

being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel entry requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with the usual formal entry procedures, American vessels carrying no unentered foreign merchandise but which have in-bond merchandise aboard may satisfy vessel entry requirements by making a required report of arrival, and presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Report of arrival as provided in § 4.2 of this part, together with presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement), satisfies all entry requirements for the subject vessels.

(c) *Delivery of foreign vessel document.* The master of any foreign vessel will exhibit the vessel's document to the port director on or before the entry of the vessel. After the net tonnage has been noted, the document may be delivered to the consul of the nation to which such vessel belongs, in which event the vessel master will certify to the port director the fact of such delivery (see section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), as applied through section 438, Tariff Act of 1930, as amended (19 U.S.C. 1438)). If not delivered to the consul, the document will be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document will not be delivered to the master of the foreign vessel until clearance is granted under § 4.61. It will not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of 19 U.S.C. 1434 until such master will produce to him a clearance in due form from the director of the port where such vessel has been entered. Any consul violating the provisions of this section is liable to a fine of not more than \$5,000 (section 438, Tariff Act of 1930, as amended; 19 U.S.C. 1438).

(d) *Failure to make required entry; penalties.* Any master who fails to make

entry as required by this section or who presents or transmits electronically any document required by this section that is forged, altered, or false, may be liable for certain civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. Further, any vessel used in connection with any such violation is subject to seizure and forfeiture.

[T.D. 00-4, 65 FR 2873, Jan. 19, 2000; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

#### § 4.10 Request for overtime services.

Request for overtime services in connection with entry or clearance of a vessel, including the boarding of a vessel in accordance with § 4.1 shall be made on Customs Form 3171. (See § 24.16 of this chapter regarding pleasure vessels.) Such request for overtime services must specify the nature of the services desired and the exact times when they will be needed, unless a term special license (unlimited or limited to the service requested) has been issued (see § 4.30(g)) and arrangements are made locally so that the proper Customs officer will be notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times they will be needed. Such request shall not be approved (previously issued term special licenses shall be revoked) unless the carrier complies with the provisions of paragraphs (l) and (m) of § 4.30 regarding terminal facilities and employee lists, respectively, and the required cash deposit or bond, on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, has been received. Separate bonds shall be required if overtime services are requested by different principals.

[T.D. 72-189, 37 FR 13975, July 15, 1972, as amended by T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 92-74, 57 FR 35751, Aug. 11, 1992]

#### § 4.11 Sealing of stores.

Upon the arrival of a vessel from a foreign port, or a vessel engaged in the foreign trade from a domestic port, sea stores and ship's stores not required for immediate use or consumption on

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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.

<sup>24-27</sup> [Reserved]

(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]