

of birth of any new personnel employed in connection with the unloading, storage and delivery of imported merchandise within 10 days after such employment. If the employment of any such person is terminated, the carrier shall promptly advise the port director. For the purposes of this part, a person shall not be deemed to be employed by a carrier if he is an officer or employee of an independent contractor engaged by a carrier to load, unload, transport or otherwise handle cargo.

(n)(1) Customs will not issue a permit to unlade before it has received the cargo declaration information pursuant to § 4.7(b). In cases in which Customs does not receive complete cargo manifest information from the carrier or from the NVOCC, in the manner and format required by § 4.7(b), 24 hours prior to the lading of the cargo aboard the vessel at the foreign port, Customs may delay issuance of a permit to unlade the entire vessel until all required information is received. Customs may also decline to issue a permit to unlade the specific cargo for which a declaration is not received 24 hours before lading in a foreign port. Furthermore, where the carrier does not present an advance cargo manifest to Customs electronically, in the manner provided in § 4.7(b)(2), preliminary entry pursuant to § 4.8(b) will be denied.

(2) In addition, while the advance presentation of the cargo manifest for any vessel subject to § 4.7(b)(2) may be made in paper form or by electronic transmission through a Customs-approved electronic data interchange system, the submission of an electronic manifest for the cargo in this regard, as opposed to a paper manifest, will

further facilitate the prompt issuance of a permit to unlade the cargo.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 68-247, 33 FR 15022, Oct. 8, 1968; T.D. 71-39, 36 FR 1891, Feb. 3, 1971; T.D. 72-189, 38 FR 13975, July 15, 1972; T.D. 73-27, 38 FR 2448, Jan. 26, 1973; T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 88-12, 53 FR 9314, Mar. 22, 1988; T.D. 92-74, 57 FR 35751, Aug. 11, 1992; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 93-96, 58 FR 67316, Dec. 21, 1993; T.D. 94-2, 58 FR 68523, Dec. 28, 1993; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 96-11, 61 FR 2414, Jan. 26, 1996; T.D. 93-96, 61 FR 3569, Feb. 1, 1996; T.D. 00-4, 65 FR 2873, Jan. 19, 2000; T.D. 02-62, 67 FR 66332, Oct. 31, 2002]

§ 4.31 Unlading or transshipment due to casualty.

(a) When any cargo or stores of a vessel have been unladen or transshipped at any place in the United States or its Customs waters other than a port of entry because of accident, stress of weather, or other necessity, no penalty shall be imposed under section 453 or 586(a), Tariff Act of 1930, if due notice is given to the director of the port at which the vessel thereafter first arrives and satisfactory proof is submitted to him as provided for in section 586(f), Tariff Act of 1930, as amended, regarding such accident, stress of weather, or other necessity. The port director may accept the certificates of the master and two or more officers or members of the crew of the vessel, of whom the person next to the master in command shall be one, as proof that the unlading or transshipment was necessary by reason of unavoidable cause.

(b) The port director may then permit entry of the vessel and its cargo and permit the unlading of the cargo in such place at the port as he may deem proper. Unless its transportation has been in violation of the coastwise laws, the cargo may be cleared through Customs at the port where it is discharged or forwarded to the port of original destination under an entry for immediate transportation or for transportation and exportation, as the case may be. All regulations shall apply in such cases as if the unlading and delivery took place at the port of original destination.

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