



*Great Lakes /
St. Lawrence Seaway System*

CRUISE VESSEL INFORMATION AND REFERENCE GUIDE



Produced by

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Preface

All commercial vessels transiting the Great Lakes St. Lawrence Seaway System are required to have a current copy of the *Seaway Regulations* on board. A copy of the regulations may be obtained, free of charge, by contacting either Seaway entity:

U.S. Saint Lawrence Seaway Development Corporation
P.O. Box 520
Massena, New York 13662
Phone: 315-764-3200

or

Canadian St. Lawrence Seaway Management Corporation
202 Pitt Street
Cornwall, Ontario K6J 3P7
Phone: 613-932-5170

Additional information or interpretation of the regulations is available upon request. The following sections of this information and resource guide are of particular interest to the cruise ship industry.



General Information

Tourist Season

The St. Lawrence Seaway navigation season typically runs from the first part of April through the end of December. Generally, cruise vessels should attempt to operate within the Great Lakes Seaway System from mid May to mid October when weather conditions are most favorable.

Drawing Review Service

The St. Lawrence Seaway entities provide a drawing review service. The owners should submit two copies of the general arrangement, cross sections in way of the masts and superstructure, mooring and anchoring arrangements and the lines drawing. The drawings will be reviewed by Seaway personnel who will provide comments and recommendations prior to the vessel's transit. We strongly urge our customers to utilize this service prior to first entry into the Great Lakes/ Seaway System. Any necessary modifications can be undertaken prior to arrival; this avoids unnecessary delays.

This service is offered free of charge. We recommend the package be clearly marked "Ship Drawings – No Commercial Value" for Customs purposes.

Block Diagram

There are several types of bridges within the Seaway such as vertical lift bridges, bascule and double bascule bridges. Owners may find, when reviewing the block diagram in the *Seaway Regulations*, that their vessel does not comply. Again, please let the Seaway entities review the drawings. We put them through the drawings for each individual bridge since the block diagram is a composite drawing.

General Information

Protrusions

Protrusions of any portion of the vessel beyond the hull must be kept to a minimum. Approved permanent fendering will be required if considered necessary both for the safety of the vessel and protection of Seaway structures. This too can be determined at the drawing review stage.

Mast Heights

The maximum permitted air draft is 35.5 meters (116.5 ft.) in the Montreal to Lake Erie section. Vessels in excess of the maximum are not accepted for transit. We can, however, advise masters on trim alternatives as a resolution.

Ballast Water Exchange

The U.S. Coast Guard issued mandatory regulations for controlling ballast water in the Great Lakes in 1993. Ballast water exchange is mandatory for any vessel carrying ballast water entering the Great Lakes from a foreign port. This exchange must take place at least 200 miles from shore and in depths of water at least 2,000 meters. Ballast water is checked to ensure acceptable salinity levels.

The regulations, or an explanation, may be obtained from the Saint Lawrence Seaway Development Corporation or the U.S. Coast Guard Marine Safety Detachment in Massena, N.Y. (315-764-3284).

General Information

Ship Inspection Services

The St. Lawrence Seaway entities require inspection of every foreign flagged vessel prior to the first transit of each navigation season. This inspection is typically conducted in Montreal, Quebec, by one Canadian and one U.S. inspector. Inspection items include Seaway fittings, port state control items such as lifesaving equipment and marine sanitation devices and ballast water as mentioned above. There is no fee for the inspection if conducted during regular business hours, otherwise there is a \$600 (Canadian) fee assessed.

Wind Effect

Passenger vessels are usually high sided and very susceptible to the effects of wind. The “sail” area will be taken into account, along with other factors such as bow and stern thrusters, controlled pitch propellers, twin screw, etc. Operators must recognize that weather delays due to high winds may occur.

Speed

Most passenger vessels are capable of considerably faster speeds than normal bulk carrier or tank ships. However, there are very specific speed regulations set down for some of the confined waters of the St. Lawrence River and Great Lakes. These speed limits have been developed over a number of years and are extremely important for environmental and riparian interests. Radar checks are carried out to ensure adherence to these limits.

Tie-Up Service

The Seaway provides a tie up service for vessels dispatched to secure to an approach wall either above or below a lock. This negates the requirement to install and maintain landing booms as per regulations 8 and 37(2). The fee (in Canadian funds) is \$750 round trip for the Montreal-Lake Ontario section and \$750 round trip for the Welland Canal.

General Information

Vessel Traffic Control

The St. Lawrence Seaway entities provide traffic management services through our three vessel traffic control centers (two by the Canadian entity and one by the U.S. entity). The three centers are currently equipped with a computerized traffic management system. The system consists of a complete graphics display of both vessel traffic movement and transit information. This results in efficient scheduling of vessel traffic through the St. Lawrence Seaway for our customers.

Transit Times

There are established standard running times through the various sectors of the Great Lakes St. Lawrence Seaway System. Keep in mind these are only “estimated running times” which could be impacted by weather or traffic delays. However, we hope they assist you in planning your cruise.

Montreal to Lake Ontario (Tibbetts Point) -----	24 hours
Lake Ontario (Tibbetts Point) to Port Weller -----	14 hours
Port Weller (Lake Ontario) to Port Colborne -----	12 hours
Port Colborne (Lake Erie) to Port Huron -----	20 hours
Montreal to Port Colborne -----	47 hours
Montreal to Toledo -----	63 hours
Montreal to Milwaukee -----	101 hours
Montreal to Chicago -----	107 hours
Montreal to Duluth -----	112 hours

U.S. Vessel Entry and Clearance Information

Regulatory Authority

Q: *What is the purpose of this document?*

A: This series of questions and answers has been prepared by the Saint Lawrence Seaway Development Corporation for inclusion in a technical manual of Seaway regulations intended for the owners and operators of passenger cruise vessels sailing on the Great Lakes/Seaway System. It is intended as a plain language explanation of certain U.S. Customs regulations, and is not intended as a replacement for the regulations themselves. **This document is not a binding interpretation of the statute and regulations, and any questions should be addressed directly to the U.S. Customs Service.**

Q: *What statutes and regulations govern the entrance and clearance of vessels into and out of U.S. ports?*

A: 19 U.S.C. Sections 1433, 1434, 1437, 1447, 1448, and 1454 cover vessel entry, 46 U.S.C. sections 121, 132, 141 cover payment of the tonnage tax, 46 U.S.C. section 91 covers clearance requirements, and sections 1436 and 1441 pertain to entrance and clearance exceptions and penalties. The corresponding regulations are found throughout Title 19 part 4 of the Code of Federal Regulations, specifically 19 C.F.R. 4.1-4.12 (arrival and entry requirements), 19 C.F.R. 4.20-4.24 (payment of tonnage taxes), 19 C.F.R. 4.30-4.51 (cargo and passenger unloading requirements), 19 C.F.R. 4.60-4.69 (clearance requirements), 19 C.F.R. 4.80-4.91 (coastwise procedures) and 19 C.F.R. 4.98 (navigation fees). *(See Appendix B for applicable sections of 46 U.S.C.; Appendix C for applicable sections of 19 U.S.C.; and Appendix D for applicable sections of 19 C.F.R.)*

U.S. Vessel Entry and Clearance Information

Q: *What agency administers these statutes and regulations?*

A: The U.S. Customs Service administers these statutes and regulations.

Q: *When did U.S. Customs last revise the entry and clearance regulations?*

A: The most recent revision becomes effective February 18, 2000. Customs published these revisions in the January 19, 2000 *Federal Register* (Volume 65, Number 12).

Arrival

Q: *Which vessels are required to report arrival to Customs?*

A: Any vessel arriving from a foreign port, any foreign vessel arriving from a domestic port, any American vessel carrying bonded merchandise or foreign merchandise that has not been entered, and any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea must report arrival at the nearest customs facility.

Q: *When must vessels report arrival?*

A: The master of the vessel must report arrival to Customs immediately upon arrival.

Q: *Will Customs board every vessel upon arrival?*

A: Customs is not required to board every vessel. Every vessel arriving at a Customs port will be subject to such supervision while in port as the port director considers necessary. Customs will board as many vessels as is necessary to ensure compliance with the laws it enforces.

U.S. Vessel Entry and Clearance Information

Q: *What documents comprise a complete manifest?*

A: A complete manifest must include Customs Form 1300 (Masters' Oath on Entry of Vessel in Foreign Trade), CF 1301 (General Declaration), and, if required, the following documents: CF 1302 (Cargo Declaration), CF 1303 (Ships Store's Declaration), CF 1304 (Crew's Effects Declaration), Crew list, Customs and Immigration form I-418, and Passenger List, Customs and Immigration Form I-418. Instead of CF 1304, Form 5129 listing crewmembers declarations may be attached to the Form I-418 crew list. Any document which is not required (such as the Cargo Declaration) may be omitted from the manifest provided the word "None" is inserted in item 17-22 of the General Declaration, as appropriate.

Q: *Does Customs require passenger and crew lists from vessels arriving at a Great Lakes Port from Canada by way of the Great Lakes or its tributaries?*

A: No passenger or crew list is required in the case of a vessel arriving from Canada, otherwise than by sea (i.e., by the Great Lakes or their connecting or tributary waters) at a port on the Great Lakes or their connecting or tributary waters. In other words, a cruise vessel traveling through the Great Lakes from Toronto to Chicago, for example, would not be required to produce a crew list or passenger list as part of the manifest.

U.S. Vessel Entry and Clearance Information

Q: *What additional requirements apply to crew and passenger lists?*

A: Both the crew list and the passenger list must be completed in accordance with the requirements of the Immigration and Naturalization Service (See 8 C.F.R. parts 231 and 251.) The passenger list must contain the following certification signed by the ship's master:

I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs officer; and that the responsibilities devolving upon this vessel in connection there with, if any, have been or will be discharged as required by law or regulation before the proper Customs officer. I further certify that there are no steerage passengers on board this vessel.

If the vessel is carrying steerage passengers, the reference to steerage passengers in the certification must be deleted, and the additional information required by Customs and Immigration form I-418 must be included in the passenger list.

Q: *What must be done to ships stores on arrival?*

A: Upon arrival of a vessel from a foreign port, or a vessel engaged in foreign trade from a domestic port, all ships stores not required for immediate use, along with merchandise acquired abroad by crewmembers and officers for which no permit to land has been issued, must be placed under seal, unless this requirement is waived by the Customs officer.

U.S. Vessel Entry and Clearance Information

Entry

Q: *When must a vessel make formal entry?*

A: Any vessel arriving from a foreign port or place, any foreign vessel arriving from a domestic port, any U.S. vessel having on board bonded merchandise or foreign merchandise for which entry has not been made, and any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea must make formal entry within 48 hours of arrival.

Q: *When must a foreign vessel produce its vessel document?*

A: Upon formal entry, the master of any foreign vessel will exhibit to the Customs' port director the vessel's document. After the net tonnage has been noted, the document may either be delivered to the consul of the nation to which the ship belongs, or deposited in the customhouse. The document will not be returned to the master until clearance to leave the port is granted.

Q: *May formal entry be made at locations other than the customhouse?*

A: Depending on local resources, the port director may allow formal entry to be made at locations other than the customhouse (i.e., on board the vessel) and at times outside of normal business hours.

U.S. Vessel Entry and Clearance Information

Q: *What are the consequences for failure to comply with Customs entry requirements?*

A: Failure to comply with these entry requirements will subject the ship's master to civil and/or criminal penalties. In addition, the vessel itself will be subject to seizure and forfeiture.

Tonnage Duties

Q: *Which vessels are subject to a tonnage tax?*

A: Both foreign and domestic vessels are subject to the regular tonnage tax. In addition, foreign vessels may be subject to special tonnage duties and light money, unless these duties have been suspended by the President of the United States upon proof that the country where the vessel is registered does not impose discriminating duties upon U.S. vessels. A list of countries whose vessels are exempt from special tonnage taxes and light money is provided in 19 C.F.R. 4.22. (See Appendix D)

Q: *How much is the regular tonnage tax?*

A: A tonnage duty of 9 cents per ton, not to exceed 45 cents per ton in any one year, is payable upon each entry for vessels arriving from any place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland. This rate also applies to vessels which depart from a U.S. port and return to the same port without having visited another port (i.e., a voyage to nowhere). Vessels entering from a port on the Great Lakes in the province of Ontario, Canada, are exempt from the tonnage tax. The 9-cent tonnage tax is applicable through 2002. Thereafter, the tonnage tax will be 2 cents per ton, not to exceed 10 cents per ton in any one year.

U.S. Vessel Entry and Clearance Information

For vessels arriving in a U.S. port from any other foreign port than those listed above, a tonnage duty of 27 cents per ton, not to exceed \$1.35 per year, is payable upon each entry is applicable through 2002. Thereafter, the tonnage tax will be 6 cents per ton, not to exceed 30 cents per ton in any one year.

Q: *What rate applies when a vessel enters port carrying passengers or cargo from both 9 cent and 27 cent ports?*

A: If the vessel arrives with passengers or cargo taken from two or more ports to which different rates apply, tonnage tax will be collected at the higher rate. For example, if a vessel embarks passengers in Hamburg, Germany (a 27 cent port), embarks additional passengers in Montreal, Canada (a 9 cent port) and enters Chicago, tonnage duties for that entry will be paid at the higher 27 cent rate.

Q: *What is the maximum tonnage tax payable per vessel per year?*

A: Each year, a vessel may be liable for up to \$1.80 per ton — 5 entries from 9 cent ports plus five entries from 27 cent ports.

Q: *When does the vessel's tonnage year begin?*

A: The tonnage year begins on the date of the first entry of the vessel.

U.S. Vessel Entry and Clearance Information

Q: *What serves as proof that the required tonnage tax has been paid?*

A: Upon each payment of tonnage tax, Customs will issue the master a certificate on Customs Form 1002. This certificate is the official proof that such duties have been paid, and must be presented upon each entry to establish the date of the beginning of the tonnage year, and to guard against overpayment. In the absence of the certificate, evidence of payment of tonnage tax can be obtained from the port director to whom payment was made.

Q: *Can overpayments of tonnage tax be recovered?*

A: Overpayments may be refunded if an application is made within one year from the date of the payment. The application must be for a definite sum with a concise statement of the reason for the refund, the nationality and name of the vessel, and the date, place, and amount of each payment for which a refund is requested. The application must be filed with the customs officer to which payment was made. If any doubts exist about the entitlement to a refund, the port director will refer the application to Customs Headquarters for advice. Further details are provided in 19 CFR 4.24. (See Appendix D)

Clearance

Q: *Which vessels must obtain clearance from Customs before departing from port?*

A: All vessels departing for a foreign port or place, all foreign vessels departing to another U.S. port, all American vessels departing for another U.S. port or place with in-bond merchandise on board, all American vessels with foreign merchandise aboard which has not been entered, any vessel

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departing for points outside the territorial sea to visit a hovering vessel, or to receive merchandise or passengers while outside the territorial sea, and foreign vessels delivering merchandise or passengers while outside the territorial sea must obtain clearance from the Customs Service before departing.

Q: *How does a vessel apply for clearance?*

A: Application for clearance should either be made by filing Customs Form 1378, at the customhouse, or by submitting the necessary information electronically in a manner approved by Customs.

Q: *Can Customs clear a vessel outside of the customhouse?*

A: As with formal entry, Customs may allow the clearance of vessels at locations other than the customhouse (for example, on board the vessel) if local resources permit.

Q: *Under what circumstances will Customs deny vessel clearance?*

A: No vessel will be cleared for a foreign port until Customs has verified that the ship has complied with all applicable regulations, including verification of nationality and tonnage, verification of inspections, public health regulations, immigration regulations, requirements for carriage of passengers, etc. A complete list of these requirements is found in 19 CFR 4.61. *(See Appendix D)*

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Q: *Are there special clearance requirements for cruise ships?*

A: Any vessel which embarks passengers in a U.S. port and has berth or stateroom accommodations for 50 or more passengers must establish that it has valid certificates issued by the Federal Maritime Commission before Customs will clear the vessel.

Q: *What if a vessel carries passengers manifested for ports other than the first port of arrival?*

A: A foreign vessel arriving from a foreign port with passengers manifested for ports other than the port of first arrival may proceed with such passengers from port to port as long as a bond on Customs Form 301 in a suitable amount is on file with the director of the port of first entry.

Before the vessel can continue on to a second domestic port with passengers as described above, the master must present, in triplicate, an application to proceed to the next port on CF 1301. The port director will return a certified copy of the inward manifest (referred to as the traveling manifest) to the master. The port director will endorse the application to proceed, and will attach one copy to the traveling manifest and will return one copy to the master.

Upon arrival in the next port, the vessel must immediately report its arrival and make formal entry within 48 hours of arrival. To make formal entry, the master must present the permit to proceed, the traveling manifest, the traveling Crew's Effects Declaration (CF 1304), together with the crewmembers declarations received on departure from the previous port. In addition, the master must present an abstract manifest consisting of a newly executed General Declaration (CF 1301),

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a Cargo Declaration (CF 1302), and a Passenger list (Form I-418) for any cargo or passengers to be discharged at that port, a Crew's Effects Declaration in duplicate for all unentered articles acquired abroad by officers and crewmembers which are still on board, a Ship's Store's declaration (CF 1303), in duplicate. The master must execute the required Master's Oath on CF 1300.

The traveling manifest will be surrendered at the final domestic port where passengers or cargo are to be discharged. If the vessel is to proceed to an intermediate foreign port prior to returning to a U.S. port to discharge passengers, the master will not surrender the traveling manifest until the vessel has reached this final domestic port.

Navigation Fees

Q: *What fees does Customs charge for services related to vessel entry and clearance?*

A: The Customs Service publishes in the *Federal Register* and *Customs Bulletin* a revised schedule of fees for services related to vessel entry and clearance. These fees are also made available to the public in Customs offices.

Canadian Vessel Entry and Clearance Information

Summary

The purpose of this document is to provide a general overview of the customs, immigration and port state control requirement and processes which must be undergone by cruise vessels sailing in the Great Lakes/ Seaway System. It is intended for the general guidance of the owners and operators of passenger cruise vessels and is not intended as an exhaustive catalogue of applicable laws, regulations or procedures nor as an interpretation of any statutes or regulations. Any question should be addressed to the appropriate authority.

Discussion

Inward Report – General

All vessels in international commercial service arriving in Canada must proceed without delay directly to a customs office designated for the clearance of vessels and make a full report to customs prior to any persons being allowed to disembark or embark the vessel, or any cargo being discharged.

Normally, arrangements to clear a vessel in international commercial service will be made with the Canada Customs and Revenue Agency (“CCRA”) in advance, either by the ship’s agent or master. Where this has been done, customs representatives will make every reasonable effort to meet the vessel upon its arrival. When a vessel arrives from a foreign port and circumstances require that it anchor in the harbour or stream, customs officers may proceed aboard to accept the ships stores list, crew declaration, and seal ships stores. The boarding of the vessel for this purpose is simply a preliminary function carried out to enable the vessel to proceed with local port routine without undue delay, and is not a substitute for formal reporting procedures. When practicable, the formal inward report may be taken at this time; should the vessel arrive after hours, the inward report may be presented by the ship’s master or agent the following day.

Canadian Vessel Entry and Clearance Information

A customs inspector detailed to clear a vessel will, upon boarding, request to meet with the captain. The clearance interview will begin with the presentation of a duly completed preliminary Form A6, *General Declaration* .

The clearing officer will then proceed with the immigration portion of the inspection formalities by accepting and verifying the immigration crew list.

Forms E1, *Ships Stores Declaration* , and Y14, *Crew's Effects Declaration* , or their counterparts, if in conformity with the International Maritime Organization standards, should then be presented and verified. The customs inspector will then proceed to ensure that the vessel is in compliance with the registration, safety compliance, and crew certification provisions of the Canada Shipping Act, R.S. c. S-9. This will include verifying that the following documents are present and valid:

- (a) Certificate of Registry
- (b) Passenger Ship Safety Certificate
- (c) Load Line Certificate Officers' Certificates of Competency;
and/or
- (d) Certificate of Insurance or other financial security.

For more details on these certificates, see *A Guide for Customs Officers – Canada Shipping Act*, published by Transport Canada. Copies may be obtained from Import Process Division, Customs and Trade Administration Branch, Connaught Building, 555 MacKenzie Avenue, Ottawa, Ontario K1A 0L5.

