

§ 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]

§ 4.80b Coastwise transportation of merchandise.

(a) *Effect of manufacturing or processing at intermediate port or place.* A coastwise transportation of merchandise takes place, within the meaning of the coastwise laws, when merchandise laden at a point embraced within the coastwise laws ("coastwise point") is unladen at another coastwise point, regardless of the origin or ultimate destination of the merchandise. However, merchandise is not transported coastwise if at an intermediate port or place other than a coastwise point (that is at a foreign port or place, or at a port or place in a territory or possession of the United States not subject to the coastwise laws), it is manufactured or processed into a new and different product, and the new and different product thereafter is transported to a coastwise point.

(b) *Request for ruling.* Interested parties may request an advisory ruling from Headquarters, U.S. Customs and Border Protection, Attention: Cargo Security, Carriers & Immigration Branch, Office of International Trade,

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as to whether a specific action taken or to be taken with respect to merchandise at the intermediate port or place will result in its becoming a new and different product for purposes of this section. The request shall be filed in accordance with the provisions of part 177 of this chapter.

[T.D. 79-193, 44 FR 42178, July 19, 1979, as amended by T.D. 91-77, 56 FR 46114, Sept. 10, 1991; 56 FR 47268, Sept. 18, 1991; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§4.81 Reports of arrivals and departures in coastwise trade.

(a) No vessel which is documented with a coastwise license or registry endorsement or is owned by a citizen and exempt from documentation, and which is in ballast or laden only with domestic products or passengers being carried only between points in the United States shall be required to report arrival or to enter when coming into one port of the United States from any other such port, except as provided for in sections 4.83 and 4.84, nor to obtain a clearance, permit to proceed, or permission to depart when going from one port in the United States to any other such port except when transporting merchandise to a port in noncontiguous territory.¹¹¹

(b) When the facts are as above stated except that the vessel is carrying bonded merchandise, the master shall report its arrival as provided for in §4.2.

(c) [Reserved]

(d) The traveling Crew's Effects Declaration, Customs Form 1304, or Customs and Immigration Form I-418 with attached Customs Form 5129, referred to in §4.85 (b), (c), and (e) shall be deposited with the port director upon arrival at each port in the United States and finally surrendered to the appropriate Customs officer or director of the port where the vessel first departs directly for a foreign port.

(e) Before any foreign vessel departs in ballast, or solely with articles to be transported in accordance with §4.93, from any port in the United States for any other such port, the master must apply to the port director for a permit

to proceed by filing a Vessel Entrance or Clearance Statement, Customs Form 1300, in duplicate. If a vessel is proceeding in ballast and therefore the Cargo Declaration (Customs Form 1302) is omitted, the words "No merchandise on board" shall be inserted in item 16 of the Vessel Entrance or Clearance Statement. However, articles to be transported in accordance with §4.93 must be manifested on the Cargo Declaration, as required by §4.93(c). Three copies of the Cargo Declaration must be filed with the port director. When the port director grants the permit by making an appropriate endorsement on the Vessel Entrance or Clearance Statement (see §4.85(b)), the duplicate copy, together with two copies of the Cargo Declaration covering articles to be transported in accordance with §4.93, must be returned to the master. The traveling Crew's Effects Declaration, Customs Form 1304, and all unused crewmembers' declarations on Customs Form 5129 will be placed in a sealed envelope addressed to the appropriate Customs officer at the next intended domestic port and returned to the master for delivery. The master must execute a receipt for all unused crewmembers' declarations which are returned to him. Immediately upon arrival at the next United States port the master must report his arrival to the port director. He must make entry within 48 hours by filing with the port director the permit to proceed on the Vessel Entrance or Clearance Statement received at the previous port, a newly executed Vessel Entrance or Clearance Statement, a Crew's Effects Declaration of all unentered articles acquired abroad by crewmembers which are still on board, a Ship's Stores Declaration, Customs Form 1303, in duplicate of the stores remaining on board, both copies of the Cargo Declaration covering articles transported in accordance with §4.93, and the document of the vessel. The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5129 returned at the prior port to the master must be delivered by him to the appropriate Customs officer.

(f) The master, licensed deck officer, or purser who enters or clears a vessel,

¹¹¹ See §4.84.

¹¹²⁻¹¹⁴ [Reserved]