

determine if an examination of the cargo is necessary. Customs will notify the carrier of shipments designated for examination. Customs will also notify the carrier when the shipment designated for inspection is released and may be loaded on the vessel;

(3) *Departure.* No later than the first calendar day following the actual departure of the vessel, the carrier will notify Customs of the date and time of departure; and

(4) *Manifest.* Within ten (10) calendar days after the departure of the vessel from each port, the carrier will submit the manifest information to Customs via AES for each booking loaded on the departed vessel. However, if the destination of the vessel is a foreign port listed in § 4.75(c), the carrier must transmit complete manifest information before vessel departure. Time requirements for transmission of complete manifest information for carriers destined to Puerto Rico and U.S. possessions are the same as the requirement for the submission of the complete manifest as found in § 4.84.

(d) All penalties and liquidated damages that apply to the submission of paper manifests (*see*, applicable provisions in this part) apply to the electronic submission of outbound vessel manifest information through the Sea Carrier's Module.

[T.D. 99-57, 64 FR 40986, July 28, 1999]

COASTWISE PROCEDURE

§ 4.80 Vessels entitled to engage in coastwise trade.

(a) No vessel shall transport, either directly or by way of a foreign port, any passenger or merchandise between points in the United States embraced within the coastwise laws, including points within a harbor, or merchandise for any part of the transportation between such points, unless it is:

(1) Owned by a citizen and is so documented under the laws of the United States as to permit it to engage in the coastwise trade;

(2) Owned by a citizen, is exempt from documentation, and is entitled to or, except for its tonnage, would be entitled to be documented with a coastwise endorsement.

(3) Owned by a partnership or association in which at least a 75 percent interest is owned by such a citizen, is exempt from documentation and is entitled to or, except for its tonnage, or citizenship of its owner, or both, would be entitled to be documented for the coastwise trade. The term "citizen" for vessel documentation purposes, whether for an individual, partnership, or corporation owner, is defined in 46 CFR 67.3.

(b) *Penalties for violating coastwise laws.* (1) The penalty imposed for the illegal transportation of merchandise between coastwise points is forfeiture of the merchandise or, in the discretion of the port director, forfeiture of a monetary amount up to the value of the merchandise to be recovered from the consignor, seller, owner, importer, consignee, agent, or other person or persons so transporting or causing the merchandise to be transported (46 U.S.C. 883).

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is \$300 for each passenger so transported and landed (46 U.S.C. App. 289, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

(c) Any vessel of the United States, whether or not entitled under paragraph (a) of this section to engage in the coastwise trade, and any foreign vessel may proceed between points in the United States embraced within the coastwise laws to discharge cargo or passengers laden at a foreign port, to lade cargo or passengers for a foreign port, in ballast, or to transport certain articles in accordance with § 4.93. Cargo laden at a foreign port may be retained onboard during such movements. Furthermore, certain barges of United States or foreign flag may transport transferred merchandise between points in the United States embraced within the coastwise laws, excluding transportation between the continental United States and a noncontiguous point in the United States embraced within the coastwise laws, in accordance with § 4.81a.

(d) No vessel owned by a corporation which is a citizen of the United States under the Act of September 2, 1958 (46 U.S.C. 12118), shall be used in any trade

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other than the coastwise and shall not be used in that trade unless it is properly documented for such use or is exempt from documentation and is entitled to or, except for its tonnage, would be entitled to a coastwise license. Such a vessel shall not be documented for nor engage in the foreign trade or the fisheries and shall not transport merchandise or passengers coastwise for hire except as a service for a parent or a subsidiary corporation as defined in the aforesaid Act or while under demise or bareboat charter at prevailing rates for use otherwise than in trade with noncontiguous territory of the United States to a common or contract carrier subject to part III of the Interstate Commerce Act, as amended (49 U.S.C. 901 through 923), which otherwise qualifies as a citizen of the United States under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 50501), and which is not connected, directly or indirectly, by way of ownership or control with such owning corporation.

(e) No vessel which has acquired the lawful right to engage in the coastwise trade, by virtue of having been built or documented under the laws of the United States, will have the right to engage in such trade if it:

(1) Thereafter has been sold foreign in whole or in part or placed under foreign registry, unless such vessel is 200 gross tons or less (as measured under chapter 143 of title 46, United States Code); or

(2) Has been rebuilt, unless the entire rebuilding, including the construction of any major components of the hull or superstructure of the vessel, was effected within the United States.

(f) No foreign-built vessel owned and documented as a vessel of the United States prior to February 1, 1920, by a citizen nor one owned by the United States on June 5, 1920, and sold to and owned by a citizen, shall engage in the American fisheries, but it is otherwise unlimited as to trade so long as it continues in such ownership (section 22, Merchant Marine Act, of June 5, 1920; 46 U.S.C. 13). No foreign-built vessel which is owned by a citizen, but which was not so owned and documented on February 1, 1920, or which was not owned by the United States on June 5, 1920, shall engage in the coastwise

trade or the American fisheries. No foreign-built vessel which has been sold, leased, or chartered by the Secretary of Commerce to any citizen, shall engage in the American fisheries, but it is otherwise unlimited as to trade so long as it continues in such ownership, lease, or charter (section 9 of the Act of Sept. 7, 1916, as amended, 46 U.S.C. 808). A vessel engaged in taking out fishing parties for hire, unless it intends to proceed to a foreign port, is considered to be engaged in the coastwise trade and not the fisheries.