The customs inspector will then proceed to examine any bonded stores and narcotics which are not to be sealed and note on Form E1 where they may be found and who has care and control of them. All other bonded stores will be securely sealed after verifying the ships stores

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list. All accesses to the bond room are to be properly secured. Resources permitting, in the case of a passenger ship, the preceding formalities may be completed simultaneously with the clearance of the passengers. Where resource limitations preclude such an operation, the vessel clearance procedures will normally be completed prior to the clearance of the passengers.

Seaway Traffic

Unless goods or persons are to be taken on board or discharged in Montreal, or the vessel is in port for more than 48 hours, the vessels destined for ports west of Montreal will not normally be boarded and sealed at Montreal nor will a passing report be filed at that port. Immigration forms will be filed and passengers and their baggages will be examined at the port of destination.

However, the regional chief officer of customs at Montreal reserves the right to have any vessel at anchor boarded and undergo complete customs documentation. In the absence of information to the contrary, ports west of Montreal will process vessels from the St. Lawrence Seaway as foreign arrivals.

Coastwise Shipping

Vessels in international commercial service may drop off and pick up passengers at more than one location in Canada provided that all of the following conditions are met:

- (a) the vessel was cleared by customs at the time of its initial arrival in Canada;
- (b) all passengers disembarked originated outside of Canada; and
- (c) all passengers embarked or cargo laden on board is destined to a point or points outside of Canada.

Canadian Vessel Entry and Clearance Information

Vessels making such moves are termed to be moving “Coastwise,” and are subject to customs control. It should be noted that this term is separate and distinct from the term “coasting,” which refers to the transportation of goods or people between points in Canada.

Vessels moving coastwise whether laden or in ballast, remain subject to customs control and must be reported to the CCRA at each point of arrival and departure. Where the stay in port will be of a short duration, a combined Form A6 inward/outward vessel report may be accepted.

Cruise ships moving coastwise are subject to customs examination at each port of call. With the exception of passengers permanently leaving the vessel or crew taking shore leave, inspection will normally be limited to a gangplank surveillance of disembarking passengers. It is the vessel operator’s responsibility to ensure that any persons going ashore for a brief visit return to the ship. Any failure to return on the part of non-residents is to be reported immediately to the CCRA which will advise Citizenship and Immigration Canada.

On-board duty-free shops and bonded stores will be sealed while a cruise ship is in port. However, on request, a reasonable quantity of non-duty paid alcohol and beer may be left unsealed for the use of the passengers and their guests.

While passengers and crew are at liberty to entertain invited guests on board a ship in harbour, the presence of such persons is to be reported to customs prior to embarkation.

Outward Report

All vessels outbound from Canada must report to customs prior to departure and present a properly completed Form A6. This is a preliminary report.

Canadian Vessel Entry and Clearance Information

At the time that a vessel departs, the CCRA in addition to Form A6, will ensure that a completed crew list is remitted to Citizenship and Immigration Canada, and that all necessary safety and crewing certificates are present and are likely to remain valid throughout the voyage.

Penalties

a) Failure to Report

Failure to report a vessel inwards or outwards under the terms of the Customs Act, R.S. c. C-52.6 may result in seizure and forfeiture of the vessel. However, under most circumstances a penalty of \$400 will be assessed in lieu of seizure. Failure to report any goods on board a vessel may result in seizure and forfeiture of the goods.

b) Smuggling

Smuggling is an indictable offence under the Customs Act and may, in addition to the seizure and forfeiture of any smuggled goods, result in the imprisonment of a person found guilty of committing such an act, or the imposition of a fine not exceeding \$25,000 and not less than \$200. Under certain circumstances a vessel used for the purposes of smuggling may be liable to seizure and forfeiture under the Customs Act.

c) Canada Shipping Act

The Canada Shipping Act provides for penalties ranging from detention, refusal of outward clearance and fines for offences relating to failure to produce the various certificates required under that Act.

USDA Regulatory Information

Regulatory Authority

The Animal and Plant Health Inspection Service (“APHIS”) of the United States Department of Agriculture (“USDA”), pursuant to its authority to prevent the importation and spread of animal and plant pests, has promulgated numerous regulations. These rules impact cruise ship operations in three main areas: notification requirements relating to vessel arrivals (7 CFR 330.111), rules governing importation of foreign fruits, vegetables, meats, meat products or other plant or animal material (7 CFR 330.400 and 9 CFR 94.5) by disembarking passengers, and the disposal of regulated garbage (7 CFR 330.400 and 9 CFR 94.5).

Advance Notification of Vessel Arrival

Q: *What are the notification requirements for arriving vessels?*

A: According to 7 CFR § 330.111, the owner, operator, or other representative of any vessel entering the U.S. from a foreign country, or the continental U.S. from Hawaii, or from any territory or possession of the United States, must notify the Plant Protection and Quarantine Office (“PPQ office”) serving the port of arrival of the vessel’s intent to arrive not less than 12 hours before the vessel’s estimated time of arrival. This notification, which may be made by radio, wire, telephone, or other means, must include the following information: name of the individual craft; date and estimated time of arrival; location of arrival, including dock, pier, wharf, etc.; and the names of all foreign and non-continental U.S. ports where any cargo, crew, or passenger destined for the continental U.S. has boarded the vessel since its most recent arrival in the U.S.

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Q: *Under which circumstances will these notice requirements be waived?*

A: The vessel does not have to provide advance notice of arrival if, among other things, it has been pre-cleared and an inspector has determined that it does not carry any prohibited or restricted articles for importation into the U.S. For instance, after a vessel's initial arrival at a U.S. port, a vessel traveling only between U.S. and Canadian ports that a PPQ inspector has determined carries only U.S. or Canadian stores may not need to provide notice of arrival at its subsequent stops. In addition, a vessel that enters the U.S. and proceeds to subsequent U.S. ports without leaving the U.S. may be informed in writing by a PPQ inspector that advance notice of arrival is not necessary in subsequent U.S. ports. Please discuss these exceptions with the PPQ inspector at the first U.S. port of arrival for more details.

Restrictions on the Importation of Fruits, Vegetables, Meats, Meat Products or Other Plant or Animal Material by Disembarking Passengers

Q: *May disembarking passengers bring fruits or vegetables off of the vessel?*

A: If a PPQ inspector is satisfied that the ship stores are exclusively of U.S. or Canadian origin, a passenger may bring fruit or vegetables issued to him from the ship's stores with him when he disembarks. However, because of the wide ranging restrictions and prohibitions on the importation of fruit and vegetables of foreign origin (specifically listed throughout 7 CFR chapter III), if there is any doubt as to the origin of the produce, the inspector will confiscate and dispose of the item in question. Therefore, USDA recommends that passengers not attempt to bring fruit and vegetables with them when disembarking.

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Disposal of Regulated Garbage

Q: *What is garbage?*

A: 7 CFR § 330.400(b) and 9 CFR § 94.5 define garbage as the following: "...garbage means all waste material derived in whole or in part from fruits, vegetables, meats, or other plant or animal (including poultry) material, and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers or packaging materials, and other waste material from stores, food preparation areas, passengers' or crews' quarters, dining rooms, or any other areas on [the] means of conveyance."

Q: *Is all garbage "regulated" garbage?*

A: Not all garbage is regulated garbage subject to restrictions on its disposal. If the vessel has been to a port outside the U.S. or Canada within the previous two year period, garbage on board the vessel is regulated garbage. However, even if the vessel has been outside the U.S. or Canada in the preceding two years, garbage on board is not regulated if the vessel is accompanied by a certificate from a PPQ inspector that states the following: (1) that the vessel has previously been cleared of all garbage, including all meats and meat products (except meats that are shelf stable), all fresh and condensed milk and cream from countries designated in 9 CFR 94.1 as countries in which foot and mouth disease exist; all fresh fruits and vegetables, and all eggs, and that all these cleared items were disposed of according to the disposal requirements for regulated garbage; (2) the vessel has been cleaned and disinfected in the presence of the inspector; and (3) since being cleaned and disinfected, the vessel has not been in a non-Canadian foreign port.

USDA Regulatory Information

Therefore, if these requirements are met, a vessel transiting between Canadian and U.S. ports, carrying all U.S. or Canadian stores, would not have to comply with the requirements governing the disposal of regulated garbage after the time of its initial arrival from a non-Canadian foreign port, assuming that the vessel is inspected, cleaned and disinfected at that time.

Q: *What are the disposal requirements for regulatory garbage?*

A: Regulated garbage is subject to the general surveillance of APHIS inspectors to insure compliance with all applicable regulations in order to prevent the dissemination of plant pest and livestock or poultry diseases. The following specific requirements also apply: (1) All regulated garbage must be contained in tight, leak-proof covered receptacles during storage on board a vessel while in the territorial waters of the United States. All such receptacles must be inside the guard rail of the vessel; and (2) Regulated garbage shall not be unloaded from the vessel in the U.S. unless it is removed in tight, leak-proof receptacles under the direction of an APHIS inspector to an approved facility for incineration, sterilization, or grinding into an approved sewage system, or is removed for other handling as approved in specific cases by the APHIS Administrator. (Subject to certain restrictions, regulated garbage may also be disposed of in landfills in Alaskan ports, but those regulations have no applicability to cruises within the Great Lakes St. Lawrence Seaway System.)

USDA Regulatory Information

Q: *How can a vessel owner or other representative find a waste hauler that is authorized by APHIS to dispose of regulated garbage?*

A: We suggest that vessel owners and representatives contact the various APHIS port directors for the identity and location of approved facilities and compliant waste haulers in each port.

Explanation of U.S. Passenger Services Act

Summary

The “Passenger Services Act”, 46 U.S.C.App.289, was enacted in 1886 to reserve to United States vessels the right to transport passengers between one U.S. port and another U.S. port. (This is referred to as “coastwise trade.”)¹ The U.S. Customs service is the agency responsible for interpreting this statute and issuing the necessary regulations.² The purpose of this document is to provide general information on the PSA and the procedures used by the Customs Service to interpret these regulations as they apply to possible cruise itineraries within the Great Lakes/St. Lawrence Seaway system. This document is not a binding interpretation of the statute, and any questions about the permissibility of a specific itinerary must be addressed directly to the Customs Service (see page 26, section 2).

Under current law, in order to be “coastwise qualified”, a vessel must be U.S. built, U.S. owned, U.S. flagged, and must never have been foreign documented or owned.³ According to U.S. Customs regulations, non-coastwise qualified vessels such as foreign owned, built or flagged vessels are allowed to cruise between U.S. ports only if the ship’s itinerary meets the requirements outlined below. The information presented here was derived from applicable statutes, regulations, and U.S. Attorney General and Customs Service-issued decisions.

When applying these rules to possible Great Lakes itineraries, it is important to keep in mind the distinction made in the regulations between “nearby foreign ports” and “distant foreign ports.” All foreign ports 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) are classified by Customs regulations as “nearby foreign ports.” All other foreign ports are “distant foreign ports.” Therefore, under these definitions, all Canadian ports are nearby foreign ports. Travel between U.S. ports and nearby foreign ports are subject to more restrictions than itineraries that include travel to a distant foreign port.

Explanation of U.S. Passenger Services Act

Discussion

Foreign ships may embark passengers at a U.S. port on a “voyage to nowhere.”

A foreign ship would not violate the Passenger Services Act if it cruised from a United States port to a place outside of U.S. territorial waters and returned to the original point of departure with no intermediate stops, either foreign or domestic. For instance, a ship could embark passengers in and depart from Chicago, proceed into Canadian waters without actually making a call at a Canadian port, and return to and disembark those passengers in Chicago without violating the Act. U.S. Customs terms such an itinerary a “voyage to nowhere” and does not consider it to be a coastwise voyage.⁴ However, such an itinerary could not include any stops, even temporarily, at another U.S. port without violating the Passenger Services Act.⁵ An itinerary that included a foreign port call with embarkation and disembarkation in the same U.S. port would not violate the Act (see section below), but neither would it fall into the definition of a “voyage to nowhere.”

Foreign ships may cruise between U.S. and Canadian ports, including temporary stops at additional U.S. ports.

A cruise from a U.S. port to a Canadian port, such as Chicago to Toronto, with intermediate stops at other U.S. ports would be allowed provided that the intermediate U.S. port calls are temporary⁶ (although a sightseeing stop of several days is permissible)⁷ and all of the passengers going ashore in the U.S. port re-board the vessel and continue to the final destination, whether a Canadian port⁸ or the original U.S. port of departure.⁹ In addition, such an itinerary could include passengers leaving the ship at one U.S. port, traveling by bus or other means to another U.S. port and re-boarding the vessel at that point to continue the voyage.¹⁰

Because all of the Canadian ports are classified in the Customs regulations as nearby foreign ports, any itinerary beginning at a U.S. port with travel to a Canadian port must terminate either in the foreign port or the original U.S. port.¹¹ Therefore, an itinerary of Duluth to Toronto to a final destination of Chicago would violate the PSA.

Explanation of U.S. Passenger Services Act

Foreign ships may travel from a U.S. port to a final destination of another U.S. port as long as the cruise includes travel to a distant foreign port.

The regulations define a distant foreign port as any port that is not included in the definition of a nearby foreign port (see footnote 6). The Customs Service allows more flexibility in itineraries when travel to a distant foreign port is included. For instance, an example of an itinerary that Customs would most likely approve would be a cruise beginning in Duluth, including port calls at various other U.S. and Canadian ports, continuing on to Hamburg, Germany, then returning to a final destination of Chicago. As long as a passenger travels with the vessel to a distant foreign port, there is no longer a requirement that the passenger disembark at his original U.S. port of departure.¹²

Interested Persons may request a ruling letter from U.S. Customs covering prospective itineraries.

Customs regulations provide a procedure whereby an interested party may request in advance a ruling that a certain itinerary meets the requirements of U.S. law.¹³ Such requests must be in the form of a letter addressed to the Chief of the Entry Procedures and Carriers Branch (As of 3/01, Larry Burton), Office of Regulations and Rulings, U.S. Customs Service, Washington D.C., 20229. As stated in the regulations, “the request should completely identify the voyage, including the proposed time of arrival at and departure from every port on the itinerary and coordination of the voyage with special events at coastwise ports, and should be accompanied by samples, if available, of brochures, advertising, and other information that may be relevant to a determination of the primary object of the proposed voyage.”¹⁴ In addition, the request must state whether to the knowledge of the person requesting the ruling, the same transaction, or one identical to it, has ever been or is currently being considered by any U.S. Customs office.¹⁵ The Customs Service processes these requests in the order they are received, and a determination usually is issued 30-60 days after receipt of a request. However, if circumstances warrant, Customs may agree to consider a request on an expedited schedule if the requesting party, in writing submitted with the original request, shows a clear need for such consideration under Part 177 of the Customs Regulations.¹⁶

Explanation of U.S. Passenger Services Act

If the party requesting a ruling wishes to discuss the issues involved in a conference with Customs personnel, he should indicate that in the original written request. Customs will not routinely grant requests for conferences; They will grant such a request if they believe it will be helpful in deciding the issues, or if they may reach a result contrary to that advocated by the requesting party.¹⁷

Finally, at any time prior to the issuance of the ruling, the requesting party may withdraw the request. However, all materials submitted with the request will be retained by the Customs Service and may be forwarded to the Customs field offices having jurisdiction over the proposed transaction.¹⁸

¹ This memorandum only examines the applicability of United States law to cruise itineraries in the Great Lakes/St. Lawrence Seaway System. Canadian law also has restrictions on foreign vessels engaging in the transportation of passengers between Canadian ports. See The Coasting Trade Act, [get Canadian Cite]

² The regulations interpreting 46 U.S.C. 289 are located in 19 CFR sections 4.80 and following.

³ See 19 CFR 4.80

⁴ 29 Op. Att’y Gen. 318 (1912).

⁵ 19 CFR 4.80a(b)(1); See e.g. Customs ruling 113105, 1994 U.S. Custom HQ Lexis 474 (June 2, 1994).

⁶ 19 CFR 4.80a(4)(Passengers temporarily going ashore do not “disembark” within meaning of regulations.)

⁷ See e.g. Customs ruling 111051, 1990 U.S. Custom HQ Lexis 5628 (August 16, 1990) (Passengers allowed to remain several days at intermediate U.S. port as long as they are on board when vessel leaves port.)

⁸ See Customs ruling 113158, 1994 Custom HQ Lexis 583 (July 21, 1994)(Cruise between Toronto and Duluth, with stops at various intermediate U.S. ports is not a violation of section 289.)

⁹ See Customs ruling 112039, 1992 U.S. Custom HQ Lexis 610 (January 6, 1992) (Cruise beginning and ending in L.A. , with intervening stops in San Diego and Ensenada, Mexico is not a violation of section 289.)

¹⁰ See Customs ruling 112386, 1992 U.S. Custom HQ Lexis 712 (July 22, 1992)(overland trip from Port Everglades, Florida to Tampa Florida as part of cruise to foreign port does not violate section 289.)

¹¹ 19 CFR 4.80a(b)(2)

¹² 19 CFR 4.80a(b)(3)

¹³ 19 CFR 177.0-177.12

¹⁴ 19 CFR 177.2(b)(2)(iv)

¹⁵ 19 CFR 177.2(b)(5). In addition, the request must indicate whether the same or identical transaction is currently being or ever has been considered by the U.S. Court of International Trade, the U.S. Court of Appeals for the Federal Circuit, or any court of appeal therefrom.

¹⁶ 19 CFR 177.2(d)

¹⁷ 19 CFR 177.4

¹⁸ 19 CFR 177.6

Explanation of Canadian Coasting Trade Act

Summary

Foreign-registered ship activity in Canada's domestic marine shipping is governed by the Coasting Trade Act R.S. c. C-33.3 (the "Act"). The Act reserves the transportation of passengers, cargoes and marine-related activities in Canadian waters to Canadian-registered, duty-paid ships. Licences may be issued to foreign registered ships to enter Canada's coasting trade when no Canadian ship is available or capable of providing a particular service.

The Canada Customs and Revenue Agency ("CCRA", formerly, Revenue Canada) carries out the administration and collection of duties (where applicable) associated with obtaining a coasting trade licence. The Canadian Transportation Agency ("CTA") is tasked with determining whether or not a Canadian-registered, duty-paid ship is available to perform a particular service.

The purpose of this document is to provide general information on the Act and related legislation, their interpretation and application. It is not a binding interpretation of the Act, regulations or other legislation, and any question about the specific application of the Act, regulations or other legislation must be addressed to the appropriate authority.

The present document is intended for the use of cruise ship operators in the St. Lawrence Seaway System. Accordingly, it will address solely the Act as it applies to the carriage of passengers to or from eastern Canadian ports, excluding rules applicable to carriage of goods, to Canada' west coast and to the exploration or exploitation of natural resources of the Canadian continental shelf.

Explanation of Canadian Coasting Trade Act

Discussion

A) Definition of Coasting Trade

The Act makes a distinction between carriage of passengers originating from a lake or river in Canada and carriage of passengers originating from other coastal places in Canada. For the purpose of the Act, the St. Lawrence River, northeast of the St. Lambert locks (i.e. from Montreal downriver) does not follow the regime applicable to rivers and lakes.

Foreign ships may not, without a licence, embark passengers at a Canadian port on a “voyage to nowhere”.

A foreign ship would require a licence for a cruise from any Canadian port (whether coastal or on a lake or river) returning to the same point of departure without any intermediate stops, either foreign or domestic, whether it stays into or leaves Canadian territorial waters.

For example, a vessel embarking passengers in and leaving Montreal, cruising either up or down the St. Lawrence River, even going out to the Atlantic Ocean and returning to Montreal without having stopped at any other port, whether domestic or foreign, would still be considered engaging into coasting trade.

An itinerary that included a foreign port of call with embarkation and disembarkation in the same Canadian port might not constitute coasting trade, depending on whether or not the originating point is within a river or lake (see discussion in next two sections).

Foreign ships may cruise between Canadian and U.S. ports without a licence; temporary stops at additional Canadian ports may be permitted without a licence where the port of origin is not in a lake or river.

Generally, regardless of the point of embarkation, foreign ships do not require a licence to carry passengers from a Canadian port directly to a foreign port, including a U.S. port. For example, a cruise from Toronto to Chicago would not be considered a coasting trade.

Whether intermediate stops in other Canadian ports are permissible is where the distinction between ports on a lake or river, (other than the St. Lawrence River northeast of the St. Lambert locks) becomes crucial.

