

§4.80a

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its Territories (not including trust territories), or its possessions. However, no rebuilt vessel shall be deemed to have lost its coastwise privileges within the meaning of the above if rebuilt within the United States, its Territories (not including trust territories), or its possessions under a contract executed before July 5, 1960, if the work of rebuilding commenced not later than 24 months after such date.

(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 docu-

mented 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]

§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 Service, Attention: Entry Procedures and Carriers Branch, 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, Customs 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, United States Customs Service, Attention: Entry Procedures and Carriers Branch, as to whether a specific action taken or to be taken with respect to merchandise at the intermediate port or place will