(g) Certain vessels not documented under the laws of the United States which are acquired by or made available to the Secretary of Commerce may be documented under section 3 of the Act of August 9, 1954 (50 U.S.C. 198). Such vessels shall not engage in the coastwise trade unless in possession of a valid unexpired permit to engage in that trade issued by the Secretary of Commerce under authority of section 3(c) of the said Act.

(h) A vessel which is at least 50 percent owned by a citizen as defined in 46 CFR subpart 68.05, and which, except for citizenship requirements, is otherwise entitled to be documented with a coastwise endorsement, may be documented with a limited coastwise endorsement, provided the vessel is owned by a not-for-profit oil spill response cooperative or by one or more members of such a cooperative who dedicate the vessel to the use of the cooperative (46 U.S.C. 12106(d)). Notwithstanding 46 U.S.C. App. 883, a vessel may be documented with such a limited endorsement even if formerly owned by a not-for-profit oil spill response cooperative or by one or more members thereof, as long as the citizenship criteria of 46 CFR subpart 68.05 are met. A vessel so documented may operate on the navigable waters of the United States or in the Exclusive Economic Zone only for the purpose of training for oil spill cleanup operations; deploying equipment, supplies and personnel for cleanup operations; and recovering and/or transporting oil discharged in a spill. Such vessel may also engage in any other employment for which a registry, fishery, or Great Lakes endorsement is not required, and

may qualify to operate for other purposes by meeting the applicable requirements of 46 CFR part 67.

(i) Any vessel, entitled to be documented and not so documented, employed in a trade for which a Certificate of Documentation is issued under the vessel documentation laws (see § 4.0(c)), other than a trade covered by a registry, is liable to a civil penalty of \$500 for each port at which it arrives without the proper Certificate of Documentation. If such a vessel has on board any foreign merchandise (sea stores excepted), or any domestic taxable alcoholic beverages, on which the duty and taxes have not been paid or secured to be paid, the vessel and its cargo are subject to seizure and forfeiture.

[T.D. 69-266, 34 FR 20422, Dec. 31, 1969, as amended by T.D. 79-160, 44 FR 31956, June 4, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 93-78, 58 FR 50257, Sept. 27, 1993; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 03-11, 68 FR 13820, Mar. 21, 2003; CBP Dec. 08-25, 73 FR 40725, July 16, 2008]

§ 4.80a Coastwise transportation of passengers.

(a) For the purposes of this section, the following terms will have the meaning set forth below:

(1) *Coastwise port* means a port in the U.S., its territories, or possessions embraced within the coastwise laws.

(2) *Nearby foreign port* means any foreign port in North America, Central America, the Bermuda Islands, or the West Indies (including the Bahama Islands, but not including the Leeward Islands of the Netherlands Antilles, i.e., Aruba, Bonaire, and Curacao). A port in the U.S. Virgin Islands shall be treated as a nearby foreign port.

(3) *Distant foreign port* means any foreign port that is not a nearby port.

(4) *Embark* means a passenger boarding a vessel for the duration of a specific voyage and *disembark* means a passenger leaving a vessel at the conclusion of a specific voyage. The terms *embark* and *disembark* are not applicable to a passenger going ashore temporarily at a coastwise port who reboards the vessel and departs with it on sailing from the port.

(5) *Passenger* has the meaning defined in § 4.50(b).

(b) The applicability of the coastwise law (46 U.S.C. 289) to a vessel not qualified to engage in the coastwise trade (i.e., either a foreign-flag vessel or a U.S.-flag vessel that is foreign-built or at one time has been under foreign-flag) which embarks a passenger at a coastwise port is as follows:

(1) If the passenger is on a voyage solely to one or more coastwise ports and the passenger disembarks or goes ashore temporarily at a coastwise port, there is a violation of the coastwise law.

(2) If the passenger is on a voyage to one or more coastwise ports and a nearby foreign port or ports (but at no other foreign port) and the passenger disembarks at a coastwise port other than the port of embarkation, there is a violation of the coastwise law.

(3) If the passenger is on a voyage to one or more coastwise ports and a distant foreign port or ports (whether or not the voyage includes a nearby foreign port or ports) and the passenger disembarks at a coastwise port, there is no violation of the coastwise law provided the passenger has proceeded with the vessel to a distant foreign port.

(c) An exception to the prohibition in this section is the transportation of passengers between ports in Puerto Rico and other ports in the U.S. on passenger vessels not qualified to engage in the coastwise trade. Such transportation is permitted until there is a finding under 46 U.S.C. 289c that a qualified U.S.-flag passenger vessel is available for such service.

(d) The owner or charterer of a foreign vessel or any other interested person may request from Headquarters, U.S. Customs and Border Protection, Attention: Cargo Security, Carriers & Immigration Branch, Office of International Trade, an advisory ruling as to whether a contemplated voyage would be considered to be coastwise transportation in violation of 46 U.S.C. 289. Such a request shall be filed in accordance with the provisions of part 177, CBP Regulations (19 CFR part 177).

[T.D. 85-109, 50 FR 26984, July 1, 1985, as amended by T.D. 85-109, 50 FR 37519, Sept. 16, 1985; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]