Explanation of Canadian Coasting Trade Act

a) Embarkation at a Canadian port on a lake or river

The only type of voyages allowable for foreign ships without a coasting trade licence from a port on a lake or river are to foreign ports. A foreign vessel taking on passengers for example, at Toronto, a great lakes port, may not disembark these passengers, even temporarily at an in-transit call, in any Canadian port without a licence. A foreign cruise ship taking on a passenger at Toronto could therefore take this passenger to Chicago, but could not make an intermediary call at Hamilton. Nor could the cruise return passengers to Toronto or to another Canadian port after calling at Chicago.

b) Embarkation at a Canadian port on the St. Lawrence River northeast of the St. Lambert locks or any other Canadian port not on a lake or river.

A foreign ship could, without a licence, take on passengers for example, at Montreal, for a cruise ending at a foreign port and on the way, make an in-transit call at any Canadian port. A cruise Montreal-Toronto-Chicago or Montreal-Quebec City-New York, would therefore be permissible without a licence.

Passengers may disembark at the intermediate Canadian port of call, but only temporarily, and they must re-board the vessel before it leaves that port. It is also permissible for passengers to disembark at a Canadian in-transit port, be transported by land to another location and there re-board the same vessel.

Foreign vessels without a licence may travel to and from a Canadian port on the St. Lawrence River northeast of St. Lambert or a port not on a river or lake, provided they make a call at a foreign port.

The Act does not define as “coasting trade” a voyage carrying passengers from a port which is not in a lake or river, or a port on the St. Lawrence River northeast of St. Lambert, and returning at the same port, if the ship makes at least one call at a foreign port at which passengers embark or disembark, even temporarily.

For example, a ship could take passengers and leave Montreal, go to New York or Chicago, take on passengers, and/or disembark passengers and/or let passengers ashore for a short while, and then return to Montreal to disembark all passengers.

Explanation of Canadian Coasting Trade Act

As discussed on page 30, subsection b), the vessel could also make in-transit calls at other Canadian ports, but all passengers who boarded at the original Canadian port must re-board the vessel and continue to a final destination either at a foreign port or at the original port of embarkation.

It is not permissible, without a coasting licence, for a foreign vessel to take on passengers in any Canadian port (including ports not on rivers or lakes) and disembark them at another Canadian port even after calling at foreign ports, whether in the U.S. or in any other country.

B) Advance Rulings

There are no procedures by which formal, binding advance rulings can be obtained from the CCRA. However, non-binding advice and information concerning the application and interpretation of the Act in relation to any specific planned itinerary can be obtained from:

Manager, Carrier and Cargo Policy
Canada Customs and Revenue Agency
Ottawa, Ontario K1A 0L5
Telephone: (613) 954-7198
Fax: (613) 957-9717

C) Obtaining a licence

Application for a Coasting Trade Licence

An *Application for Vessel Temporary Admission to the Coasting Trade of Canada* by a foreign vessel is, in addition, an application for temporary admission of the vessel on a duty-reduced basis, or in certain circumstances, duty-removal basis. Such applications must:

- (a) be made by a person resident in Canada, who is acting on behalf of the ship;
- (b) be submitted on a completed form (C 47); and
- (c) be made 10 days in advance prior to the projected date of use of the vessel.

Explanation of Canadian Coasting Trade Act

Applications should be for a specific vessel and usage and be as complete and precise as possible. In the interests of timeliness, fully completed applications and any attachments are to be made to the CCRA and copied simultaneously to the CTA at the following addresses:

Canada Customs and Revenue Agency
Carrier Control Section
Transportation Division
5th floor
Connaught Building
Ottawa, Ontario K1A 0L5
Telephone: (613) 954-7198
Fax: (613) 957-9717

Canadian Transportation Agency
Chief, Marine Trucking and Pipeline
Ottawa, Ontario K1A 0N9
Telephone: (819) 997-6667
Fax: (819) 953-5686

On receipt of a copy of a properly completed application, the CTA will undertake a search process to determine whether or not a suitable Canadian vessel is available.

The CTA's portion of licence applications are processed in the following manner:

- (a) Following a thorough assessment of the application, pertinent information is provided to Canadian shipowners/operators, and they are given a specified deadline to advise the CTA if they have a ship for the proposed engagement.
- (b) If no offers of ships are received on or before the established deadline, the CTA normally determines that no suitable Canadian ship is available for the proposed engagement.
- (c) If offers of Canadian or non-duty-paid ships are received, the applicant is afforded the opportunity to contact the vessel offerers and attempt to reach a commercial solution.
- (d) Failing an agreement, the applicant may submit written arguments and evidence concerning the availability and suitability for the ships offered, and the vessel offerers may respond to the comments of the applicant. The CTA then makes its determination.

Explanation of Canadian Coasting Trade Act

Issuance of the Coasting Trade Licence

Once the CTA has issued a determination that no suitable Canadian vessel is available, the CCRA will send a letter of authorization to the applicant. This letter outlines the remaining procedures required of the applicant to obtain the coasting trade licence for the vessel and commence operations.

The applicant will be required to present to the CCRA, at the office that has been specified in the application and named in the letter of authority, the following:

- (a) a copy of the letter of authority;
- (b) satisfactory evidence that the vessel complies with safety, pollution prevention, and competency requirements; and
- (c) proof of payment of any applicable duties and taxes.

Ship Safety Branch of the Canadian Coast Guard is responsible for administering provisions which regulate safety and competency requirements for vessels and their crews operating in Canadian waters. The Act stipulates that satisfactory evidence that the vessel complies with all the safety, pollution prevention, and competency requirements to which it may be subject regarding its temporary use in Canada must be submitted to the CCRA before a coasting trade licence can be issued. Such evidence will be represented by an “appropriate certificate” obtained by the applicant from Ship Safety Branch, and submitted along with the other documents as described above.

Explanation of Canadian Coasting Trade Act

For further information on safety, pollution, and competency requirements, contact:

Canadian Coast Guard
Ship Safety Branch
Room 1102
344 Slater Street
Ottawa, Ontario K1A 0N7
Telephone: (613) 998-0609
Fax: (613) 954-1032

The *Vessel Duties Reduction or Removal Regulations* provide for the removal of customs duties on certain cruise ships that are temporarily imported for use in Canada, on condition that no suitable Canadian vessel is available. Cruise ships are defined in these regulations as passenger vessels with overnight accommodations for at least 100 persons, exclusive of crew accommodations. The definition specifically excludes a ship that is engaged in scheduled passenger or cargo ferry service from qualifying for the duty removal provisions accorded to cruise ships under these regulations.

An application for temporary admission for each such cruise ship is to be submitted on an annual basis prior to the cruise ship season. An annual review of the industry will then be undertaken to confirm that no suitable Canadian vessel is available for the upcoming cruise season.

Appendix A

Passenger Services Act, 46 U.S.C. App. 289

Sec. 289. Transportation of passengers in foreign vessels

No foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port, under a penalty of \$200 for each passenger so transported and landed.

Sec. 289a. Transportation of passengers in Canadian vessels between Rochester and Alexandria Bay

Until such time as passenger service shall be established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Commissioner of Customs is authorized in his discretion to issue annually permits to Canadian passenger vessels to transport passengers between these ports; such Canadian vessels holding such permits not to be subject to the provisions of section 289 of this Appendix.

Sec. 289b. Transportation of passengers and merchandize in Canadian vessels between points in Alaska and United States

Notwithstanding the provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port in the United States to another port of the United States, passengers may be transported on Canadian vessels between ports in southeastern Alaska, and passengers and merchandise may be transported on Canadian vessels between Hyder, Alaska, and other points in southeastern Alaska, and between Hyder, Alaska, and other points in the United States outside Alaska, either directly or via a foreign port, or for any part of the transportation until the Secretary of Transportation determines that United States-flag service is available to provide such transportation.

Sec. 289c. Transportation of passengers between Puerto Rico and other United States ports; foreign-flag vessels; unavailability of United States flag service

(a) Authorization of transportation

Notwithstanding any other provision of law, passengers may be transported on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this section.

(b) Notification by Secretary; termination of services

(1) Upon a showing to the Secretary of Transportation, by the vessel owner or charterer, that service aboard a United States passenger vessel qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each vessel transporting passengers under authority of this section that he shall, within 270 days after notification, terminate all such service. Coastwise privileges granted to every owner or operator under this section shall expire on the 270th day following the Secretary's notification.

(2) Upon a showing to the Secretary, by the vessel owner or charterer, that service aboard a United States passenger vessel not qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 App. U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each foreign-flag vessel transporting passengers under authority of this section that he shall, within 270 days after notification, terminate all such service. Coastwise privileges granted to every owner or operator of a foreign-flag vessel transporting passengers under authority of this section shall expire on the 270th day following the Secretary's notification.

Appendix A

(c) Extension of termination period

If, at the expiration of the 270-day period specified in subsections (b)(1) and (b)(2) of this section, the vessel that has been offering or advertising service pursuant to a certificate described in either of those subsections has not entered the coastwise passenger trade between ports in Puerto Rico and other ports in the United States, then the termination of service required by either of those subsections shall not be required until 90 days following the entry into that trade by the United States vessel.

(d) Reinstatement of coastwise privileges

Any coastwise privileges granted in this section that expire under subsection (b)(1) or (b)(2) of this section shall be reinstated upon a determination by the Secretary that the service on which the expiration of the privileges was based is no longer available.

(e) "Passenger vessel" defined

For the purposes of subsections (b)(1) and (b)(2) of this section, the term "passenger vessel" means any vessel of similar size or offering service comparable to any other vessel transporting passengers under authority of this section.

Applicable Sections of 46 U.S.C.

Sec. 121. Amount of tonnage duties

Upon vessels which shall be entered in the United States from any foreign port or place there shall be paid duties as follows: On vessels built within the United States but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other vessels not of the United States, at the rate of fifty cents per ton, and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of fifty cents per ton.

A tonnage duty of 9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, for fiscal years 1991 through 2002, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter is imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and on all vessels (except vessels of the United States, recreational vessels, and barges, as those terms are defined in section 2101 of title 46) that depart a United States port or place and return to the same port or place without being entered in the United States from another port or place; and a duty of 27 cents per ton, not to exceed \$1.35 per ton per annum, for fiscal years 1991 through 2002, and 6 cents per ton, not to exceed 30 cents per ton per annum, for each fiscal year thereafter is imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. However, neither duty shall be imposed on vessels in distress or not engaged in trade.

Upon every vessel not of the United States, which shall be entered in one district from another district, having on board goods, wares, or merchandise taken in one district to be delivered in another district, duties shall be paid at the rate of 50 cents per ton: Provided, That no such duty shall be required where a vessel owned by citizens of the United States, but not a vessel of the United States, after entering an American port, shall, before leaving the same, be registered as a vessel of the United States. On all foreign vessels which shall be entered in the United States from any foreign port or place, to and with which vessels of the United States are not ordinarily permitted to enter

Appendix B

and trade, there shall be paid a duty at the rate of \$2 per ton; and none of the duties on tonnage above mentioned shall be levied on the vessels of any foreign nation if the President of the United States shall be satisfied that the discriminating or countervailing duties of such foreign nations, so far as they operate to the disadvantage of the United States, have been abolished. Any rights or privileges acquired by any foreign nation under the laws and treaties of the United States relative to the duty of tonnage on vessels shall not be impaired; and any vessel any officer of which shall not be a citizen of the United States shall pay a tax of 50 cents per ton.

Sec. 132. Vessels not entering by sea

Vessels entering otherwise than by sea from a foreign port at which tonnage or lighthouse dues or other equivalent tax or taxes are not imposed on vessels of the United States shall be exempt from the tonnage duty of 9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, for fiscal years 1991 through 2002, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter, prescribed by section 121 of this Appendix.

Sec. 141. Suspension by President

Upon satisfactory proof being given to the President, by the government of any foreign nation, that no discriminating duties of tonnage or imposts are imposed or levied in the ports of such nation upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation, declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation, or from any other foreign country; the suspension to take effect from the time of such notification being given to the President, and to continue so long as the reciprocal exemption of vessels, belonging to citizens of the United States, and their cargoes, shall be continued, and no longer: Provided, That the President is authorized to suspend in part the operation of section 121 of this Appendix and section 2502 of the Revised Statutes so that foreign

vessels from a country imposing partial discriminating tonnage duties upon American vessels, or partial discriminating import duties upon American merchandise, may enjoy in our ports the identical privileges which the same class of American vessels and merchandise may enjoy in said foreign country.

Sec. 91. Clearance; vessels

(a) When required; vessels of United States

Except as otherwise provided by law, any vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States - (1) for a foreign port or place; (2) for another port or place in the United States if the vessel has on board bonded merchandise or foreign merchandise for which entry has not been made; or outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

(b) When required; other vessels

Except as otherwise provided by law, any vessel that is not a vessel of the United States shall obtain clearance from the Customs Service before proceeding from a port or place in the United States - (1) for a foreign port or place; (2) for another port or place in the United States; or (3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

(c) Regulations

The Secretary of the Treasury may by regulation - (1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance; (2) permit the Customs Service to grant clearance for a vessel under this section before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary of the Treasury conditioned upon the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary of the Treasury; and (3) authorize the Customs Service to permit clearance of any vessel to be obtained at a place other than a designated port of entry, under such conditions as he may prescribe.

Appendix C

Applicable Sections of 19 U.S.C.

Sec. 1433. Report of arrival of vessels, vehicles, and aircraft

(a) Vessel arrival

(1) Immediately upon the arrival at any port or place within the United States or the Virgin Islands of - (A) any vessel from a foreign port or place; (B) any foreign vessel from a domestic port; (C) any vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made; or (D) any vessel which has visited a hovering vessel or received merchandise while outside the territorial sea; the master of the vessel shall report the arrival at the nearest customs facility or such other place as the Secretary may prescribe by regulations. (2) The Secretary may by regulation - (A) prescribe the manner in which arrivals are to be reported under paragraph (1); and (B) extend the time in which reports of arrival must be made, but not later than 24 hours after arrival.

(d) Presentation of documentation

The master, person in charge of a vehicle, or aircraft pilot shall present, or transmit pursuant to an electronic data interchange system, to the Customs Service such information, data, documents, papers, or manifests as the Secretary may by regulation prescribe.

(e) Prohibition on departures and discharge

Unless otherwise authorized by law, a vessel, aircraft or vehicle after arriving in the United States or Virgin Islands may, but only in accordance with regulations prescribed by the Secretary - (1) depart from the port, place, or airport of arrival; or (2) discharge any passenger or merchandise (including baggage).

Sec. 1434. Entry; vessels

(a) Formal entry

Within 24 hours (or such other period of time as may be provided under subsection (c)(2) of this section) after the arrival at any port or place in the United States of - (1) any vessel from a foreign port or place; (2) any foreign vessel from a domestic port; (3) any vessel of the United States having on board bonded merchandise or foreign merchandise for which entry has not been made; or (4) any vessel which has visited a hovering vessel or has delivered or received merchandise while outside the territorial sea; the master of the vessel shall, unless otherwise provided by law, make formal entry at the nearest customs facility or such other place as the Secretary may prescribe by regulation.

(b) Preliminary entry

The Secretary may by regulation permit the master to make preliminary entry of the vessel with the Customs Service in lieu of formal entry or before formal entry is made. In permitting preliminary entry, the Customs Service shall board a sufficient number of vessels to ensure compliance with the laws it enforces.

(c) Regulations

The Secretary may by regulation - (1) prescribe the manner and format in which entry under subsection (a) of this section or subsection (b) of this section, or both, must be made, and such regulations may provide that any such entry may be made electronically pursuant to an electronic data interchange system; (2) provide that - (A) formal entry must be made within a greater or lesser time than 24 hours after arrival, but in no case more than 48 hours after arrival, and (B) formal entry may be made before arrival; and (3) authorize the Customs Service to permit entry or preliminary entry of any vessel to be made at a place other than a designated port of entry, under such conditions as may be prescribed.

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Sec. 1436. Penalties for violations of arrival, reporting, entry, and clearance requirements

(a) Unlawful acts

It is unlawful - (1) to fail to comply with section 1431, 1433, or 1434 of this title or section 91 of title 46, Appendix; (2) to present or transmit, electronically or otherwise, any forged, altered, or false document, paper, information, data or manifest to the Customs Service under section 1431, 1433(d), or 1434 of this title or section 91 of title 46, Appendix, without revealing the facts; (3) to fail to make entry or to obtain clearance as required by section 1434 or 1644 of this title, section 91 of title 46, Appendix, or section 1644a(b)(1) or (c)(1) of this title; or (4) to fail to comply with, or violate, any regulation prescribed under any section referred to in any of paragraphs (1) through (3).

(b) Civil penalty

Any master, person in charge of a vehicle, or aircraft pilot who commits any violation listed in subsection (a) of this section is liable for a civil penalty of \$5,000 for the first violation, and \$10,000 for each subsequent violation, and any conveyance used in connection with any such violation is subject to seizure and forfeiture.

(c) Criminal penalty

In addition to being liable for a civil penalty under subsection (b) of this section, any master, person in charge of a vehicle, or aircraft pilot who intentionally commits any violation listed in subsection (a) of this section is, upon conviction, liable for a fine of not more than \$2,000 or imprisonment for 1 year, or both; except that if the conveyance has, or is discovered to have had, on board any merchandise (other than sea stores or the equivalent for conveyances other than vessels) the importation of which into the United States is prohibited, such individual is liable for an additional fine of not more than \$10,000 or imprisonment for not more than 5 years, or both.

(d) Additional civil penalty

If any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is imported or brought into the United States in or aboard a conveyance which was not properly reported or entered, the master, person in charge of a vehicle, or aircraft pilot shall be liable for a civil penalty equal to the value of the merchandise and the merchandise may be seized and forfeited unless properly entered by

the importer or consignee. If the merchandise consists of any controlled substance listed in section 1584 of this title, the master, individual in charge of a vehicle, or pilot shall be liable to the penalties prescribed in that section.

Sec. 1437. Repealed. Pub. L. 103-182, title VI, Sec. 690(b)(3), Dec. 8, 1993, 107 Stat. 2223

Sec. 1441. Exceptions to vessel entry and clearance requirements

The following vessels shall not be required to make entry under section 1434 of this title or to obtain clearance under section 91 of title 46, Appendix: (1) Vessels of war and public vessels employed for the conveyance of letters and dispatches and not permitted by the laws of the nations to which they belong to be employed in the transportation of passengers or merchandise in trade. (2) Passenger vessels making three trips or oftener a week between a port of the United States and a foreign port, or vessels used exclusively as ferryboats, carrying passengers, baggage, or merchandise: Provided, That the master of any such vessel shall be required to report such baggage and merchandise to the appropriate customs officer within twenty-four hours after arrival. (3) Any vessel carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, if - (A) the vessel does not in any way violate the customs or navigation laws of the United States; (B) the vessel has not visited any hovering vessel; and (C) the master of the vessel, if there is on board any article required by law to be entered, reports the article to the Customs Service immediately upon arrival. (4) Any United States documented vessel with recreational endorsement or any undocumented United States pleasure vessel not engaged in trade, if - (A) the vessel complies with the reporting requirements of section 1433 of this title, and with the customs and navigation laws of the United States; (B) the vessel has not visited any hovering vessel; and (C) the master of, and any other person on board, the vessel, if the master or such person has on board any article required by law to be entered or declared, reports such article to the Customs Service immediately upon arrival. (5) Vessels arriving in distress or for the purpose of taking on bunker coal, bunker oil, sea stores, or ship's stores and which shall depart within twenty-four hours after arrival without having landed or taken on board any passengers, or any merchandise other than bunker coal, bunker oil,

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sea stores, or ship's stores: Provided, That the master, owner, or agent of such vessel shall report under oath to the appropriate customs officer the hour and date of arrival and departure and the quantity of bunker coal, bunker oil, sea stores, or ship's stores taken on board. (6) Tugs documented under chapter 121 of title 46 with a Great Lakes endorsement when towing vessels which are required by law to enter and clear.

Sec. 1447. Place of entry and unloading

It shall be unlawful to make entry of any vessel or to unlade the cargo or any part thereof of any vessel elsewhere than at a port of entry: Provided, That upon good cause therefor being shown, the Commissioner of Customs may permit entry of any vessel to be made at a place other than a port of entry designated by him, under such conditions as he shall prescribe: And provided further, That any vessel laden with merchandise in bulk may proceed after entry of such vessel to any place designated by the Secretary of the Treasury for the purpose of unloading such cargo, under the supervision of customs officers if the Customs Service considers the same necessary, and in such case the compensation and expenses of such officers shall be reimbursed to the Government by the party in interest.

