

from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States.

[28 FR 14596, Dec. 31, 1963, as amended by 39 FR 10897, Mar. 22, 1974; T.D. 83-213, 48 FR 46978, Oct. 17, 1983; CBP Dec. 03-32, 68 FR 68168, Dec. 5, 2003]

§ 4.6 Departure or unloading before report or entry.

(a) No vessel which has arrived within the limits of any Customs port from a foreign port or place shall depart or attempt to depart, except from stress of weather or other necessity, without reporting and making entry as required in this part. These requirements shall not apply to vessels merely passing through waters within the limits of a Customs port in the ordinary course of a voyage.

(b) The “limits of any Customs port” as used herein are those described in §101.3(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries.

(c) Violation of this provision may result in the master being liable for certain civil penalties and the vessel to arrest and forfeiture, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993, as amended by T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

§ 4.7 Inward foreign manifest; production on demand; contents and form; advance filing of cargo declaration.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431), and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Vessel Entrance or Clearance Statement, CBP Form 1300, and the following documents: (1) Cargo Declaration, CBP Form 1302, (2) Ship’s Stores Declaration, CBP Form 1303, (3) Crew’s Effects

Declaration, CBP Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crewmember’s declarations on CBP Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word “None” is inserted in items 16, 18, and/or 19 of the Vessel Entrance or Clearance Statement, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend “No merchandise on board” shall be inserted in item 16 of the Vessel Entrance or Clearance Statement.

(b)(1) With the exception of any Cargo Declaration that has been filed in advance as prescribed in paragraph (b)(2) of this section, the original and one copy of the manifest must be ready for production on demand. The master shall deliver the original and one copy of the manifest to the CBP officer who shall first demand it. If the vessel is to proceed from the port of arrival to other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see §4.85). The port director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy.

(2) In addition to the vessel stow plan requirements pursuant to §4.7c of this part and the container status message requirements pursuant to §4.7d of this part, and with the exception of any bulk or authorized break bulk cargo as prescribed in paragraph (b)(4) of this section, Customs and Border Protection (CBP) must receive from the incoming carrier, for any vessel covered under paragraph (a) of this section, the CBP-approved electronic equivalent of the vessel’s Cargo Declaration (CBP Form 1302), 24 hours before the cargo is laden aboard the vessel at the foreign port (see §4.30(n)). The electronic cargo declaration information must be transmitted through the CBP Automated

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Manifest System (AMS) or any electronic data interchange system approved by CBP to replace the AMS system for this purpose. Any such system change will be announced by notice in the FEDERAL REGISTER.

(3)(i) Where a non-vessel operating common carrier (NVOCC), as defined in paragraph (b)(3)(ii) of this section, delivers cargo to the vessel carrier for lading aboard the vessel at the foreign port, the NVOCC, if licensed by or registered with the Federal Maritime Commission and in possession of an International Carrier Bond containing the provisions of §113.64 of this chapter, may electronically transmit the corresponding required cargo declaration information directly to CBP through the vessel AMS system (or other system approved by CBP for this purpose). The information must be received 24 or more hours before the related cargo is laden aboard the vessel at the foreign port (see §113.64(c) of this chapter), as provided in paragraph (b)(2) of this section, or in accordance with paragraph (b)(4) of this section applicable to exempted bulk and break bulk cargo. In the alternative, the NVOCC must fully disclose and present the required cargo declaration information for the related cargo to the vessel carrier which is required to present this information to CBP, in accordance with this section, via the vessel AMS system (or other CBP-approved system).

(ii) A non-vessel operating common carrier (NVOCC) means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in its relationship with an ocean common carrier. The term “non-vessel operating common carrier” does not include freight forwarders as defined in part 112 of this chapter.

(iii) Where the party electronically presenting to CBP the cargo information required in §4.7a(c)(4) receives any of this information from another party, CBP will take into consideration how, in accordance with ordinary commercial practices, the presenting party acquired such information, and whether and how the presenting party is able to verify this information. Where the presenting party is not reasonably able to

verify such information, CBP will permit the party to electronically present the information on the basis of what the party reasonably believes to be true.

(4) Carriers of bulk cargo as specified in paragraph (b)(4)(i) of this section and carriers of break bulk cargo to the extent provided in paragraph (b)(4)(ii) of this section are exempt, with respect only to the bulk or break bulk cargo being transported, from the requirement set forth in paragraph (b)(2) of this section that an electronic cargo declaration be received by CBP 24 hours before such cargo is laden aboard the vessel at the foreign port. With respect to exempted carriers of bulk or break bulk cargo operating voyages to the United States, CBP must receive the electronic cargo declaration covering the bulk or break bulk cargo they are transporting 24 hours prior to the vessel's arrival in the United States (see §4.30(n)). However, for any containerized or non-qualifying break bulk cargo these exempted carriers will be transporting, CBP must receive the electronic cargo declaration 24 hours in advance of loading.

(i) Bulk cargo is defined for purposes of this section as homogeneous cargo that is stowed loose in the hold and is not enclosed in any container such as a box, bale, bag, cask, or the like. Such cargo is also described as bulk freight. Specifically, bulk cargo is composed of either:

(A) Free flowing articles such as oil, grain, coal, ore, and the like, which can be pumped or run through a chute or handled by dumping; or

(B) Articles that require mechanical handling such as bricks, pig iron, lumber, steel beams, and the like.

