exceeding 500 net tons is not accompanied by a certified declaration as described in paragraph (a) of this section but is shown to have a bona fide destination outside the United States, the master shall furnish a landing bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in §113.64 of this chapter in an amount equal to twice the potential duty liability with an authorized corporate surety.

(c) The condition of the landing bond shall be satisfied by the delivery to the port director within 6 months from the date of the bond of a landing certificate or certificates of a revenue officer of the country of destination showing that all the alcoholic liquors have been landed at their foreign destination.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 67-201, 32 FR 12557, Aug. 30, 1967; 32 FR 12750, Sept. 6, 1967; T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 92-74, 57 FR 35751, Aug. 11, 1992]