Sec. 1448. Unloading

(a) Permits and preliminary entries

Except as provided in section 1441 of this title (relating to vessels not required to enter or clear), no merchandise, passengers, or baggage shall be unladen from any vessel required to make entry under section 1434 of this title, or vehicle required to report arrival under section 1433 of this title, until entry of such vessel or report of the arrival of such vehicle has been made and a permit for the unloading of the same issued or transmitted pursuant to an electronic data interchange system by the Customs Service. After the entry of any vessel or report of the arrival of any vehicle, the Customs Service may issue a permit, electronically pursuant to an authorized electronic data interchange system or otherwise, to the master of the vessel, or to the person in charge of the vehicle, to unlade merchandise or baggage, but except as provided in subdivision (b) of this section merchandise or baggage so unladen shall be retained at the place of unloading until entry therefor is made and a permit for its delivery granted, and the owners of the vessel

or vehicle from which any imported merchandise is unladen prior to entry of such merchandise shall be liable for the payment of the duties accruing on any part thereof that may be removed from the place of unloading without a permit therefor having been issued. The owner or master of any vessel or vehicle, or agent thereof, shall notify the Customs Service of any merchandise or baggage so unladen for which entry is not made within the time prescribed by law or regulation. The Secretary shall by regulation prescribe administrative penalties not to exceed \$1,000 for each bill of lading for which notice is not given. Any such administrative penalty shall be subject to mitigation and remittance under section 1618 of this title. Such unentered merchandise or baggage shall be the responsibility of the master or person in charge of the importing vessel or vehicle, or agent thereof, until it is removed from the carrier's control in accordance with section 1490 of this title.

(b) Special delivery permit

The Secretary of the Treasury is authorized to provide by regulations for the issuing of special permits for delivery, prior to formal entry therefor, of perishable articles and other articles, the immediate delivery of which is necessary.

Sec. 1454. Unlading of passengers; penalty

If any passenger is unladen from any vessel or vehicle without a special license or permit therefor issued by the appropriate customs officer, the master of such vessel or the person in charge of such vehicle and every other person who knowingly is concerned, or who aids therein, shall each be liable to a penalty of \$1,000 for the first passenger and \$500 for each additional such passenger so unladen.

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SOURCE: 28 FR 14596, Dec. 31, 1963, unless otherwise noted.

ARRIVAL AND ENTRY OF VESSELS

§ 4.0 General definitions.

For the purposes of this part:

(a) *Vessel*. The word *vessel* includes every description of water craft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft. (19 U.S.C. 1401.)

(b) *Vessel of the United States*. The term *vessel of the United States* means any vessel documented under the laws of the United States.

(c) *Documented*. The term *documented vessel* means a vessel for which a valid Certificate of Documentation, form CG 1270, issued by the U.S. Coast Guard is outstanding. Upon qualification and proper application to the appropriate Coast Guard office, the Certificate of Documentation may be endorsed with a: (1) Registry endorsement (generally, available to a vessel to be employed in foreign trade, trade with Guam, American Samoa, Wake, Midway, or Kingman Reef, and other employments for which another endorsement is not required), (2) coastwise endorsement (generally, entitles a vessel to employment in the coastwise trade, and other employments for which another endorsement is not required), (3) Great Lakes endorsement (generally, entitles a vessel to engage in the coastwise trade on the Great Lakes and their tributary and connecting waters, in trade with Canada, and in other employments for which another endorsement is not required), (4) fishery endorsement (generally, subject to federal and state laws regulating the fisheries, entitles a vessel to fish within the Exclusive Economic Zone (16 U.S.C. 1811) and landward of that zone and to land its catch) or (5) recreational endorsement (entitles a vessel to recreational use only). Any other terminology used elsewhere in this part to describe the particular documentation of a vessel shall be read as synonymous with the applicable terminology contained in this paragraph. Generally, any vessel of at least 5 net tons and wholly owned by a United States citizen or citizens is eligible for documentation except that for a coastwise,

Great Lakes, or fisheries endorsement a vessel must also be built in the United States. Detailed Coast Guard regulations on documentation are set forth in Title 46, Code of Federal Regulations, §67.01-67.45.

(d) *Noncontiguous territory of the United States*. The term *noncontiguous territory of the United States* includes all the island territories and possessions of the United States, but does not include the Canal Zone.

(e) *Citizen*. The word *citizen* is as defined by the U.S. Coast Guard for purposes of vessel documentation (see subpart 67.03 of title 46, Code of Federal Regulations.)

(f) *Arrival of a vessel*. The phrase "arrival of a vessel" means that time when the vessel first comes to rest, whether at anchor or at a dock, in any harbor within the Customs territory of the U.S.

(g) *Departure of a vessel*. The phrase "departure of a vessel" means that time when the vessel gets under way on its outward voyage and proceeds on the voyage without thereafter coming to rest in the harbor from which it is going.

[T.D. 69-266, 34 FR 20422, Dec. 31, 1969, as amended by T.D. 83-214, 48 FR 46511, Oct. 13, 1983; T.D. 93-78, 58 FR 50256, Sept. 27, 1993; T.D. 93-96, 58 FR 67315, Dec. 21, 1993]

§ 4.1 Boarding of vessels; cutter and dock passes.

(a) Every vessel arriving at a Customs port will be subject to such supervision while in port as the port director considers necessary. The port director may detail Customs officers to remain on board a vessel to secure enforcement of the requirements set forth in this part. Customs may determine to board as many vessels as considered necessary to ensure compliance with the laws it enforces.

(b)(1) No person, with or without the consent of the master, except a pilot in connection with the navigation of the vessel, personnel from another vessel in connection with the navigation of an unmanned barge, an officer of Customs or the Coast Guard, an immigration or

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health officer, an inspector of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, or an agent of the vessel or consular officer exclusively for purposes relating to Customs formalities, shall go on board any vessel arriving from outside the Customs territory of the United States without permission of the port director or the Customs officer in charge until the vessel has been taken in charge by a Customs officer.

(2) A person may leave the vessel for the purpose of reporting its arrival as required by law (see §4.2), but no other person, except those designated in paragraph (b)(1) of this section, shall leave any vessel arriving from outside the Customs territory of the United States, with or without the consent of the master, without the permission of the port director or the Customs officer in charge until the vessel has been properly inspected by Customs and brought into the dock or anchorage at which cargo is to be unladen and until all passengers have been landed from the vessel (19 U.S.C. 1433).

(3) Every person permitted to go on board or to leave without the consent of a Customs officer under the provisions of this paragraph shall be subject to Customs and quarantine regulations.

(4) The master of any vessel shall not authorize the boarding or leaving of his vessel by any person in violation of this paragraph.

(c) A port director, in his discretion may issue a cutter pass on Customs Form 3093 to permit the holder to board an incoming vessel after it has been inspected by the quarantine authorities and taken in charge by an officer of the Customs, as follows: (1) To persons on official business; (2) to news reporters, newspaper photographers, photographers of established motionpicture companies, and broadcasters of established radio broadcasting companies; and (3) in cases of special exigency in which the port director is satisfied as to the urgent need for the boarding and that its allowance will not result in undue interference with the performance of official business.

(d) No person in charge of a tugboat, rowboat, or other vessel shall bring

such conveyance alongside an incoming vessel heretofore described and put on board thereof any person, except as authorized by law or regulations.

(e) [Reserved]

(f) Term cutter and dock passes, for a period of not to exceed one year, may be issued in the discretion of the port director, to persons on official business and to duly accredited news reporters and newspaper photographers. Passes are not transferable and shall be forfeited upon presentation by others than those to whom issued.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 78-141, 43 FR 22174, May 24, 1978; T.D. 82-224, 47 FR 35475, Aug. 16, 1982; T.D. 92-74, 57 FR 35751, Aug. 11, 1992; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 00-4, 65 FR 2872, Jan. 19, 2000]

§4.2 Reports of arrival of vessels.

(a) Upon arrival in any port or place within the U.S., including, for purposes of this section, the U.S. Virgin Islands, of any vessel from a foreign port or place, any foreign vessel from a port or place within the U.S., or any vessel of the U.S. carrying bonded merchandise or foreign merchandise for which entry has not been made, the master of the vessel shall immediately report that arrival to the nearest Customs facility or other location designated by the port director. The report of arrival, except as supplemented in local instructions issued by the port director and made available to interested parties by posting in Customs offices, publication in a newspaper of general circulation, and other appropriate means, shall be made by any means of communication to the port director or to a Customs officer assigned to board the vessel. The Customs officer may require the production of any documents or papers deemed necessary for the proper inspection/examination of the vessel, cargo, passenger, or crew.

(b) For purposes of this part, “foreign port or place” includes a hovering vessel, as defined in 19 U.S.C. 1401(k), and any point in Customs waters beyond the territorial sea or on the high seas at which a vessel arriving in a port or place in the U.S. has received merchandise.

(c) In the case of certain vessels arriving either in distress or for the limited purpose of taking on certain supplies and departing within a 24-hour time period without having landed or taken on any passengers or other merchandise (see section 441(4), Tariff Act of 1930, as amended), the report may be filed by either the master, owner, or agent, and shall be in the form and give the information required by that statute, except that the report need not be under oath. A derelict vessel shall be considered one in distress and any person bringing it into port may report its arrival.

(d) The report of baggage and merchandise required to be made by certain passenger vessels making three or more trips a week between U.S. and foreign ports and vessels used exclusively as ferryboats carrying passengers, baggage, or merchandise (see section 441(2), Tariff Act of 1930, as amended), is in addition to the required report of arrival, and shall be made within 24 hours of arrival.

[T.D. 93-96, 58 FR 67315, Dec. 21, 1993, as amended by T.D. 94-44, 59 FR 23795, May 9, 1994]

§ 4.3 Vessels required to enter; place of entry.

(a) *Formal entry required.* Unless specifically excepted by law, within 48 hours after the arrival at any port or place in the United States, the following vessels are required to make formal entry:

(1) Any vessel from a foreign port or place;

(2) Any foreign vessel from a domestic port;

(3) Any vessel of the United States having merchandise on board which is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; or

(4) Any vessel which has visited a hovering vessel as defined in 19 U.S.C. 1401(k), or has delivered or received merchandise or passengers while outside the territorial sea.

(b) *Completion of entry.* (1) When vessel entry is to be made at the customhouse, either the master, licensed deck officer, or purser may appear in person during regular working hours to com-

plete preliminary or formal vessel entry; or necessary documents properly executed by the master or other authorized officer may be delivered at the customhouse by the vessel agent or other personal representative of the master.

(2) The appropriate Customs port director may permit the entry of vessels to be accomplished at locations other than the customhouse, and services may be requested outside of normal business hours. Customs may take local resources into consideration in allowing formal entry to be transacted on board vessels or at other mutually convenient approved sites and times within or outside of port limits. When services are requested to be provided outside the limits of a Customs port, the appropriate port director to whom an application must be submitted is the director of the port located nearest to the point where the proposed services would be provided. That port director must be satisfied that the place designated for formal entry will be sufficiently under Customs control at the time of entry, and that the expenses incurred by Customs will be reimbursed as authorized. It may be required that advance notice of vessel arrival be given as a condition for granting requests for optional entry locations. A master, owner, or agent of a vessel who desires that entry be made at an optional location will file with the appropriate port director an application on Customs Form 3171 and a single entry or continuous bond on Customs Form 301 containing the bond conditions set forth in § 113.64 of this chapter, in such amount as that port director deems appropriate but not less than \$1,000. If the application is approved, the port director or a designated Customs officer will formally enter the vessel. Nothing in this paragraph relieves any person or vessel from any requirement as to how, when and where they are to report, be inspected or receive clearance from other Federal agencies upon arrival in the United States.

[T.D. 00-4, 65 FR 2872, Jan. 19, 2000]

§ 4.3a Penalties for violation of vessel reporting and entry requirements.

Violation of the arrival or entry reporting requirements provided for in

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this part may result in the master being liable for certain civil and criminal penalties, as provided under 19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law. The penalties include civil monetary penalties for failure to report arrival or make entry, and any conveyance used in connection with any such violation is subject to seizure and forfeiture. Further, if any merchandise (other than sea stores or the equivalent for conveyances other than a vessel) is involved in the failure to report arrival or entry, additional penalties equal to the value of merchandise may be imposed, and the merchandise may be seized and forfeited unless properly entered by the importer or consignee. The criminal penalties, applicable upon conviction, include fines and imprisonment if the master intentionally commits any violation of these reporting and entry requirements or if prohibited merchandise is involved in the failure to report arrival or make entry.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993]

§ 4.4 Panama Canal; report of arrival required.

Vessels which merely transit the Panama Canal without transacting any business there shall be required to report their arrival because of such transit. The report of arrival shall be made in accordance with § 4.2(a).

[T.D. 79-276, 44 FR 61956, Oct. 29, 1979]

§ 4.5 Government vessels.

(a) No report of arrival or entry shall be required of any vessel owned by, or under the complete control and management of the United States or any of its agencies, if such vessel (1) is manned wholly by members of the uniformed services of the United States, by personnel in the civil service of the United States, or by both, and (2) is transporting only property of the United States or passengers traveling on official business of the United States, or it is ballast. However, if any cargo is on board, the master or commander of each such vessel arriving from abroad shall file a Cargo Declaration, Customs Form 1302, or an equivalent form issued by the Department of Defense, in duplicate. The original of

each Cargo Declaration or equivalent form required under this paragraph shall be filed with the port director within 48 hours after the arrival of the vessel. The other copy shall be made available for use by the discharging inspector at the pier. See § 148.73 of this chapter with respect to baggage on carriers operated by the Department of Defense.

(b) The arrival of every vessel owned or controlled and manned as described in paragraph (a) of this section but transporting other property or passengers, and every vessel so owned or controlled but not so manned, whether in ballast or transporting cargo or passengers, shall be reported in accordance with § 4.2 and the vessel shall be entered in accordance with § 4.9.

(c) Every vessel owned by, or under the complete control and management of, any foreign nation shall be exempt from or subject to the laws relating to report of arrival and entry under the same conditions as a vessel owned or controlled by the United States.

[28 FR 14596, Dec. 31, 1963, as amended by 39 FR 10897, Mar. 22, 1974; T.D. 83-213, 48 FR 46978, Oct. 17, 1983]

§ 4.6 Departure or unloading before report or entry.

(a) No vessel which has arrived within the limits of any Customs port from a foreign port or place shall depart or attempt to depart, except from stress of weather or other necessity, without reporting and making entry as required in this part. These requirements shall not apply to vessels merely passing through waters within the limits of a Customs port in the ordinary course of a voyage.

(b) The "limits of any Customs port" as used herein are those described in § 101.3(b) of this chapter, including the marginal waters to the 3-mile limit on the seaboard and the waters to the boundary line on the northern and southern boundaries.

(c) Violation of this provision may result in the master being liable for certain civil penalties and the vessel to arrest and forfeiture, as provided under

19 U.S.C. 1436, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993, as amended by T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

§ 4.7 Inward foreign manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431), and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Vessel Entrance or Clearance Statement, Customs Form 1300, and the following documents: (1) Cargo Declaration, Customs Form 1302, (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I-418, to which are attached crew-member's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I-418, and (5) Passenger List, Customs and Immigration Form I-418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 16, 18, and/or 19 of the Vessel Entrance or Clearance Statement, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend "No merchandise on board" shall be inserted in item 16 of the Vessel Entrance or Clearance Statement.

(b) The original and one copy of the manifest shall be ready for production on demand. The master shall deliver the original and one copy of the manifest to the Customs officer who shall first demand it. If the vessel is to proceed from the port of arrival to other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The port director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the

preparation of any copy which may be required in addition to the original and one copy.

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.

(d)(1) The master or owner of—

(i) A vessel documented under the laws of the United States with a registry, coastwise license, or Great Lakes license endorsement, or a vessel not so documented but intended to be employed in the foreign, coastwise, or Great Lakes trade, or

(ii) A documented vessel with a fishery license endorsement which has a permit to touch and trade (see § 4.15) or a vessel with a fishery license endorsement lacking a permit to touch and trade but intended to engage in trade— at the port of first arrival from a foreign country shall declare on Customs Form 226 any equipment, repair parts, or materials purchased for the vessel, or any expense for repairs incurred, outside the United States, within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 1466). If no equipment, repair parts, or materials have been purchased, or repairs made, a declaration to that effect shall be made on Customs Form 226.

(2) If the vessel is at least 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration. The port director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention unless the port director is satisfied that the owner of the vessel has filed an application for rebuilt determination as required by 46 CFR 67.27-3.

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(3) The declaration shall be ready for production on demand for inspection and shall be presented as part of the original manifest when formal entry of the vessel is made.

[T.D. 71-169, 36 FR 12602, July 2, 1971, as amended by T.D. 74-284, 39 FR 39718, Nov. 11, 1974; T.D. 77-255, 42 FR 56319, Oct. 25, 1977; T.D. 80-237, 45 FR 64565, Sept. 30, 1980; T.D. 83-214, 48 FR 46511, Oct. 13, 1983; T.D. 92-74, 57 FR 35751, Aug. 11, 1992; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§4.7a Inward manifest; information required; alternative forms.

The forms designated by §4.7(a) as comprising the inward manifest shall be completed as follows:

(a) *Ship's Stores Declaration.* Articles to be retained aboard as sea or ship's stores shall be listed on the Ship's Stores Declaration, Customs Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) *Crew's Effects Declaration. (Customs Form 1304).* (1) The declaration number of the Crew Member's Declaration, Customs Form 5129, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 on the Crew's Effects Declaration, Customs Form 1304 opposite the respective crewmember's name.

(2) In lieu of describing the articles on Customs Form 1304, the master may furnish a Crew List, Customs and Immigration Form I-418, endorsed as follows:

I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through Customs in the United States.

(Master.)

The Crew List on Form I-418 shall show, opposite the crewmember's name, his shipping article number and, in column 5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed opposite his name instead of a declaration number.

(3) For requirements concerning the preparation of Customs Form 5129, see subpart G of part 148 of this chapter.

(4) Any articles which are required to be manifested and are not manifested shall be subject to forfeiture and the master shall be subjected to a penalty equal to the value thereof, as provided in section 584, Tariff Act of 1930, as amended.

(c) *Cargo Declaration.* (1) The Cargo Declaration, Customs Form 1302, shall list all the inward foreign cargo on board regardless of the port of discharge. The block designated "Arrival" at the top of the form shall be checked. The name of the shipper shall be set forth in the column calling for such information and on the same line where the bill of lading is listed for that shipper's merchandise. When more than one bill of lading is listed for merchandise from the same shipper, ditto marks or the word "ditto" may be used to indicate the same shipper. The cargo described in column Nos. 6 and 7, and either column No. 8 or 9, shall refer to the respective bills of lading. Either column No. 8 or column No. 9 shall be used, as appropriate. The gross weight in column No. 8 shall be expressed in either pounds or kilograms. The measurement in column No. 9 shall be expressed according to the unit of measure specified in the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

(2)(i) When inward foreign cargo is being shipped by container, each bill of lading shall be listed in the column headed "B/L Nr." in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of the container seal shall be listed in column No. 6 opposite the bill of lading number. The number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. A description of the cargo shall be set forth in column No. 7 only if the covering bill of lading is listed in the column headed "B/L Nr."

(ii) As an alternative to the procedure described in paragraph (i), a separate list of the bills of lading covering each container on the vessel may be

submitted on Customs Form 1302 or on a separate sheet. If this procedure is used:

(A) Each container number shall be listed in alphanumeric sequence by port of discharge in column No. 6 of Customs Form 1302, or on the separate sheet; and

(B) The number of each bill of lading covering cargo in a particular container, identifying the port of lading, shall be listed opposite the number of the container with that cargo in the column headed "B/L Nr." if Customs Form 1302 is used, or either opposite or under the number of the container if a separate sheet is used.

(iii) All bills of lading, whether issued by a carrier, freight forwarder, or other issuer, shall contain a unique identifier consisting of up to 16 characters in length. The unique bill of lading number will be composed of two elements. The first element will be the first four characters consisting of the carrier or issuer's four digit Standard Carrier Alpha Code (SCAC) assigned to the carrier in the National Motor Freight Traffic Association, Inc., Directory of Standard Multi-Modal Carrier and Tariff Agent Codes, applicable supplements thereto and reissues thereof. The second element may be up to 12 characters in length and may be either alpha and/or numeric. The unique identifier shall not be used by the carrier, freight forwarder or issuer for another bill of lading for a period of 3 years after issuance. Customs processing of the unique identifier will be limited to checking the validity of the Standard Carrier Alpha Codes (SCAC) and ensuring that the identifier has not been duplicated within a 3-year period. Carriers and broker/importers will be responsible for reconciliation of discrepancies between manifests and entries. Customs will not perform any reconciliation except in a post-audit process.