(ii) A carrier of break bulk cargo may apply for an exemption from the filing requirement of paragraph (b)(2) of this section with respect to the break bulk cargo it will be transporting. For purposes of this section, break bulk cargo is cargo that is not containerized, but which is otherwise packaged or bundled.

(A) To apply for an exemption, the carrier must submit a written request for exemption to the U.S. Customs and Border Protection, National Targeting Center, 1300 Pennsylvania Ave., NW.,

Washington, DC 20229. Until an application for an exemption is granted, the carrier must comply with the 24 hour advance cargo declaration requirement set out in paragraph (b)(2) of this section. The written request for exemption must clearly set forth information such that CBP may assess whether any security concerns exist, such as: The carrier's IRS number; the source, identity and means of the packaging or bundling of the commodities being shipped; the ports of call, both foreign and domestic; the number of vessels the carrier uses to transport break bulk cargo, along with the names of these vessels and their International Maritime Organization numbers; and the list of the carrier's importers and shippers, identifying any who are members of C-TPAT (The Customs-Trade Partnership Against Terrorism).

(B) CBP will evaluate each application for an exemption on a case by case basis. If CBP, by written response, provides an exemption to a break bulk carrier, the exemption is only applicable under the circumstances clearly set forth in the application for exemption. If circumstances set forth in the approved application change, it will be necessary to submit a new application.

(C) CBP may rescind an exemption granted to a carrier at any time.

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States with a registry, coastwise license, or a vessel not so documented but intended to be employed in the foreign, or coastwise trade, or

(ii) A documented vessel with a fishery license endorsement which has a permit to touch and trade (see §4.15) or a vessel with a fishery license endorsement lacking a permit to touch and trade but intended to engage in trade— at the port of first arrival from a foreign country shall declare on CBP Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of

1930, as amended (19 U.S.C. 1466). If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on CBP Form 226.

(2) If the vessel is at least 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The port director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention unless the port director is satisfied that the owner of the vessel has filed an application for rebuilt determination as required by 46 CFR 67.27-3.

(3) The declaration shall be ready for production on demand for inspection and shall be presented as part of the original manifest when formal entry of the vessel is made.

(e) *Failure to provide manifest information; penalties/liquidated damages.* Any master who fails to provide manifest information as required by this section, or who presents or transmits electronically any document required by this section that is forged, altered or false, or who fails to present or transmit the information required by this section in a timely manner, may be liable for civil penalties as provided under 19 U.S.C. 1436, in addition to damages under the international carrier bond of \$5,000 for each violation discovered. In addition, if any non-vessel operating common carrier (NVOCC) as defined in paragraph (b)(3)(ii) of this section elects to transmit cargo declaration information to CBP electronically and fails to do so in the manner and in the time period required by paragraph

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(b)(3)(i) of this section, or electronically transmits any false, forged or altered document, paper, cargo declaration information to CBP, such NVOCC may be liable for the payment of liquidated damages as provided in §113.64(c) of this chapter, of \$5,000 for each violation discovered.

[T.D. 71-169, 36 FR 12602, July 2, 1971]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §4.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§4.7a Inward manifest; information required; alternative forms.

The forms designated by §4.7(a) as comprising the inward manifest shall be completed as follows:

(a) *Ship's Stores Declaration.* Articles to be retained aboard as sea or ship's stores shall be listed on the Ship's Stores Declaration, CBP Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) *Crew's Effects Declaration.* (CBP Form 1304). (1) The declaration number of the Crew Member's Declaration, CBP Form 5129, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 on the Crew's Effects Declaration, CBP Form 1304 opposite the respective crewmember's name.

(2) In lieu of describing the articles on CBP Form 1304, the master may furnish a Crew List, CBP Form I-418, endorsed as follows:

I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through CBP in the United States.

(Master.)

The Crew List on Form I-418 shall show, opposite the crewmember's name, his shipping article number and, in column 5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed

opposite his name instead of a declaration number.

(3) For requirements concerning the preparation of CBP Form 5129, see subpart G of part 148 of this chapter.

(4) Any articles which are required to be manifested and are not manifested shall be subject to forfeiture and the master shall be subjected to a penalty equal to the value thereof, as provided in section 584, Tariff Act of 1930, as amended.

(c) *Cargo Declaration.* (1) The Cargo Declaration (CBP Form 1302 submitted in accordance with paragraph (b)(2) or (b)(4) of this section) must list all the inward foreign cargo on board the vessel regardless of the U.S. port of discharge, and must separately list any other foreign cargo remaining on board ("FROB"). For the purposes of this part, "FROB" means cargo which is laden in a foreign port, is intended for discharge in a foreign port, and remains aboard a vessel during either direct or indirect stops at one or more intervening United States ports. The block designated "Arrival" at the top of the form shall be checked. The name of the shipper shall be set forth in the column calling for such information and on the same line where the bill of lading is listed for that shipper's merchandise. When more than one bill of lading is listed for merchandise from the same shipper, ditto marks or the word "ditto" may be used to indicate the same shipper. The cargo described in column Nos. 6 and 7, and either column No. 8 or 9, shall refer to the respective bills of lading. Either column No. 8 or column No. 9 shall be used, as appropriate. The gross weight in column No. 8 shall be expressed in either pounds or kilograms. The measurement in column No. 9 shall be expressed according to the unit of measure specified in the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

(2)(i) When inward foreign cargo is being shipped by container, each bill of lading shall be listed in the column headed "B/L Nr." in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of