

§ 4.67

(c) If a port director receives a notification from a Coast Guard officer to detain a vessel operated under the authority of a country not a party to the MARPOL Protocol which does not have a valid certificate on board showing that the vessel has been surveyed in accordance with and complies with the requirements of the MARPOL Protocol, or whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate on board, or which presents an unreasonable threat of harm to the marine environment, the port director shall refuse or revoke the clearance or permit to proceed of the vessel if requested to do so by a Coast Guard officer. The port director shall not grant clearance or issue a permit to proceed to the vessel until notified by a Coast Guard officer that detention of the vessel is no longer required.

[T.D. 81-148, 49 FR 28695, July 16, 1984]

§ 4.67 Closed ports or places.

No foreign vessel shall be granted a clearance or permit to proceed to any port or place from which such vessels are excluded by orders or regulations of the United States Navy Department except with the prior approval of that Department.

§ 4.68 Crew; passengers.

(a) Clearance shall not be granted to any vessel bound on a foreign voyage or engaged in the whale fishery until a crew list has been delivered to the port director in duplicate on Customs and Immigration Form I-418. The port director shall certify the duplicate copy and return it to the master for later presentation to Customs (see § 4.9(b)).

(b) No vessel shall be granted a clearance while it has on board any citizen of the United States except in accordance with the rules and regulations prescribed by the Secretary of State pursuant to Proclamation 2523 issued by the President on November 14, 1941 (3 CFR, 1943 Cum. Supp.).

(c) No vessel having berth or state-room accommodations for 50 or more passengers and embarking passengers at U.S. ports shall be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid cer-

19 CFR Ch. I (4-1-99 Edition)

tificates issued by the Federal Maritime Commission evidencing compliance with sections 2 and 3 of Pub. L. 89-777 (46 U.S.C. 817d, 817e).

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 67-214, 32 FR 13186, Sept. 16, 1967; T.D. 83-214, 48 FR 46512, Oct. 13, 1983]

§ 4.69 Shipping articles.

No vessel of the U.S. on a voyage between a U.S. port and a foreign port (except a port in Canada, Mexico, or the West Indies), or if of at least 75 gross tons, on a voyage between a U.S. port on the Atlantic Ocean and a U.S. port on the Pacific Ocean, shall be granted clearance before presentation, to the appropriate Customs officer, of the shipping articles agreements, including any seaman's allotment agreement, required by 46 U.S.C. chapter 103, in the form provided for in 46 CFR 14.05-1.

[T.D. 92-52, 57 FR 23945, June 5, 1992]

§ 4.70 Pratique.

No clearance shall be granted to a vessel subject to the foreign quarantine regulations of the Public Health Service unless it has been issued a certificate of free pratique or has been remanded to another port in the United States.

§ 4.71 Inspection of livestock.

A proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats (9 CFR part 91)

[T.D. 79-32, 44 FR 5650, Jan. 29, 1979]

§ 4.72 Inspection of meat, meat-food products, and inedible fats.

(a) No clearance shall be granted to any vessel carrying meat or meat-food products, as defined and classified by the U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection until there have been filed with the port director such copies of export certificates concerning such meat or meat-food products as are required by the

pertinent regulations of the U.S. Department of Agriculture, Food Safety and Inspection Service, Meat and Poultry Inspection (9 CFR part 322). If such certificate has been obtained but is unavailable at the scheduled time of a vessel's departure, the vessel may be cleared on the basis of the receipt of a statement, under the shipper's or shipper's agent's letterhead, certifying the number of boxes, the number of pounds, the product name and the U.S. Department of Agriculture export certificate number that covers the shipment of the product. If such statement has been used as the basis for obtaining vessel clearance, the duplicate of the certificate must be filed with Customs within the time period prescribed by § 4.75.

(b) No clearance shall be granted to any vessel carrying tallow, stearin, oleo oil, or other rendered fat derived from cattle, sheep, swine, or goats for export from the United States, which has not been inspected, passed, and marked by the United States Department of Agriculture, unless the port director is furnished with a certificate by the exporter that the article is inedible.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 78-99, 43 FR 13059, Mar. 29, 1978; T.D. 91-77, 56 FR 46114, Sept. 10, 1991; T.D. 95-54, 60 FR 35838, July 12, 1995]

§ 4.73 Neutrality; exportation of arms and munitions.

(a) Clearance shall not be granted to any vessel if the port director has reason to believe that her departure or intended voyage would be in violation of any provision of the Neutrality Act of 1939 or other neutrality law of the United States,¹⁰⁴ or of any regulation or instruction issued pursuant to any such law.

(b) The port director shall refuse clearance for and detain any vessel manifestly built for warlike purposes and about to depart from the United States with a cargo consisting principally of arms and munitions of war¹⁰⁵

¹⁰⁴See 18 U.S.C. 961 through 967 and 22 U.S.C. 441 through 457.

¹⁰⁵Clearance for vessel shall not be denied for the sole reason that her cargo contains contraband of war.

¹⁰⁶⁻¹¹⁰ [Reserved]

when the number of men intending to sail or other circumstances render it probable that the vessel is intended to commit hostilities against the subjects, citizens, or property or any foreign country, with which the United States is at peace, until the decision of the President thereon is received, or until the owners shall have given bond or security in double the value of the vessel and its cargo that she will not be so employed.

(c) A port director shall promptly communicate all the facts to Headquarters, U.S. Customs Service, if he learns while the United States is at peace that any vessel of a belligerent power which has arrived as a merchant vessel is altering, or will attempt to alter, her status as a merchant vessel so as to become an armed vessel or an auxiliary to armed vessels of a foreign power.

(d) If a port director has reason to believe during the existence of a war to which the United States is not a party that any vessel at his port is about to carry arms, munitions, supplies, dispatches, information, or men to any warship or tender or supply ship of a belligerent nation, he shall withhold the clearance of such vessel and report the facts promptly to Headquarters, U.S. Customs Service.

§ 4.74 Transportation orders.

Clearance shall not be granted to any vessel if the port director has reason to believe that her departure or intended voyage would be in violation of any provision of any transportation order, regulation, or restriction issued under authority of the Defense Production Act of 1950 (50 U.S.C. App. 2061-2066).

§ 4.75 Incomplete manifest; incomplete export declarations; bond.

(a) *Pro forma manifest.* Except as provided for in § 4.75(c), if a master desiring to clear his vessel for a foreign port does not have available for filing with the port director a complete Cargo Declaration Outward with Commercial Forms, Customs Form 1302-A (see § 4.63) in accordance with 46 U.S.C. 91, or all required shipper's export declarations (see 15 CFR 30.24), the port director may accept in lieu thereof an incomplete manifest (referred to as a pro