(3) For shipment of containerized or palletized cargo, Customs officers shall accept a Cargo Declaration which indicates that it has been prepared on the basis of information furnished by the shipper. The use of words of qualification shall not limit the responsibility of a master to submit accurate Cargo Declarations or qualify the oath taken

by the master as to the accuracy of his declaration.

(i) If Cargo Declaration covers only containerized or palletized cargo, the following statement may be placed on the declaration:

The information appearing on the declaration relating to the quantity and description of the cargo is in each instance based on the shipper's load and count. I have no knowledge or information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(ii) If the Cargo Declaration covers conventional cargo and containerized or palletized cargo, or both, the use of the abbreviation "SLAC" for "shipper's load and count," or an appropriate abbreviation if similar words are used, is approved: *Provided*, That abbreviation is placed next to each containerized or palletized shipment on the declaration and the following statement is placed on the declaration:

The information appearing on this declaration relating to the quantity and description of cargo preceded by the abbreviation "SLAC" is in each instance based on the shipper's load and count. I have no information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(iii) The statements specified in paragraphs (c)(3) (i) and (ii) of this section shall be placed on the last page of the Cargo Declaration. Words similar to "the shipper's load and count" may be substituted for those words in the statements. Vague expressions such as "said to contain" or "accepted as containing" are not acceptable. The use of an asterisk or other character instead of appropriate abbreviations, such as "SLAC", is not acceptable.

(d) *Crew List*. The Crew List shall be completed in accordance with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR part 251).

(e) *Passenger List*. (1) The Passenger List shall be completed in accordance with § 4.50 and with the requirements of the Immigration and Naturalization Service, U.S. Department of Justice (8 CFR part 231), and the following certification shall be placed on its last page:

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I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs officer; and that the responsibilities devolving upon this vessel in connection therewith, if any, have been or will be discharged as required by law or regulation before the proper Customs officer. I further certify that there are no steerage passengers on board this vessel (46 U.S.C. 151-163).

Master

(2) If the vessel is carrying steerage passengers, the reference to steerage passengers shall be deleted from the certification, and the master shall comply with the requirements of § 4.50.

(3) If there are no steerage passengers aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir passenger list," or similar list, in which the names of the passengers are listed alphabetically and to which the certificate referred to in paragraph (e)(1) of this section is attached.

(4) All baggage on board a vessel not accompanying a passenger and the marks or addresses thereof shall be listed on the last sheet of the passenger list under the caption "Unaccompanied baggage."

[T.D. 71-169, 36 FR 12602, July 2, 1971, as amended by T.D. 73-27, 38 FR 2448, Jan. 26, 1973; T.D. 77-255, 42 FR 56320, Oct. 25, 1977; T.D. 79-31, 44 FR 5649, Jan. 29, 1979; T.D. 85-123, 50 FR 29952, July 23, 1985; T.D. 89-58, 54 FR 20381, May 11, 1989; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 98-74, 63 FR 51287, Sept. 25, 1998]

§ 4.8 Preliminary entry.

(a) *Generally.* Preliminary entry allows a U.S. or foreign vessel arriving under circumstances that require it to formally enter, to commence lading and unlading operations prior to making formal entry. Preliminary entry may be accomplished electronically pursuant to an authorized electronic data interchange system, or by any other means of communication approved by the Customs Service.

(b) *Requirements and conditions.* Preliminary entry must be made in compliance with § 4.30, and may be granted prior to, at, or subsequent to arrival of the vessel. The granting of preliminary

vessel entry by Customs at or subsequent to arrival of the vessel, is conditioned upon the presentation to and acceptance by Customs of all forms, electronically or otherwise, comprising a complete manifest as provided in § 4.7. Vessels seeking preliminary entry in advance of arrival may do so by presenting to Customs a complete Customs Form 1302 (Cargo Declaration) showing all cargo on board the vessel and Customs Form 3171, electronically or otherwise, no less than 48 hours prior to vessel arrival. The CF 3171 will also serve as notice of intended date of arrival. The port director may allow for the presentation of the CF 1302 and CF 3171 less than 48 hours prior to arrival in order to grant advanced preliminary entry if a vessel voyage takes less than 48 hours to complete from the last foreign port to the first U.S. port, or if other reasonable circumstances warrant. Preliminary entry granted in advance of arrival will become effective upon arrival at the port granting preliminary entry. Additionally, Customs must receive confirmation of a vessel's estimated time of arrival in a manner acceptable to the port director.

[T.D. 00-4, 65 FR 2872, Jan. 19, 2000]

§ 4.9 Formal entry.

(a) *General.* Section 4.3 provides which vessels are subject to formal entry and where and when entry must be made. The formal entry of an American vessel is governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). The term "American vessel" means a vessel of the United States (see § 4.0(b)) as well as, when arriving by sea, a vessel entitled to be documented except for its size (see § 4.0(c)). The formal entry of a foreign vessel arriving within the limits of any Customs port is also governed by section 434, Tariff Act of 1930 (19 U.S.C. 1434). Alternatively, information necessary for formal entry may be transmitted electronically pursuant to a system authorized by Customs.

(b) *Procedures for American vessels.* Under certain circumstances, American vessels arriving in ports of the United States directly from other United States ports must make entry. Entry of such vessels is required when they have merchandise aboard which is being transported in-bond, or when

they have unentered foreign merchandise aboard. For the purposes of the vessel entry requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with the usual formal entry procedures, American vessels carrying no unentered foreign merchandise but which have in-bond merchandise aboard may satisfy vessel entry requirements by making a required report of arrival, and presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Report of arrival as provided in § 4.2 of this part, together with presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement), satisfies all entry requirements for the subject vessels.

(c) *Delivery of foreign vessel document.* The master of any foreign vessel will exhibit the vessel's document to the port director on or before the entry of the vessel. After the net tonnage has been noted, the document may be delivered to the consul of the nation to which such vessel belongs, in which event the vessel master will certify to the port director the fact of such delivery (see section 434, Tariff Act of 1930, as amended (19 U.S.C. 1434), as applied through section 438, Tariff Act of 1930, as amended (19 U.S.C. 1438)). If not delivered to the consul, the document will be deposited in the customhouse. Whether delivered to the foreign consul or deposited at the customhouse, the document will not be delivered to the master of the foreign vessel until clearance is granted under § 4.61. It will not be lawful for any foreign consul to deliver to the master of any foreign vessel the register, or document in lieu thereof, deposited with him in accordance with the provisions of 19 U.S.C. 1434 until such master will produce to him a clearance in due form from the director of the port where such vessel has been entered. Any consul violating the provisions of this section is liable to a fine of not more than \$5,000 (section 438, Tariff Act of 1930, as amended; 19 U.S.C. 1438).

(d) *Failure to make required entry; penalties.* Any master who fails to make entry as required by this section or

who presents or transmits electronically any document required by this section that is forged, altered, or false, may be liable for certain civil penalties as provided under 19 U.S.C. 1436, in addition to penalties applicable under other provisions of law. Further, any vessel used in connection with any such violation is subject to seizure and forfeiture.

[T.D. 00-4, 65 FR 2873, Jan. 19, 2000; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.10 Request for overtime services.

Request for overtime services in connection with entry or clearance of a vessel, including the boarding of a vessel in accordance with § 4.1 shall be made on Customs Form 3171. (See § 24.16 of this chapter regarding pleasure vessels.) Such request for overtime services must specify the nature of the services desired and the exact times when they will be needed, unless a term special license (unlimited or limited to the service requested) has been issued (see § 4.30(g)) and arrangements are made locally so that the proper Customs officer will be notified during official hours in advance of the rendering of the services as to the nature of the services desired and the exact times they will be needed. Such request shall not be approved (previously issued term special licenses shall be revoked) unless the carrier complies with the provisions of paragraphs (l) and (m) of § 4.30 regarding terminal facilities and employee lists, respectively, and the required cash deposit or bond, on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter, has been received. Separate bonds shall be required if overtime services are requested by different principals.

[T.D. 72-189, 37 FR 13975, July 15, 1972, as amended by T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 92-74, 57 FR 35751, Aug. 11, 1992]

§ 4.11 Sealing of stores.

Upon the arrival of a vessel from a foreign port, or a vessel engaged in the foreign trade from a domestic port, sea stores and ship's stores not required for immediate use or consumption on board while the vessel is in port and articles acquired abroad by officers and

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members of the crew, for which no permit to land has been issued, shall be placed under seal, unless the Customs officer is of the opinion that the circumstances do not require such action. Customs inspectors in charge of the vessel, from time to time, as in their judgment the necessity of the case requires, may issue stores from under seal for consumption on board the vessel by its passengers and crew. (See § 4.39.)

§ 4.12 Explanation of manifest discrepancy.

(a)(1) Vessel masters or agents shall notify the port director on Customs Form 5931 of shortages (merchandise manifested, but not found) or overages (merchandise found, but not manifested) of merchandise.

(2) Shortages shall be reported to the port director by the master or agent of the vessel by endorsement on the importer's claim for shortage on Customs Form 5931 as provided for in § 158.3 of this chapter, or within 60 days after the date of entry of the vessel, whichever is later. Satisfactory evidence to support the claim of nonimportation or of proper disposition or other corrective action (see § 4.34) shall be obtained by the master or agent and shall be retained in the carrier's file for one year.

(3) Overages shall be reported to the port director within 60 days after the date of entry of the vessel by completion of a post entry or suitable explanation of corrective action (see § 4.34) on the Customs Form 5931.

(4) The port director shall immediately advise the master or agent of those discrepancies which are not reported by the master or agent. Notification may be in any appropriate manner, including the furnishing of a copy of Customs Form 5931 to the master or agent. The master or agent shall satisfactorily resolve the matter within 30 days after the date of such notification, or within 60 days after entry of the vessel, whichever is later.

(5)(a) Unless the required notification and explanation is made timely and the port director is satisfied that the discrepancies resulted from clerical error or other mistake and that there has been no loss of revenue (and in the case of a discrepancy not initially reported

by the master or agent that there was a valid reason for failing to so report), applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed (see § 162.31 of this chapter). For purposes of this section, the term "clerical error" is defined as a non-negligent, inadvertent, or typographical mistake in the preparation, assembly, or submission (electronically or otherwise) of the manifest. However, repeated similar manifest discrepancies by the same parties may be deemed the result of negligence and not clerical error or other mistake. For the purpose of assessing applicable penalties, the value of the merchandise shall be determined as prescribed in § 162.43 of this chapter. The fact that the master or owner had no knowledge of a discrepancy shall not relieve him from the penalty.

(b) Except as provided in paragraph (c) of this section, a correction in the manifest shall not be required in the case of bulk merchandise if the port director is satisfied that the difference between the manifested quantity and the quantity unladen, whether the difference constitutes an overage or a shortage, is an ordinary and usual difference properly attributable to absorption of moisture, temperature, faulty weighing at the port of lading, or other similar reason. A correction in the manifest shall not be required because of discrepancies between marks or numbers on packages of merchandise and the marks or numbers for the same packages as shown on the manifest of the importing vessel when the quantity and description of the merchandise in such packages are correctly given.

(c) Manifest discrepancies (shortages and overages) of petroleum and petroleum products imported in bulk shall be reported on Customs Form 5931, if the discrepancy exceeds one percent.

[T.D. 80-142, 45 FR 36383, May 30, 1980, as amended by T.D. 99-64, 64 FR 43265, Aug. 10, 1999]

§ 4.13 Alcoholic liquors on vessels of not over 500 net tons.

(a) When a vessel of not over 500 net tons which arrives from a foreign port or a hovering vessel has on board any

be subject to the criminal penalties provided for in 18 U.S.C. 1001.

[T.D. 80-237, 45 FR 64565, Sept. 30, 1980, as amended by T.D. 82-227, 47 FR 54065, Dec. 1, 1982; T.D. 83-214, 48 FR 46511, Oct. 13, 1983; T.D. 84-149, 49 FR 28698, July 16, 1984; T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 85-123, 50 FR 29952, July 23, 1985; T.D. 91-77, 56 FR 46114, Sept. 10, 1991; T.D. 93-57, 58 FR 39655, July 26, 1993; T.D. 93-65, 58 FR 44128, Aug. 19, 1993; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 94-41, 59 FR 18481, Apr. 19, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel documented with a fishery license endorsement shall touch and trade at a foreign port or place, the master shall obtain from the port director a permit on Customs Form 1379 to touch and trade.

When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.²⁸ Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty.

(b) Upon the arrival of a documented vessel with a fishery endorsement which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

²⁸If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies.

²⁹⁻⁶¹ [Reserved]

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the port director.

(d) No permit to touch and trade shall be issued to a vessel which does not have a Certificate of Documentation with a fishery license endorsement.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-28, 42 FR 3161, Jan. 17, 1977; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

§ 4.16 [Reserved]

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also §§ 4.20(c) and 159.42 of this chapter.)

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 73-175, 38 FR 17444, July 2, 1973]

TONNAGE TAX AND LIGHT MONEY

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty of 9 cents per net ton, not to exceed in the aggregate 45 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), or the high seas adjacent to the U.S. or the above listed foreign locations, and on all vessels (except vessels of the U.S., recreational vessels, and barges,

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as defined in §2101 of Title 46) that depart a U.S. port or place and return to the same port or place without being entered in the United States from another port or place, and regular tonnage tax of 27 cents per net ton, not to exceed \$1.35 cents per net ton per annum, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide:

(1) When the vessel has proceeded in ballast from a port to which the 27-cent rate is applicable to a port to which the 9-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 9-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 27-cent port to a 9-cent port when all such cargo or passengers have been unladen or discharged at the 9-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 9-cent port.

(3) The 27-cent rate shall be applied when the vessel proceeds from a 9-cent

port to a 27-cent port en route to the United States under circumstances similar to paragraph (a) (1) or (2) of this section.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year. There may be 5 payments at the maximum (27 cent) and 5 at the minimum (9-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to \$1.80 per net ton for the tonnage year of a vessel engaged in alternating trade.

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax and to the payment of light money at the rates and under the circumstances specified in the following table:

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	\$0.09 or \$0.27	.....	.....
2. All others:			
(i) If all the officers are citizens .....	.09 or .27	.....	.....
(ii) If any officer is not a citizen .....	.09 or .27	¹ 0.50	1.50
Undocumented vessels which are owned by citizens ² .....	.09 or .27	.50	³ .50
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money .....	.09 or .27	.....	.....
2. All others:			
(i) Built in the U.S. ....	.09 or .27	.30	.50
(ii) Not built in the U.S. ....	.09 or .27	.50	.50
(iii) In addition to (i) or (ii) of 2., Foreign Vessels, when entering from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade ^{3a} .....	.09 or .27	⁴ 2.00	4.50

¹ This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

² This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

³ This does not apply if the vessel is under a certificate of protection and the owner or master files with the port director the oath required by 46 U.S.C. App. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. App. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

^{3a} The Democratic People's Republic of Korea (North Korea), does not ordinarily permit vessels of the United States to enter and trade.

⁴ This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders.

(e) The fact that a vessel passes through the Panama Canal does not affect the rate of tonnage tax otherwise applicable to the vessel.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the Vessel Entrance or Clearance Statement, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer.

(g) The decision of the Commissioner of Customs is the final administrative decision on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions.

(h) Any person adversely affected by a decision of the Commissioner of Customs relating to the collection of tonnage tax, or to the refund of such tax when collected erroneously or illegally,

may appeal the decision in the Court of International Trade provided that the appeal action is commenced in accordance with the rules of the Court within 2 years after the cause of action first accrues.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 71-169, 36 FR 12603, July 2, 1971; T.D. 75-110, 40 FR 21027, May 15, 1975; T.D. 76-280, 41 FR 42647, Sept. 28, 1976; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 82-145, 47 FR 35475, Aug. 16, 1982; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 85-90, 50 FR 21430, May 24, 1985; T.D. 93-12, 58 FR 13196, Mar. 10, 1993; T.D. 95-76, 60 FR 48028, Sept. 18, 1995; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct.

(b) The following vessels, or vessels arriving in the circumstances as defined below, shall be exempt from tonnage tax and light money:

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade.

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies,

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if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a port of the United States and a foreign port.

(10) It is used exclusively as a ferry boat, including a car ferry.

(11) It is a tug with a Great Lakes license endorsement on its vessel document, when towing vessels which are required to make entry.

(12) It is a documented vessel with a Great Lakes license endorsement which has touched at an intermediate foreign port or ports during a coastwise voyage.

(13) It enters otherwise than by sea from a foreign port at which tonnage or lighthouse duties or equivalent taxes are not imposed on vessels of the United States (applicable only where the vessel arrives from a port in the province of Ontario, Canada).

(14) It is a coastwise-qualified vessel solely engaged in the coastwise trade (although arriving from a foreign port or place, it is engaged in the transportation of merchandise or passengers, or the towing of a vessel other than a vessel in distress, between points in the U.S. via a foreign point) (see §§4.80, 4.80a, 4.80b, and 4.92).

(15) It is a vessel entering directly from the Virgin Islands (U.S.), American Samoa, the islands of Guam, Wake, Midway, Canton, or Kingman Reef, or Guantanamo Bay Naval Station.

(16) It is a vessel making regular daily trips between any port of the United States and any port in Canada wholly upon interior waters not navigable to the ocean, except that such a vessel shall pay tonnage taxes upon her first arrival in each calendar year.

(17) It is a vessel arriving at a port in the United States which, while proceeding between ports in the United States, touched at a foreign port under circumstances which would have exempted it from making entry under section 441(4), Tariff Act of 1930, as

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amended (19 U.S.C. 1441(4)), had it touched at a United States port.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 72-264, 37 FR 20317, Sept. 29, 1972; T.D. 75-110, 40 FR 21027, May 15, 1975; T.D. 75-206, 40 FR 34586, Aug. 18, 1975; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 93-12, 58 FR 13197, Mar. 10, 1993]

§4.22 Exemptions from special tonnage taxes.

Vessels of the following nations are exempted by treaties, Presidential proclamations, or orders of the Secretary of the Treasury from the payment of any higher tonnage duties than are applicable to vessels of the United States and are exempted from the payment of light money:

Algeria.
Antigua and Barbuda.
Arab Republic of Egypt.
Argentina.
Australia.
Austria.
Bahamas, The.
Bahrain.
Bangladesh.
Barbados.
Belgium.
Belize.
Bermuda.
Bolivia.
Brazil.
Bulgaria.
Burma.
Canada.
Chile.
Colombia.
Costa Rica.
Cuba.
Cyprus.
Czechoslovakia.
Denmark (including the Faeroe Islands).
Dominica.
Dominican Republic.
Ecuador.
El Salvador.
Estonia.
Ethiopia.
Fiji.
Finland.
France.
Gambia, The.
German Democratic Republic.
German Federal Republic.
Ghana.
Great Britain (including the Cayman Islands).

Greece.
Greenland.
Guatemala.
Guinea, Republic of.
Guyana.
Haiti.
Honduras.
Hong Kong.
Hungarian People's Republic
Iceland.
India.
Indonesia.
Iran.
Iraq.
Ireland (Eire).
Israel.
Italy.
Ivory Coast, Republic of.
Jamaica.
Japan.
Kenya.
Korea.
Kuwait.
Latvia.
Lebanon.
Liberia.
Libya.
Luxembourg.
Malaysia.
Malta.
Marshall Islands, Republic of.
Mauritius.
Mexico.
Monaco.
Morocco.
Nauru, Republic of.
Netherlands.
Netherlands Antilles.
New Zealand.
Nicaragua.
Nigeria.
Norway.
Oman.
Pakistan.
Panama.
Papua New Guinea.
Paraguay.
People's Republic of China.
Peru.
Philippines.
Poland.
Portugal.
Qatar.
Rumania.
Saudi Arabia.
Senegal.
Singapore, Republic.
Somali, Republic.
Spain.
Sri Lanka.
St. Vincent and The Grenadines.
Surinam, Republic of.
Sweden.
Switzerland.
Syrian Arab Republic.
Taiwan.
Thailand.

