

#### § 4.37

#### 19 CFR Ch. I (4-1-02 Edition)

after the date of the vessel's entry shall be reimbursed to the Government by the owner or master of the vessel.

(c) When cargo is manifested "for orders" upon the arrival of the vessel, no amendment of the manifest to show another port of discharge shall be permitted after 15 days after the date of the vessel's arrival, except as provided for in § 4.33.

(d) All reimbursements payable in accordance with this section shall be paid or secured to the port director before clearance is granted to the vessel.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

#### § 4.37 General order.

(a) Any merchandise or baggage regularly landed but not covered by a permit for its release shall be allowed to remain at the place of unloading until the fifteenth calendar day after landing. No later than 20 calendar days after landing, the master or owner of the vessel or the agent thereof shall notify Customs of any such merchandise or baggage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. Failure to provide such notification may result in assessment of a monetary penalty of up to \$1,000 per bill of lading against the master or owner of the vessel or the agent thereof. If the value of the merchandise on the bill is less than \$1,000, the penalty shall be equal to the value of such merchandise.

(b) Any merchandise or baggage that is taken into custody from an arriving carrier by any party under a Customs-authorized permit to transfer or in-bond entry may remain in the custody of that party for 15 calendar days after receipt under such permit to transfer or 15 calendar days after arrival at the port of destination. No later than 20 calendar days after receipt under the permit to transfer or 20 calendar days after arrival under bond at the port of destination, the party shall notify Customs of any such merchandise or bag-

gage for which entry has not been made. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system. If the party fails to notify Customs of the unentered merchandise or baggage in the allotted time, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see § 113.63(c)(4) of this chapter).

(c) In addition to the notification to Customs required under paragraphs (a) and (b) of this section, the carrier (or any other party to whom custody of the unentered merchandise has been transferred by a Customs authorized permit to transfer or in-bond entry) shall provide notification of the presence of such unreleased and unentered merchandise or baggage to a bonded warehouse certified by the port director as qualified to receive general order merchandise. Such notification shall be provided in writing or by any appropriate Customs-authorized electronic data interchange system and shall be provided within the applicable 20-day period specified in paragraph (a) or (b) of this section. It shall then be the responsibility of the bonded warehouse proprietor to arrange for the transportation and storage of the merchandise or baggage at the risk and expense of the consignee. Any unentered merchandise or baggage shall remain the responsibility of the carrier, master, or person in charge of the importing vessel or the agent thereof or party to whom the merchandise has been transferred under a Customs authorized permit to transfer or in-bond entry, until it is properly transferred from his control in accordance with this paragraph. If the party to whom custody of the unentered merchandise or baggage has been transferred by a Customs-authorized permit to transfer or in-bond entry fails to notify a Customs-approved bonded warehouse of such merchandise or baggage within the applicable 20-calendar-day period, he may be liable for the payment of liquidated damages of \$1,000 per bill of lading under the terms and conditions of his international carrier or custodial bond (see §§ 113.63(b), 113.63(c) and 113.64(b) of this chapter).

(d) If the bonded warehouse operator fails to take possession of unentered

of such vessel." (Tariff Act of 1930, sec. 458; 19 U.S.C. 1458)

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and unreleased merchandise or baggage within five calendar days after receipt of notification of the presence of such merchandise or baggage under this section, he may be liable for the payment of liquidated damages under the terms and conditions of his custodial bond (see §113.63(a)(1) of this chapter).

(e) In ports where there is no bonded warehouse authorized to accept general order merchandise or if merchandise requires specialized storage facilities which are unavailable in a bonded facility, the port director, after having received notice of the presence of unentered merchandise or baggage in accordance with the provisions of this section, shall direct the storage of the merchandise by the carrier or by any other appropriate means.

(f) Whenever merchandise remains on board any vessel from a foreign port more than 25 days after the date on which report of arrival of such vessel was made, the port director, as prescribed in section 457, Tariff Act of 1930, as amended (19 U.S.C. 1457), may take possession of such merchandise and cause it to be unladen at the expense and risk of the owners of the merchandise. Any merchandise so unladen shall be sent forthwith by the port director to a general order warehouse and stored at the risk and expense of the owners of the merchandise.

(g) Merchandise taken into the custody of the port director pursuant to section 490(b), Tariff Act of 1930, as amended (19 U.S.C. 1490(b)), shall be sent to a general order warehouse after 1 day after the day the vessel was entered, to be held there at the risk and expense of the consignee.

[T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

#### § 4.38 Release of cargo.

(a) No imported merchandise shall be released from Customs custody until a permit to release such merchandise has been granted. Such permit shall be issued by the port director only after the merchandise has been entered and, except as provided for in §141.102(d) or part 142 of this chapter, the duties thereon, if any, have been estimated and paid. Generally, the permit shall consist of a document authorizing delivery of a particular shipment or an

electronic equivalent. Alternatively, the permit may consist of a report which lists those shipments which have been authorized for release. This alternative cargo release notification may be used when the manifest is not filed by the carrier through the Automated Manifest System, the entry has been filed through the Automated Broker Interface, and Customs has approved the cargo for release without submission of paper documents after reviewing the entry data submitted electronically through ABI and its selectivity criteria (see §143.34). The report shall be posted in a conspicuous area to which the public has access in the customhouse at the port of entry where the cargo was imported.

(1) Where the cargo arrives by vessel, the report shall consist of the following data elements:

- (i) Vessel name or code, if transmitted by the entry filer;
- (ii) Carrier code;
- (iii) Voyage number, if transmitted by the entry filer;
- (iv) Bill of lading number;
- (v) Quantity released; and
- (vi) Entry number (including filer code).

(2) Where the cargo arrives by air, the report shall consist of the following data elements:

- (i) Air waybill number;
- (ii) Quantity released;
- (iii) Entry number (including filer code);
- (iv) Carrier code; and
- (v) Flight number, if transmitted by the entry filer.

(3) In the case of merchandise traveling via in-bond movement, the report will contain the following data elements:

- (i) Immediate transportation bond number;
- (ii) Carrier code;
- (iii) Quantity released; and
- (iv) Entry number (including filer code).

When merchandise is released without proper permit before entry has been made, the port director shall issue a written demand for redelivery. The carrier or facility operator shall redeliver the merchandise to Customs within 30 days after the demand is made. The