Togo.
Tonga.
Tunisia.
Turkey.
Tuvalu.
Union of South Africa.
Union of Soviet Socialist Republics.
United Arab Emirates (Abu Dhabi, Ajman,
Dubai, Fujairah, Ras Al Khaimah, Sharjah,
and Umm Al Qaiwain).
Uruguay.
Vanuatu, Republic of.
Venezuela.
Yugoslavia.
Zaire.

[28 FR 14596, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 4.22, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 4.23 Certificate of payment and cash receipt.

Upon each payment of tonnage tax or light money, the master of the vessel shall be given a certificate on Customs Form 1002 on which the control number of the cash receipt (Customs Form 368 or 368A) upon which payment was recorded shall be written. This certificate shall constitute the official evidence of such payment and shall be presented upon each entry during the tonnage year to establish the date of commencement of the tonnage year and to insure against overpayment. In the absence of the certificate, evidence of payment of tonnage tax shall be obtained from the port director to whom the payment was made.

[T.D. 85-71, 50 FR 15415, Apr. 18, 1985, as amended by T.D. 92-56, 57 FR 24943, June 12, 1992]

§ 4.24 Application for refund of tonnage tax.

(a) The authority to make refunds in accordance with section 26 of the Act of June 26, 1884 (46 U.S.C. 8) of regular tonnage taxes described in § 4.20(a) is delegated to the Directors of the ports where the collections were made. If any doubt exists, the case shall first be referred to Headquarters, U.S. Customs Service for advice.

(b) Each application for refund of regular or special tonnage tax or light money prepared in accordance with this section shall be filed with the Customs officer to whom payment was

§ 4.30

made. After verification of the pertinent facts asserted in the claim, the application shall be forwarded with any necessary report or recommendation to the appropriate port director. Applications for refund of special tonnage tax and light money (see § 4.20(c)) with the reports and recommendations submitted therewith shall be forwarded by the port director to the Commissioner of Customs for decision. Any refund authorized by the Port Director under paragraph (a) of this section or any refund of special tonnage tax or light money authorized by the Commissioner of Customs shall be made by the appropriate Customs officer. The records of tonnage tax shall be clearly noted to show each refund authorized.

(c) The application shall be a direct request for the refund of a definite sum, showing concisely the reasons therefor, the nationality and name of the vessel, and the date, place, and amount of each payment for which refund is requested. The application shall be made within 1 year from date of the payment. A protest against a payment shall not be accepted as an application for its refund.

(d) When the application is based upon a claim that more than five payments of regular tax at either the 2-cent or the 6-cent rate have been made during a tonnage year, the application shall be supported by a statement from the appropriate Customs officer at the port where the application is submitted and from the appropriate Customs officer at each port at which any claimed payment was made verifying the facts and showing in each case whether refunds have been authorized.

(e) The application shall include a certificate by the owner or by the owner's agent that payment of tonnage tax at the applicable rate has been or will be made for each entry of the vessel on a voyage on which that rate is applicable before the end of the current tonnage year, exclusive of any payment which has been refunded or which may be refunded as a result of such application.

(f) The owner or operator of the vessel involved, or other party in interest, may file with the port Director a petition addressed to the Commissioner of Customs for a review of the port direc-

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tor's decision on an application for refund of regular tonnage tax. Such petition shall be filed in duplicate within 30 days from the date of notice of the initial decision, shall completely identify the case, and shall set forth in detail the exceptions to the decision.

[T.D. 71-274, 36 FR 21025, Nov. 3, 1971, as amended by T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

LANDING AND DELIVERY OF CARGO

§ 4.30 Permits and special licenses for unloading and lading.

(a) Except as prescribed in paragraph (f), (g), or (k) of this section or in § 123.8 of this chapter, and except in the case of a vessel exempt from entry or clearance fees under 19 U.S.C. 288, no passengers, cargo, baggage, or other article shall be unladen from a vessel which arrives directly or indirectly from any port or place outside the Customs territory of the U.S., including the adjacent waters (see § 4.6 of this part), or from a vessel which transits the Panama Canal and no cargo, baggage, or other article shall be laden on a vessel destined to a port or place outside the Customs territory of the U.S., including the adjacent waters (see § 4.6 of this part) if Customs supervision of such lading is required, until the port director shall have issued a permit or special license therefore on Customs Form 3171 or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service.

(1) U.S. and foreign vessels arriving at a U.S. port directly from a foreign port or place are required to make entry, whether it be formal or, as provided in § 4.8, preliminary, before the port director may issue a permit or special license to lade or unlade.

(2) U.S. vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade without having to make either preliminary or formal entry at the second and subsequent ports. Foreign vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade at the second

and subsequent ports prior to formal entry without the necessity of making preliminary entry. In these circumstances, after the master has reported arrival of the vessel, the port director may issue the permit or special license or may, in his discretion, require the vessel to be boarded, the master to make an oath or affirmation to the truth of the statements contained in the vessel's manifest to the Customs officer who boards the vessel, and require delivery of the manifest prior to issuing the permit.

(b) Application for a permit or special license will be made by the master, owner, or agent of the vessel on Customs Form 3171, or electronically pursuant to an authorized electronic data interchange system or other means of communication approved by the Customs Service, and will specifically indicate the type of service desired at that time, unless a term permit or term special license has been issued. Vessels that arrive in a Customs port with more than one vessel carrier sharing or leasing space on board the vessel (such as under a vessel sharing or slot charter arrangement) are required to indicate on the CF 3171 all carriers on board the vessel and indicate whether each carrier is transmitting its cargo declaration electronically or is presenting it on the Customs Form 1302. In the case of a term permit or term special license, upon entry of each vessel, a copy of the term permit or special license must be submitted to Customs during official hours in advance of the rendering of services so as to update the nature of the services desired and the exact times they will be needed. Permits must also be updated to reflect any other needed changes including those in the name of the vessel as well as the slot charter or vessel sharing parties. An agent of a vessel may limit his application to operations involved in the entry and unloading of the vessel or to operations involved in its lading and clearance. Such limitation will be specifically noted on the application.

(c) The request for a permit or a special license shall not be approved (previously issued term permits or special licenses shall be revoked) unless the carrier complies with the provisions of paragraphs (l) and (m) of this section

regarding terminal facilities and employee lists, and the required cash deposit or bond has been filed on Customs Form 301, containing the bond conditions set forth in §113.64 of this chapter relating to international carriers.⁶² When a carrier has on file a bond on Customs Form 301, containing the bond conditions set forth in §113.63 of this chapter relating to basic custodial bond conditions, no further bond shall be required solely by reason of the unloading or lading at night or on a Sunday or holiday of merchandise or baggage covered by bonded transportation entries. Separate bonds shall be required if overtime services are requested by different principals.

(d) Except as prescribed in paragraph (f) or (g) of this section, a separate application for a permit or special license shall be filed in the case of each arrival.

(e) Stevedoring companies and others concerned in lading or unlading merchandise, or in removing or otherwise securing it, shall ascertain that the applicable preliminary Customs requirements have been complied with before commencing such operation, since performance in the absence of such compliance render them severally liable to the penalties prescribed in section 453, Tariff Act of 1930, even though they may not be responsible for taking the action necessary to secure compliance.

(f) The port director may issue a term permit on Customs Form 3171,

⁶² "Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the act of February 13, 1911, as amended (U.S.C. 1952 edition, title 19 sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. * * *" (Tariff Act of 1930, section 451, as amended, 19 U.S.C. 1451)

⁶³⁻⁶⁶ [Reserved]

which will remain in effect until revoked by the port director, terminated by the carrier, or automatically cancelled by termination of the supporting continuous bond, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage during official hours.

(g) The port director may issue a term special license on Customs Form 3171, which will remain in effect until revoked by the port director, terminated by the carrier, or automatically cancelled by termination of the supporting continuous bond, to unlade merchandise, passengers, or baggage, or to lade merchandise or baggage during overtime hours or on a Sunday or holiday when Customs supervision is required. (See § 24.16 of this chapter regarding pleasure vessels.)

(h) A special license for the unloading or lading of a vessel at night or on a Sunday or holiday shall be refused by the port director if the character of the merchandise or the conditions or facilities at the place of unloading or lading render the issuance of such special license dangerous to the revenue. In no case shall a special license for unloading or lading at night or on a Sunday or holiday be granted except on the ground of commercial necessity.

(i) The port director shall not issue a permit or special license to unlade cargo or equipment of vessels arriving directly or indirectly from any port or place outside the United States, except on compliance with one or more of the following conditions:

(1) The merchandise shall have been duly entered and permits issued; or

(2) A bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers, or cash deposit shall have been given; or

(3) The merchandise is to be discharged into the custody of the port director as provided for in section 490(b), Tariff Act of 1930.

(j) Bonds are not required under this section for vessels owned by the United States and operated for its account.

(k) In the case of vessels of 5 net tons or over which are used exclusively as pleasure vessels and which arrive from any country, the port director in his discretion and under such conditions as

he deems advisable may allow the required application for unloading passengers and baggage to be made orally, and may authorize his inspectors to grant oral permission for unloading at any time, and to grant requests on Customs Form 3171 for overtime services.

(l) A permit to unlade pursuant to this part 4 or part 122 of this chapter shall not be granted unless the port director determines that the applicant provides or the terminal at which the applicant will unlade the cargo provides (1) sufficient space, capable of being locked, sealed, or otherwise secured, for the storage immediately upon unloading of cargo whose weight-to-value ratio renders it susceptible to theft or pilferage and of packages which have been broken prior to or in the course of unloading; and (2) an adequate number of vehicles, capable of being locked, sealed, or otherwise secured, for the transportation of such cargo or packages between the point of unloading and the point of storage. A term permit to unlade shall be revoked if the port director determines subsequent to such issuance that the requirements of this paragraph have not been met.

(m) A permit to unlade pursuant to this part 4 or part 122 of this chapter shall not be granted to an importing carrier, and a term permit to unlade previously granted to such a carrier shall be revoked, (1) if such carrier, within 30 days after the date of receipt of a written demand by the port director, does not furnish a written list of the names, addresses, social security numbers, and dates and places of birth of persons it employs in connection with the unloading, storage and delivery of imported merchandise; or (2) if, having furnished such a list, the carrier does not advise the port director in writing of the names, addresses, social security numbers, and dates and places of birth of any new personnel employed in connection with the unloading, storage and delivery of imported merchandise within 10 days after such employment. If the employment of any such person is terminated, the carrier shall promptly advise the port director. For the purposes of this part, a person shall not be deemed to be employed by a carrier if he is an officer or employee of an

independent contractor engaged by a carrier to load, unload, transport or otherwise handle cargo.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 68-247, 33 FR 15022, Oct. 8, 1968; T.D. 71-39, 36 FR 1891, Feb. 3, 1971; T.D. 72-189, 38 FR 13975, July 15, 1972; T.D. 73-27, 38 FR 2448, Jan. 26, 1973; T.D. 84-213, 49 FR 41163, Oct. 19, 1984; T.D. 88-12, 53 FR 9314, Mar. 22, 1988; T.D. 92-74, 57 FR 35751, Aug. 11, 1992; T.D. 93-66, 58 FR 44130, Aug. 19, 1993; T.D. 93-96, 58 FR 67316, Dec. 21, 1993; T.D. 94-2, 58 FR 68523, Dec. 28, 1993; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 96-11, 61 FR 2414, Jan. 26, 1996; T.D. 93-96, 61 FR 3569, Feb. 1, 1996; T.D. 00-4, 65 FR 2873, Jan. 19, 2000]

§ 4.31 Unlading or transshipment due to casualty.

(a) When any cargo or stores of a vessel have been unladen or transshipped at any place in the United States or its Customs waters other than a port of entry because of accident, stress of weather, or other necessity, no penalty shall be imposed under section 453 or 586(a), Tariff Act of 1930, if due notice is given to the director of the port at which the vessel thereafter first arrives and satisfactory proof is submitted to him as provided for in section 586(f), Tariff Act of 1930, as amended, regarding such accident, stress of weather, or other necessity. The port director may accept the certificates of the master and two or more officers or members of the crew of the vessel, of whom the person next to the master in command shall be one, as proof that the unlading or transshipment was necessary by reason of unavoidable cause.

(b) The port director may then permit entry of the vessel and its cargo and permit the unlading of the cargo in such place at the port as he may deem proper. Unless its transportation has been in violation of the coastwise laws, the cargo may be cleared through Customs at the port where it is discharged or forwarded to the port of original destination under an entry for immediate transportation or for transportation and exportation, as the case may be. All regulations shall apply in such cases as if the unlading and delivery took place at the port of original destination.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

§ 4.32 Vessels in distress; landing of cargo.

(a) When a vessel from a foreign port arrives in distress at a port other than that to which it is destined, a permit to land merchandise or baggage may be issued if such action is necessary. Merchandise and baggage so unladen shall be taken into Customs custody and, if it has not been transported in violation of the coastwise laws, may be entered and disposed of in the same manner as any other imported merchandise or may be reladen without entry to be carried to its destination on the vessel from which it was unladen, subject only to charges for storage and safe-keeping.

(b) A bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers shall be given in an amount to be determined by the port director to insure the proper disposition of the cargo, whether such cargo be dutiable or free.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 84-213, 49 FR 41164, Oct. 19, 1984]

§ 4.33 Diversion of cargo.

(a) *Unlading at other than original port of destination.* A vessel may unlade cargo or baggage at an alternative port of entry to the port of original destination if:

(1) It is compelled by any cause to put into the alternative port and the director of that port issues a permit for the unlading of cargo or baggage; or

(2) As a result of an emergency existing at the port of destination, the port director authorizes the vessel to proceed in accordance with the residue cargo bond procedure to the alternative port. The owner or agent of the vessel shall apply for such authorization in writing, stating the reasons and agreeing to hold the port director and the Government harmless for the diversion.

(b) *Disposition of cargo or baggage at emergency port.* Cargo and baggage unladen at the alternative port under the circumstances set forth in paragraph (a) of this section may be:

(1) Entered in the same manner as other imported cargo or baggage;

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(2) Treated as unclaimed and stored at the risk and expense of its owner; or

(3) Reladen upon the same vessel without entry, for transportation to its original destination.

(c) *Substitution of ports of discharge on manifest.* After entry, the Cargo Declaration, Customs Form 1302, of a vessel may be changed at any time to permit discharge of manifested cargo at any domestic port in lieu of any other port shown on the Cargo Declaration, if:

(1) A written application for the diversion is made on the amended Cargo Declaration by the master, owner, or agent of the vessel to the director of the port where the vessel is located, after entry of the vessel at that port;

(2) An amended Cargo Declaration, under oath, covering the cargo, which it is desired to divert, is furnished in support of the application and is filed in such number of copies as the port director shall require for local Customs purposes; and

(3) The certified traveling manifest is not altered or added to in any way by the master, owner, or agent of the vessel. When an application under paragraph (c)(1) of this section is approved, the port director shall securely attach an approved copy of the amended manifest to the traveling manifest and shall send one copy of the amended Cargo Declaration to the director of the port where the vessel's bond was filed.

(d) *Retention of cargo on board for later return to the United States.* If, as the result of a strike or other emergency at a United States port for which inward foreign cargo is manifested, it is desired to retain the cargo on board the vessel for discharge at a foreign port but with the purpose of having the cargo returned to the United States, an application may be made by the master, owner, or agent of the vessel to amend the vessel's Cargo Declaration, Customs Form 1302, under a procedure similar to that described in paragraph (c) of this section, except that a foreign port shall be substituted for the domestic port of discharge. If the application is approved, it shall be handled in the same manner as an application filed under paragraph (c) of this section. However, before approving the applica-

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tion, the port director is authorized to require such bond as he deems necessary to insure that export control laws and regulations are not circumvented.

[T.D. 77-255, 42 FR 56320, Oct. 25, 1977]

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

(a) *Prematurely landed cargo.* Upon receipt of a satisfactory written application from the owner or agent of a vessel establishing that cargo was prematurely landed and left behind by the importing vessel through error or emergency, the port director may permit inward foreign cargo remaining on the dock to be reladen on the next available vessel owned or chartered by the owner of the importing vessel for transportation to the destination shown on the Cargo Declaration, Customs Form 1302, of the first vessel, provided the importing vessel actually entered the port of destination of the prematurely landed cargo. Unless so forwarded within 30 days from the date of landing, the cargo shall be appropriately entered for Customs clearance or for forwarding in bond; otherwise, it shall be sent to general order as unclaimed. If the merchandise is so entered for Customs clearance at the port of unloading, or if it is so forwarded in bond, other than by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel, representatives of the importing vessel shall file at the port of unloading a Cargo Declaration in duplicate listing the cargo. The port director shall retain the original and forward the duplicate to the director of the originally intended port of discharge.

(b) *Overcarried cargo.* Upon receipt of a satisfactory written application by the owner or agent of a vessel establishing that cargo was not landed at its destination and was overcarried to another domestic port through error or emergency, the port director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination

shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.⁶⁷

(c) *Inaccessibly stowed cargo.* Cargo so stowed as to be inaccessible upon arrival at destination may be retained on board, carried forward to another domestic port or ports, and returned to the port of destination in the importing vessel or in another vessel owned or chartered by the owner of the importing vessel in the same manner as other overcarried cargo.

(d) *Application for forwarding cargo.* When it is desired that prematurely landed cargo, overcarried cargo, or cargo so stowed as to be inaccessible, be forwarded to its destination by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel in accordance with paragraph (a), (b), or (c) of this section, the required application shall be filed with the local director of the port of premature landing or overcarriage by the owner or agent of the vessel. The application shall be supported by a Cargo Declaration, Customs Form 1302, in such number of copies as the port director may require. Whenever practicable, the application shall be made on the face of the Cargo Declaration below the description of the merchandise. The application shall specify the vessel on which the cargo was imported, even though the forwarding to destination is by another vessel owned or chartered by the owner of the importing vessel, and all ports of departure and dates of sailing of the importing vessel. The application shall be stamped and signed to show that it has been approved.

(e) *Manifesting prematurely landed or overcarried cargo.* One copy of the Cargo Declaration, Customs Form 1302, shall be certified by Customs for use as a substitute traveling manifest for the prematurely landed or overcarried

cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If the application for forwarding is made on the Cargo Declaration, the new substitute traveling manifest shall be stamped to show the approval of the application. If the application is on a separate document, a copy thereof, stamped to show its approval, shall be attached to the substitute traveling manifest. An appropriate cross-reference shall be placed on the original traveling manifest to show that the vessel has one or more substitute traveling manifests. A permit to proceed endorsed on a Vessel Entrance or Clearance Statement, Customs Form 1300, issued to the vessel transporting the prematurely landed or overcarried cargo to its destination shall make reference to the nature of such cargo, identifying it with the importing vessel.

(f) *Residue cargo procedure.* A vessel with prematurely landed or overcarried cargo on board shall comply upon arrival at all domestic ports of call with all the requirements of part 4 relating to foreign residue cargo for domestic ports. The substitute traveling manifest, carried forward from port to port by the oncarrying vessel, shall be finally surrendered at the port where the last portion of the prematurely landed or overcarried cargo is discharged.

(g) *Cargo undelivered at foreign port and returned to the U.S.* Merchandise shipped from a domestic port, but undelivered at the foreign destination and returned, shall be manifested as "Undelivered-to be returned to original foreign destination," if such a return is intended. The port director may issue a permit to retain the merchandise on board, or he may, upon written application of the steamship company, issue a permit on a Delivery Ticket, Customs Form 6043, allowing the merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the bond on Customs Form 301, containing the bond conditions relating to international carriers set forth in § 113.64 of this chapter. The items shall be remanifested outward and an explanatory reference of the attending

⁶⁷ See § 141.69(c) of this chapter for the conditions under which such merchandise and goods removed from a port of intended entry under these or certain other circumstances may subsequently be cleared under a consumption entry which had been filed therefore before the merchandise was removed from the port of intended entry.

⁶⁸⁻⁶⁹ [Reserved]

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circumstances and compliance with export requirements noted.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-255, 42 FR 56321, Oct. 25, 1977; T.D. 85-123, 50 FR 29952, July 23, 1985; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.35 Unlading outside port of entry.

(a) Upon written application from the interested party, the port director concerned, if he considers it necessary, may permit any vessel laden with merchandise in bulk to proceed, after entry, to any place outside the port where the vessel entered which such port director may designate for the purpose of unlading such cargo.

(b) In such case a deposit of a sum sufficient to reimburse the Government for the compensation, travel, and subsistence expenses of the officers detailed to supervise the unlading and delivery of the cargo may be required by the port director.

[28 FR 14596, Dec. 31, 1963, as amended at T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

§ 4.36 Delayed discharge of cargo.

(a) When pursuant to section 457, Tariff Act of 1930, customs officers are placed on a vessel which has retained merchandise on board more than 25 days after the date of the vessel's arrival, their compensation and subsistence expenses shall be reimbursed to the Government by the owner or master.

(b) The compensation of all Customs officers and employees assigned to supervise the discharge of a cargo within the purview of section 458, Tariff Act of 1930,⁷⁰ after the expiration of 25 days after the date of the vessel's entry

⁷⁰ "The limitation of time for unlading shall not extend to vessels laden exclusively with merchandise in bulk consigned to one consignee and arriving at a port for orders, but if the master of such vessel requests a longer time to discharge its cargo, the compensation of the inspectors or other customs officers whose services are required in connection with the unlading shall, for every day consumed in unlading in excess of twenty-five (25) days from the date of the vessel's entry, be reimbursed by the master or owner of such vessel." (Tariff Act of 1930, sec. 458; 19 U.S.C. 1458)

⁷¹⁻⁷⁵ [Reserved]

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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 unlading 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 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. 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 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 port director may authorize unentered merchandise brought in by one carrier for the account of another carrier to be transferred within the port to the lat-

ter carrier's facility. Upon receipt of the merchandise the latter carrier assumes liability for the merchandise to the same extent as though the merchandise had arrived on its own vessel.

(b) When packages of merchandise bear marks or numbers which differ from those appearing on the Cargo Declaration, Customs Form 1302, of the importing vessel for the same packages and the importer or a receiving bonded carrier, with the concurrence of the importing carrier, makes application for their release under such marks or numbers, either for consumption or for transportation in bond under an entry filed therefor at the port of discharge from the importing vessel, the port director may approve the application upon condition that (1) the contents of the packages be identified with an invoice or transportation entry as set forth below and (2) the applicant furnish at his own expense any bonded cartage or lighterage service which the granting of the application may require. The application shall be in writing in such number of copies as may be required for local Customs purposes. Before permitting delivery of packages under such an application, the port director shall cause such examination thereof to be made as will reasonably identify the contents with the invoice filed with the consumption entry. If the merchandise is entered for transportation in bond without the filing of an invoice, such examination shall be made as will reasonably identify the contents of the packages with the transportation entry.

(c) If the port director determines that, in a port or portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall require as a condition to the granting of a permit to release imported merchandise that the importer or his agent present to the carrier or his agent a fully executed pickup order in substantially the following format, in triplicate, to obtain delivery of any imported merchandise:

PICKUP ORDER

(Trucker name)

is authorized to pick up the merchandise indicated below.

COD Bank release Collect

Broker Name and Authorized Signature (if applicable)

Marks and numbers	Pcs.	Description of goods	Entry No.	Importing carrier and AWB Number or B/L Number	Signature and date of receiving carrier	Remarks
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Delivered quantities verified _____
Customs officer badge No. _____

Date

The pickup order shall contain a duly authenticated customhouse broker's signature, unless it is presented by a person properly identified as an employee or agent of the ultimate consignee. When delivered quantities are verified by a Customs officer, he shall certify all copies of the pickup order, returning one to the importer or his agent and two to the carrier making delivery.

(d) When the provisions of paragraph (c) of this section are invoked by the port director and verification of delivered quantities by Customs is required, a permit to release merchandise shall be effective as a release from Customs custody at the time that the delivery of the merchandise covered by the pickup order into the physical possession of a subsequent carrier or an importer or the agent of either is completed under the supervision of a Customs officer, and only to the extent of the actual delivery of merchandise described in such pickup order as verified by such Customs officer.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 71-39, 36 FR 1892, Feb. 3, 1971; T.D. 77-255, 42 FR 56321, Oct. 25, 1977; T.D. 91-46, 56 FR 22330, May 15, 1991; 56 FR 27559, June 14, 1991]

§ 4.39 Stores and equipment of vessels and crews' effects; unloading or lading and retention on board.

(a) The provisions of § 4.30 relating to unloading under a permit on Customs Form 3171 are applicable to the unloading of articles, other than cargo or baggage, which have been laden on a vessel outside the Customs territory of the United States, regardless of the trade in which the vessel may be engaged at the time of unloading, except that such provisions do not apply to such articles which have already been entered.

(b) Any articles other than cargo or baggage landed for delivery for consumption in the United States shall be treated in the same manner as other imported articles. A notation as to the landing of such articles, together with the number of the entry made therefor, shall be made on the vessel's store list, but such notation shall not subject the articles to the requirement of being included in a post entry to the manifest.

(c) Bags or dunnage constituting equipment of a vessel may be landed temporarily and reladen on such vessel under Customs supervision without entry.

(d) Articles claimed to be sea or ships' stores which are in excess of the reasonable requirements of the vessel

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on which they are found shall be treated as cargo of such vessel.

(e) Under section 446, Tariff Act of 1930, port directors may permit narcotic drugs, except smoking opium, in reasonable quantities and properly listed as medical stores to remain on board vessels if satisfied that such drugs are adequately safeguarded and used only as medical supplies.

(f) Application for permission to transfer bunkers, stores or equipment as provided for in the proviso to section 446, Tariff Act of 1930, shall be made and the permit therefor granted on Customs Form 3171.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

§ 4.40 Equipment, etc., from wrecked or dismantled vessels.

Ship's or sea stores, supplies, and equipment of a vessel wrecked either in the waters of the United States or outside such waters, on being recovered and brought into a United States port, and like articles landed from a vessel dismantled in a United States port shall be subject to the same Customs treatment as would apply if the articles were landed from a vessel arriving in the ordinary course of trade. Parts of the hull and fittings recovered from a vessel which arrived in the United States in the course of navigation and was wrecked in the waters of the United States or was dismantled in this country are free of duties and import taxes, but if such articles are recovered from vessels outside the waters of the United States and brought into a United States port, they shall be treated as imported merchandise.

§ 4.41 Cargo of wrecked vessel.

(a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of a Cargo Declaration, Customs Form 1302, to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him), or the salvor of the merchandise shall make entry on Customs Form 7501, and any such applicant shall be regarded as the consignee

of the merchandise for Customs purposes.⁷⁶

(b) All such merchandise shall be taken into possession by the director of the port where it shall first arrive and be retained in his custody pending entry. If it is not entered by the person entitled to make entry, or is not disposed of pursuant to court order, it shall be subject to sale as unclaimed merchandise.

(c) If such merchandise is from a vessel which has been sunk in waters of the United States for 2 years or more and has been abandoned by the owner, any person who has salvaged the cargo shall be permitted to enter the merchandise at the port where the vessel was wrecked free of duty upon the facts being established to the satisfaction of the director of the port of entry.⁷⁷ Any other such merchandise is subject to the same tariff classification as like merchandise regularly imported in the ordinary course of trade.

(d) If the merchandise is libeled for salvage,⁷⁸ the port director shall notify the United States attorney of the claim of the United States for duties,

⁷⁶ " * * * The underwriters of abandoned merchandise and the salvors of merchandise saved from a wreck at sea or on or along a coast of the United States may be regarded as the consignees." * * * (Tariff Act of 1930, sec. 483; 19 U.S.C. 1483)

⁷⁷ "Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe." (Tariff Act of 1930, sec. 310; 19 U.S.C. 1310)

⁷⁸ Salvors have an uncertain interest in the goods salvaged, dependent upon the decree of a competent tribunal, and have a presumptive right without such decree to possession of merchandise salvaged by them from abandoned wrecks. The salvors are entitled in either case to make entry of derelict or wrecked goods.

⁷⁹⁻⁹⁶ [Reserved]

and request him to intervene for such duties.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-255, 42 FR 56321, Oct. 25, 1977; T.D. 87-75, 52 FR 20066, May 29, 1987; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

PASSENGERS ON VESSELS

§ 4.50 Passenger lists.

(a) The master of every vessel arriving at a port of the United States from a port or place outside the Customs territory (see § 4.6 of this part) and required to make entry, except a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes, or their connections or tributary waters, shall submit passenger and crew lists, as required by § 4.7(a) of this part. If the vessel is arriving from noncontiguous foreign territory and is carrying steerage passengers, the additional information respecting such passengers required by Customs and Immigration Form I-418 shall be included therein.

(b) A passenger within the meaning of this part is any person carried on a vessel who is not connected with the operation of such vessel, her navigation, ownership, or business.

[28 FR 14596, Dec. 31, 1963 as amended by T.D. 71-169, 36 FR 12603, July 2, 1971; T.D. 82-145, 47 FR 35475, Aug. 16, 1982; T.D. 93-96, 58 FR 67316, Dec. 21, 1993]

§ 4.51 Reporting requirements for individuals arriving by vessel.

(a) *Arrival of vessel reported.* Individuals on vessels, which have reported their arrival to Customs in accordance with 19 U.S.C. 1433 and § 4.2 of this part, shall remain on board until authorized by Customs to depart. Upon departing the vessel, such individuals shall immediately report to a designated Customs location together with all of their accompanying articles.

(b) *Arrival of vessel not reported.* Individuals on vessels, which have not reported their arrival to Customs in accordance with 19 U.S.C. 1433 and § 4.2 of this part, shall immediately notify Customs and report their arrival together with appropriate information regarding the vessel, and shall present themselves and their accompanying ar-

ticles at a designated Customs location.

(c) *Departure from designated Customs location.* Individuals required to report to designated Customs locations under this section shall not depart from such locations until authorized to do so by any appropriate Customs officer.

[T.D. 93-96, 58 FR 67316, Dec. 21, 1993]

§ 4.52 Penalties applicable to individuals.

Individuals violating any of the reporting requirements of § 4.51 of this part or who present any forged, altered, or false document or paper to Customs in connection with this section, may be liable for certain civil penalties, as provided under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law. Further, if the violation of these reporting requirements is intentional, upon conviction, additional criminal penalties may be applicable, as provided by under 19 U.S.C. 1459, in addition to other penalties applicable under other provisions of law.

[T.D. 93-96, 58 FR 67317, Dec. 21, 1993; 59 FR 1918, Jan. 13, 1994]

FOREIGN CLEARANCES

§ 4.60 Vessels required to clear.

(a) Unless specifically excepted by law, the following vessels must obtain clearance from the Customs Service before departing from a port or place in the United States:

(1) All vessels departing for a foreign port or place;

(2) All foreign vessels departing for another port or place in the United States;

(3) All American vessels departing for another port or place in the United States that have merchandise on board that is being transported in-bond (not including bonded ship's stores or supplies), or foreign merchandise for which entry has not been made; and

(4) All vessels departing for points outside the territorial sea to visit a hovering vessel or to receive merchandise or passengers while outside the territorial sea, as well as foreign vessels delivering merchandise or passengers while outside the territorial sea.

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(b) The following vessels are not required to clear:

(1) A documented vessel with a pleasure license endorsement or an undocumented American pleasure vessel (i.e., an undocumented vessel wholly owned by a United States citizen or citizens, whether or not it has a certificate of number issued by the State in which the vessel is principally used under 46 U.S.C. 1466-1467 and not engaged in trade nor violating the Customs or navigation laws of the United States and not having visited any hovering vessel (see 19 U.S.C. 1709(d)).

(2) Any documented vessel with a Great Lakes license endorsement which during a voyage on the Great Lakes will touch at a foreign port only for taking on bunker fuel. (see §4.82).

(3) A vessel exempted from entry by section 441, Tariff Act of 1930. (See §4.5.)

(4) A vessel of less than 5 net tons which departs from the United States to proceed to a contiguous country otherwise than by sea.

(c) Vessels which will merely transit the Panama Canal without transacting any business there shall not be required to be cleared because of such transit.

(d) In the event that departure is delayed beyond the second day after clearance, the delay shall be reported within 72 hours after clearance to the port director who shall note the fact of detention on the certificate of clearance and on the official record of clearance. When the proposed voyage is canceled after clearance, the reason therefor shall be reported in writing within 24 hours after such cancellation and the certificate of clearance and related papers shall be surrendered.

(e) No vessel shall be cleared for the high seas *except*, a vessel bound to another vessel on the high seas to—

(1) Transship export merchandise which it has transported from the U.S. to the vessel on the high seas; or

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(2) Receive import merchandise from the vessel on the high seas and transport the merchandise to the U.S.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995; T.D. 00-4, 65 FR 2873, Jan. 19, 2000]

§4.61 Requirements for clearance.

(a) *Application for clearance.* A clearance application for a vessel intending to depart for a foreign port must be made by filing Customs Form 1300 (Vessel Entrance or Clearance Statement) executed by the vessel master or other proper officer. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the properly executed Customs Form 1300 may be delivered to the customhouse by the vessel agent or other personal representative of the master. Necessary information may also be transmitted electronically pursuant to a system authorized by Customs. Clearance will be granted by Customs either on the Customs Form 1300 or by approved electronic means. Customs port directors may permit the clearance of vessels at locations other than the customhouse, and at times outside of normal business hours. Customs may take local resources into consideration in allowing clearance to be transacted on board vessels themselves or at other mutually convenient sites and times either within or outside of port limits. Customs must be satisfied that the place designated for clearance is sufficiently under Customs control at the time of clearance, and that the expenses incurred by Customs will be reimbursed as authorized. Customs may require that advance notice of vessel departure be given prior to granting requests for optional clearance locations.

(b) *When clearance required.* Under certain circumstances, American vessels departing from ports of the United States directly for other United States ports must obtain Customs clearance.

The clearance of such vessels is required when they have merchandise aboard which is being transported in-bond, or when they have unentered foreign merchandise aboard. For the purposes of the vessel clearance requirements, merchandise transported in-bond does not include bonded ship's stores or supplies. While American vessels transporting unentered foreign merchandise must fully comply with usual clearance procedures, American vessels carrying no unentered foreign merchandise but that have in-bond merchandise aboard may satisfy vessel clearance requirements by reporting intended departure within 72 hours prior thereto by any means of communication that is satisfactory to the local Customs port director, and by presenting a completed Customs Form 1300 (Vessel Entrance or Clearance Statement). Also, the Customs officer may require the production of any documents or papers deemed necessary for the proper inspection/examination of the vessel, cargo, passenger, or crew. Report of departure together with providing information to Customs as specified in this paragraph satisfies all clearance requirements for the subject vessels.

(c) *Verification of compliance.* Before clearance is granted to a vessel bound to a foreign port as provided in § 4.60 and this section, the port director will verify compliance with respect to the following matters:

- (1) Accounting for inward cargo (see § 4.62).
- (2) Outward Cargo Declarations; shippers export declarations (see § 4.63).
- (3) Documentation (see § 4.0(c)).
- (4) Verification of nationality and tonnage (see § 4.65).
- (5) Verification of inspection (see § 4.66).
- (6) Inspection under State laws (46 U.S.C. App. 97).
- (7) Closed ports or places (see § 4.67).
- (8) Passengers (see § 4.68).
- (9) Shipping articles and enforcement of Seamen's Act (see § 4.69).
- (10) Medicine and slop chests.
- (11) Load line regulations (see § 4.65a).
- (12) Carriage of United States securities, etc. (46 U.S.C. App. 98).
- (13) Carriage of mail.

(14) Public Health regulations (see § 4.70).

(15) Inspection of vessels carrying livestock (see § 4.71).

(16) Inspection of meat, meat-food products, and inedible fats (see § 4.72).

(17) Neutrality exportation of arms and munitions (see § 4.73).

(18) Payment of State and Federal fees and fees due the Government of the Virgin Islands of the United States (46 U.S.C. App. 100).

(19) Orders restricting shipping (see § 4.74).

(20) Estimated duties deposited or a bond given to cover duties on foreign repairs and equipment for vessels of the United States (see § 4.14).

(21) Illegal discharge of oil (see § 4.66a).

(22) Attached or arrested vessel.

(23) Immigration laws.

(d) *Vessel built for foreign account.* A new vessel built in the United States for foreign account will be cleared under a certificate of record, Coast Guard Form 1316, in lieu of a marine document.

(e) *Clearance not granted.* Clearance will not be granted to any foreign vessel using the flag of the United States or any distinctive signs or markings indicating that the vessel is an American vessel (22 U.S.C. 454a).

(f) *Clearance in order of itinerary.* Unless otherwise provided in this section, every vessel bound for a foreign port or ports will be cleared for a definite port or ports in the order of its itinerary, but an application to clear for a port or place for orders, that is, for instructions to masters as to destination of the vessel, may be accepted if the vessel is in ballast or if any cargo on board is to be discharged in a port of the same country as the port for which clearance is sought.

[T.D. 00-4, 65 FR 2874, Jan. 19, 2000; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, but the vessel may be cleared and the adjustment deferred if

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the discharging officer's report has not been received. (See § 4.12.)

[T.D. 77-255, 42 FR 56322, Oct. 25, 1977, as amended by T.D. 84-193, 49 FR 35485, Sept. 10, 1984]

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless there has been filed with the appropriate Customs officer at the port from which clearance is being sought:

(1) A Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A. Copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest must be attached in such manner as to constitute one document, together with a Vessel Entrance or Clearance Statement, Customs Form 1300, and export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce; or

(2) An incomplete Cargo Declaration as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration Outward With Commercial Forms (Customs Form 1302-A) describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see 15 CFR 30.39, 30.50 through 30.57) where the particular exemption is provided. If shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial documents is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required.

(c) The following minimal information shall be included on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (other in-

formation required to be on a Customs Form 1302-A as shown on the form itself must also be included thereon) or on attached copies of bills of lading or equivalent commercial documents:

- (1) Name and address of shipper;
- (2) Description of the cargo (see paragraph (d) of this section);
- (3) Number of packages and gross weight (see paragraph (d) of this section);
- (4) Name of vessel or carrier;
- (5) Port of exit (this shall be the port where the merchandise is loaded on the vessel); and
- (6) Port of destination (this shall be the foreign port of discharge of the merchandise).

(d) If the bills of lading or equivalent commercial documents attached to the Customs Form 1302-A show on their face the cargo information required by columns 6, 7, and either column 8 or 9, of the Customs Form 1302-A, that information need not be shown again on the Customs Form 1302-A. However, in that case, the cargo information must be incorporated by a suitable reference on the face of the Customs Form 1302-A such as "Cargo as per attached commercial documents."

(e) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (a)(1) of this section, shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I. E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the merchandise is laden for exportation.

(f) Customs officers shall accept a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper.

[T.D. 84-193, 49 FR 35484, Sept. 10, 1984; T.D. 00-22, 65 FR 16515, Mar. 29, 2000]

§ 4.64 [Reserved]**§ 4.65 Verification of nationality and tonnage.**

The nationality and tonnage of a vessel shall be verified by examination of its marine document. If such examination discloses that insufficient tonnage tax was collected on entry of the vessel, no clearance shall be granted until the deficiency is paid.

§ 4.65a Load lines.

(a) If a port director is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel engaged in the foreign trade under the International Voyage Load Line Act of 1973, clearance shall not be granted until the order is withdrawn.

(b) If a port director issues a detention order under the Coastwise Load Line Act, 1935, as amended, or is notified by an officer of the United States Coast Guard that a detention order has been issued against a vessel under the aforesaid Act, clearance shall not be granted until the order is withdrawn.

[T.D. 75-133, 40 FR 24518, June 9, 1975]

§ 4.66 Verification of inspection.

(a) No clearance shall be granted unless the port director is satisfied that a proper certificate of inspection is in force and the vessel is in compliance with such certificate, if the vessel is:

(1) A vessel of the United States required to be inspected as specified in Title 46, Code of Federal Regulations.

(2) A foreign vessel carrying passengers from the United States.

(b) In the case of vessels of foreign nations which are signatories of the International Convention for the Safety of Life at Sea, 1948, carrying passengers from the United States, an unexpired Certificate of Examination for Foreign Passenger Vessel, Form CG-989, or an unexpired Certificate for Foreign Vessel to Carry Persons in Addition to Crew, Form CG-3463, issued by the United States Coast Guard, may be accepted as evidence that a proper certificate of inspection is in force and the vessel is in compliance with such certificate.

(c) In the case of vessels of the United States subject to inspection proceeding to another port for repairs, a valid Permit to Proceed to Another Port for Repairs, Form CG-948, issued by the United States Coast Guard, shall be accepted in lieu of the certificate of inspection required by this section.

[T.D. 56173, 29 FR 6681, May 22, 1964, as amended by T.D. 69-266, 34 FR 20422, Dec. 31, 1969]

§ 4.66a Illegal discharge of oil and hazardous substances.

If a port director receives a request from an officer of the U.S. Coast Guard to withhold clearance of a vessel whose owner or operator is subject to a civil penalty for discharging oil or a hazardous substance into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in quantities determined to be harmful by appropriate authorities, such clearance shall not be granted until the port director is informed that a bond or other surety satisfactory to the Coast Guard has been filed.

[T.D. 82-28, 47 FR 5226, Feb. 4, 1982]

§ 4.66b Pollution of coastal and navigable waters.

(a) If any Customs officer has reason to believe that any refuse matter is being or has been deposited in navigable waters or any tributary of any navigable waters in violation of section 13 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 407), or oil or a hazardous substance is being or has been discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone in violation of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1321), he shall promptly furnish to the port director a full report of the incident, together with the names of witnesses and, when practicable, a sample of the material discharged from the vessel in question.

(b) The port director shall forward this report immediately, without recommendation, to the district commander of the Coast Guard district concerned and a copy of such report

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shall be furnished to Headquarters, U.S. Customs Service.

[T.D. 73-18, 38 FR 1587, Jan. 16, 1973, as amended by T.D. 82-28, 47 FR 5226, Feb. 4, 1982]

§ 4.66c Oil pollution by oceangoing vessels.

(a) If a port director receives a request from a Coast Guard officer to refuse or revoke the clearance or permit to proceed of a vessel because the vessel, its owner, operator, or person in charge, is liable for a fine or civil penalty, or reasonable cause exists to believe that they may be subject to a fine or civil penalty under the provisions of 33 U.S.C. 1908 for violating the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL Protocol), the Act to Prevent Pollution from Ships, 1980 (33 U.S.C. 1901-1911), or regulations issued thereunder, such clearance or a permit to proceed shall be refused or revoked. Clearance or a permit to proceed may be granted when the port director is informed that a bond or other security satisfactory to the Coast Guard has been filed.

(b) If a port director receives a notification from a Coast Guard officer that an order has been issued to detain a vessel required to have an International Oil Pollution Prevention (IOPP) Certificate which does not have a valid certificate on board, 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.

(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

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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 Federal Maritime Commission certificates for certain passenger vessels.

No vessel having berth or stateroom accommodations for 50 or more passengers and embarking passengers at U.S. ports will be granted a clearance at the port or place of departure from the United States unless it is established that the vessel has valid certificates issued by the Federal Maritime Commission.

[T.D. 00-4, 65 FR 2874, Jan. 19, 2000]

§ 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]

4.75, except as otherwise provided in §§ 4.75 and 4.84.

(b) *Responsibilities.* The performance requirements and operational standards and procedures for electronic submission of outbound vessel manifest information are detailed in the AES Trade Interface Requirements handbook (available on the Customs internet web site (www.customs.gov)). Carriers and their agents are responsible for reporting accurate and timely information and for responding to all notifications concerning the status of their transmissions and the detention and release of freight in accordance with the procedures set forth in the AES Trade Interface Requirements handbook. Customs will send messages to participant carriers regarding the accuracy of their transmissions. AES participants are required to comply with the recordkeeping requirements contained at § 30.66 of the Census Regulations (15 CFR 30.66) and any other applicable recordkeeping requirements. Where paper SEDs have been submitted by exporters prior to departure, participant carriers will be responsible for submitting those SEDs to Customs within four (4) business days after the departure of the vessel from each port, unless a different time requirement is specified by §§ 4.75 or 4.84. Upon written agreement with participant sea carriers, Customs and Census can provide for an alternative to the location filing requirement for paper SEDs set forth in § 4.75(b) by which the participant carriers are otherwise bound.

(c) *Messages required to be filed within the sea carrier's module.* Participant carriers will be responsible for transmitting and responding to the following messages:

(1) *Booking.* Booking information identifies all the freight that is scheduled for export. Booking information will be transmitted to Customs via AES for each shipment as far in advance of departure as practical, but no later than seventy-two hours prior to departure for all information available at that time. Bookings received within seventy-two hours of departure will be transmitted to Customs via AES as received;

(2) *Receipt of booking.* When the carrier receives the cargo or portion of the

cargo that was booked, the carrier will inform Customs so that Customs can 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 license or, where appropriate, a Great Lakes license 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 \$200 for each passenger so transported and landed (46 U.S.C. 289).

(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. 883-1) shall be used in any trade other than the coastwise trade 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, or where appropriate, a Great Lakes license endorsement. 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. 802), 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 in or documented under the laws of the United States, shall have the right to engage in such trade if it thereafter has been sold or transferred foreign in whole or in part or placed under foreign registry, or, if of more than 500 gross tons, 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, 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 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]

§ 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.

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(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 con-

templated 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 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

flag LASH-type barges may transport inward foreign and export cargo between points embraced within the coastwise laws of the United States after the merchandise has been transferred to it from another LASH-type barge owned or leased by the same owner or operator. This section is not applicable to transportation between the continental United States and non-contiguous States, districts, territories, and possessions embraced within the coastwise laws. The permit to proceed shall include a statement that the unqualified LASH-type barge is owned or leased by the owner or operator of the LASH-type barge from which the merchandise was transferred.

(b) The following nations have been found to extend privileges reciprocal to those provided in paragraph (a) of this section to LASH-type barges of the United States:

Federal Republic of Germany.
Netherlands.
Sweden.
Union of Soviet Socialist Republics.

[T.D. 74-63, 39 FR 6108, Feb. 19, 1974, as amended by T.D. 74-292, 39 FR 41360, Nov. 27, 1974; T.D. 75-7, 39 FR 44660, Dec. 26, 1974; T.D. 75-315, 40 FR 58852, Dec. 19, 1975; T.D. 78-492, 43 FR 58814, Dec. 18, 1978]

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A United States documented vessel with a registry or, coastwise endorsement, or both which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggages, or mail shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch. The Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (see § 4.63), shall show only the cargo for foreign destination. (See §§ 4.61 and 4.87.)

(b) The master shall also present to the port director a coastwise Cargo Declaration in triplicate of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It shall describe the merchandise and show the

marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The port director shall certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a transportation entry and manifest, Customs Form 7512, shall not be shown on the coastwise Cargo Declaration.

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is properly operating under a document with Great Lakes license endorsement. The master shall present Cargo Declaration in accordance with § 4.7 and the certified copies of the coastwise Cargo Declaration, Customs Form 1302.

(d) All merchandise on the vessel upon its arrival at the subsequent port in the United States is subject to such Customs examination and treatment as may be necessary to protect the revenue. Any article on board which is not identified to the satisfaction of the port director, by the coastwise Cargo Declaration, Customs Form 1302, or otherwise, as part of the coastwise cargo, shall be treated as imported merchandise.

[T.D. 77-255, 42 FR 56322, Oct. 25, 1977, as amended by T.D. 83-214, 48 FR 46513, Oct. 13, 1983; T.D. 84-193, 49 FR 35485, Sept. 10, 1984; T.D. 99-64, 64 FR 43265, Aug. 10, 1999]

§ 4.83 Trade between United States ports on the Great Lakes and other ports of the United States.

(a) If a vessel proceeding from or to a port of the United States on the Great Lakes to or from any other port of the United States via the St. Lawrence River is intended to touch at any foreign port and does so touch, it will be subject to the usual requirements for manifesting, clearing, report of arrival, entry, payment of fees for entry and clearance, and tonnage taxes. Vessels which are boarded on the St. Lawrence River by Canadian authorities for the purposes of inspecting the vessel and taking a passing report are not deemed

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to have touched at a foreign port, provided that no ship's stores are landed or taken aboard and no other business is transacted at the port or place of boarding.

(b) A vessel in the coastwise trade only, which is proceeding from a port of the United States on the Great Lakes via the Hudson River and otherwise than by sea, may operate under a document with a Great Lakes license endorsement and shall not be subject to the requirements for clearance, report of arrival, or entry.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 69-266, 34 FR 20423, Dec. 31, 1969; T.D. 83-214, 48 FR 46513, Oct. 13, 1983]

§ 4.84 Trade with noncontiguous territory.

(a) No foreign vessel shall depart from a port in noncontiguous territory of the United States for any other port in noncontiguous territory or for any port in any State or the District of Columbia, nor from any port in any State or the District of Columbia for any port in noncontiguous territory, until a clearance for the vessel has been granted. Such a clearance shall be granted in accordance with the applicable provisions of § 4.61 of the regulations of this part, including clearance of a vessel simultaneously engaged in one or more of the transactions listed in § 4.90(a)(4), (5), or (6) of this part. When merchandise is laden on a foreign vessel in noncontiguous territory other than Puerto Rico, for transportation on that vessel to a port in any State, the District of Columbia, or noncontiguous territory, and when this transportation is not forbidden by the coastwise laws, the merchandise may be laden and shipped without shipper's export declarations.

(b) The master of every foreign vessel arriving at a port in any State or the District of Columbia or in noncontiguous territory of the United States from a port in noncontiguous territory to which the coastwise laws do not apply (e.g., Virgin Islands and American Samoa), or arriving at any port in noncontiguous territory to which the coastwise laws do not apply from any place embraced within the coastwise laws, shall immediately report its ar-

rival and make entry for the vessel within 48 hours after its arrival.

(c)(1) A vessel which is not required to clear but which is transporting merchandise from a port in any State or the District of Columbia to any noncontiguous territory of the United States (excluding Puerto Rico), or from Puerto Rico to any State or the District of Columbia, or any other noncontiguous territory, shall not be permitted to depart without filing a complete manifest, when required by regulations of the Bureau of the Census (15 CFR part 30), and all required Shipper's Export Declarations, unless before the vessel departs an approved bond is filed for the timely production of the required documents, as specified in 15 CFR 30.24. Requests for permission to depart may be written or oral and permission to depart shall be granted orally by the appropriate Customs officer. However, if the request is to depart prior to the filing of the required manifest and export declarations, permission shall not be granted unless the appropriate bond is on file. In the latter case, the Customs officer shall keep a simplified record of the necessary information in order to assure that the manifest and export declarations are filed within the required time period. The Vessel Entrance or Clearance Statement, Customs Form 1300 (see § 4.63(a)), required at the time of clearance is not required to be taken to obtain permission to depart.

(2) A vessel which is not required to clear but which is transporting merchandise from a port in any State or the District of Columbia to Puerto Rico shall file a complete manifest, when required by the regulations of the Bureau of the Census (15 CFR part 30), and all required Shipper's Export Declarations within one business day after arrival, as defined in § 4.2(b) of this part, with the appropriate Customs officer in Puerto Rico. If the complete manifest and all required Shipper's Export Declarations are not filed with the appropriate Customs officer within that time frame, an appropriate bond shall be filed with the Customs officer for the timely production of the required documents as specified in 15 CFR 30.24. In these instances when a bond is filed, the Customs officer shall

keep a simplified record of the necessary information in order to ensure that the manifest and export declarations are filed not later than the seventh business day after arrival in Puerto Rico.

(d) Upon arrival of a vessel of the United States at a port in any State, the District of Columbia, or Puerto Rico from a port in noncontiguous territory other than Puerto Rico, the master shall immediately report its arrival and shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in §§ 4.7 and 4.9 but shall not be required to make entry. If the vessel proceeds directly to another port in any State, the District of Columbia, or Puerto Rico, the master shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in § 4.85 but no permit to proceed on the Vessel Entrance or Clearance Statement, Customs Form 1300, shall be required for the purposes of this paragraph. No cargo shall be unladen from any such vessel until Cargo Declarations have been filed and a permit to unlade has been issued in accordance with the procedure specified in § 4.30.

(e) No vessel shall bring guano to the United States from a guano island appertaining to the United States (see 48 U.S.C. 1411) unless such a vessel is entitled to engage in the coastwise trade.

(f) No vessel owned by a corporation which qualifies as a citizen under the Act of September 2, 1958 (46 U.S.C. 883-1) shall, while under demise or bareboat charter from such corporation, be granted clearance or permitted to depart in trade with noncontiguous territory.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 69-266, 34 FR 20423, Dec. 31, 1969; T.D. 71-169, 36 FR 12604, July 2, 1971; T.D. 77-255, 42 FR 56323, Oct. 25, 1977; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 93-61, 58 FR 41425, Aug. 4, 1993; T.D. 93-96, 58 FR 67317, Dec. 21, 1993; T.D. 00-22, 65 FR 16516, Mar. 29, 2000]

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement, arriving from a foreign port with

cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers in a suitable amount is on file with the director of the port of first entry.¹¹⁵ No additional bond shall be required at subsequent ports of entry. Before the vessel departs from the port of first arrival, the master shall obtain from the port director a certified copy of the complete inward foreign manifest (hereinafter referred to as the traveling manifest). The certified copy shall have a legend similar to the following endorsed on the Vessel Entrance or Clearance Statement, Customs Form 1300:

Port	Date
Certified to be a true copy of the original inward foreign manifest.	

Signature and title	

(b)(1) Before a vessel proceeds from one domestic port to another with cargo or passengers on board as described in paragraph (a) of this section, the master must present to the director of such port of departure an application in triplicate on Customs Form 1300 for a permit to proceed to the next port. When a port director grants the permit on Customs Form 1300, the following legend must be endorsed on the form:

Port
Date
Permission is granted to proceed to the port named in item 12.

Signature and title

¹¹⁵ * * * Any vessel arriving from a foreign port or place having on board merchandise shown by the manifest to be destined to a port or ports in the United States other than the port of entry at which such vessel first arrived and made entry may proceed with such merchandise from port to lading thereof." (Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

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(2) The duplicate must be attached to the traveling manifest and the triplicate (the permit to proceed to be delivered at the next port) must be returned to the master, together with the traveling manifest and the vessel's document, if on deposit. If no inward foreign cargo or passengers are to be discharged at the next port, that fact must be indicated on Customs Form 1300 by inserting "To load only" in parentheses after the name of the port to which the vessel is to proceed. The traveling Crew's Effects Declaration covering articles acquired abroad by officers and members of the crew, together with the unused crewmembers' declarations prepared for such articles, will be placed in a sealed envelope addressed to the appropriate Customs officer at the next port and given to the master for delivery.

(c)(1) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master must immediately report its arrival and make entry within 48 hours. To make such entry, he must deliver to the port director the vessel's document, the permit to proceed (Customs Form 1300 endorsed in accordance with paragraph (b) of this section), the traveling manifest, and the traveling Crew's Effects Declaration (Customs Form 1304), together with the crewmembers' declarations received on departure from the previous port. The master must also present an abstract manifest consisting of a newly executed Vessel Entrance or Clearance Statement, Customs Form 1300, a Cargo Declaration, Customs Form 1302, and a Passenger List, Customs and Immigration Form I-418, in such number of copies as may be required for local Customs purposes, of any cargo or passengers on board manifested for discharge at that port, a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by officers and crewmembers which are still on board, a Ship's Stores Declaration, Customs Form 1303, in duplicate of the sea or ship's stores remaining on board, and if applicable, the Cargo Declaration required by §4.86. If no inward foreign cargo or passengers are to be discharged, the Cargo Declaration or Passenger List

may be omitted from the abstract manifest, and the following legend must be placed in item 15 of the Vessel Entrance or Clearance Statement:

Vessel on an inward foreign voyage with residue cargo/passengers for _____. No cargo or passengers for discharge at this port.

(2) The traveling manifest, together with a copy of the newly executed Vessel Entrance or Clearance Statement, will serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered.

(d) If boarding is required before the port director will issue a permit or special license to lade or unlade, the abstract manifest described in paragraph (c) of this section shall be ready for presentation to the boarding officer.

(e) The traveling manifest shall be surrendered to the director of the final domestic port of discharge of the cargo, except that if residue foreign cargo remains on board for discharge at a foreign port or ports, the traveling manifest shall be surrendered at the final port of departure from the United States. However, it shall not be surrendered at the port from which the vessel departs for another United States port, via an intermediate foreign port, under §4.89 if residue foreign cargo remains on board for discharge at a subsequent U.S. port. The traveling Crew's Effects Declaration shall be finally surrendered to the director of any port from which the vessel will depart directly for a foreign port.

[T.D. 71-169, 36 FR 12604, July 2, 1971, as amended by T.D. 77-255, 42 FR 56323, Oct. 25, 1977; T.D. 83-214, 48 FR 46513, Oct. 13, 1983; T.D. 84-213, 49 FR 41164, Oct. 19, 1984; T.D. 92-74, 57 FR 35752, Aug. 11, 1992; T.D. 93-96, 58 FR 67317, Dec. 21, 1993; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 00-22, 65 FR 16516, Mar. 29, 2000]

§4.86 Intercoastal residue—cargo procedure; optional ports.

(a) When a vessel arrives at an Atlantic or Pacific coast port from a foreign port or ports with residue cargo for delivery at a port or ports on the opposite coast or on the Great Lakes, or where such arrival is at a port on the Great Lakes, with residue cargo for delivery at a port or ports on the Atlantic or Pacific coasts, or both, and the

master, owner, or agent is unable at that time to designate the specific port or ports of discharge of that residue cargo, the Cargo Declaration, Customs Form 1302, filed on entry in accordance with § 4.7(b) shall show such cargo as destined for "optional ports, Atlantic coast," or "optional ports, Pacific coast," or "optional ports, Great Lakes coast," as the case may be. The traveling manifest shall be similarly noted. Upon arrival of the vessel at the first port on the next coast, the master, owner, or agent must designate the port or ports of discharge of residue cargo as required by section 431, Tariff Act of 1930.

(b) For this purpose, the master shall furnish with the other papers required upon entry a Cargo Declaration, Customs Form 1302 in original only of inward foreign cargo remaining on board for discharge at optional ports on that coast, and the Cargo Declaration, must designate the specific ports of intended discharge for that cargo. The traveling manifest shall be amended to agree with that Cargo Declaration so as to show the newly designated ports of discharge on that coast and shall be used to verify the abstract Cargo Declarations surrendered at subsequent ports on that coast.

[T.D. 77-255, 42 FR 56323, Oct 25, 1977]

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

(b) When applying for a clearance from the first and each succeeding port of lading, the master must present to the port director a Vessel Entrance or Clearance Statement, Customs Form 1300, in duplicate and a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A, in accordance with § 4.63(a), of all the cargo laden for export at that port. The Vessel Entrance or Clearance Statement must clearly indicate all previous ports of lading.

(c) Upon compliance with the applicable provisions of § 4.61, the port director will grant the permit to proceed by

making the endorsement prescribed by § 4.85(b) on the Vessel Entrance or Clearance Statement, Customs Form 1300. One copy will be returned to the master, together with the vessel's document if on deposit. The traveling Crew's Effects Declaration, Customs Form 1304, together with any unused crewmembers' declarations, will be placed in a sealed envelope addressed to the appropriate Customs officer at the next domestic port and returned to the master.

(d) On arrival at the next and each succeeding domestic port, the master must immediately report arrival. He must also make entry within 48 hours by presenting the vessel's document, the permit to proceed on the Vessel Entrance or Clearance Statement, Customs Form 1300, received by him upon departure from the last port, a Crew's Effects Declaration, Customs Form 1304, in duplicate listing all unentered articles acquired aboard by officers and crew of the vessel which are still retained on board, and a Ship's Stores Declaration, Customs Form 1303, in duplicate of the stores remaining aboard. The master must also execute a Vessel Entrance or Clearance Statement. The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations returned to the master at the prior port, will be delivered by him to the port director.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (see § 4.63), and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on the Vessel Entrance or Clearance Statement, Customs Form 1300, may be granted in accordance with § 4.75, subject to the limitation specified in § 4.75(c).

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel must deliver to the director of that port within 4 business days after the vessel's clearance a Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (see § 4.63), and

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the export declarations to cover the cargo laden for export at that port.

[T.D. 77-255, 42 FR 56324, Oct. 25 1977, as amended by T.D. 83-214, 48 FR 46513, Oct. 13, 1983; T.D. 84-193, 49 FR 35485, Sept. 10, 1984; T.D. 92-74, 57 FR 35752, Aug. 11, 1992; T.D. 93-96, 58 FR 67317, Dec. 21, 1993; T.D. 00-22, 65 FR 16517, Mar. 29, 2000]

§ 4.88 Vessels with residue cargo for foreign ports.

(a) Any foreign vessel or documented vessel with a registry or, where appropriate, a Great Lakes license endorsement which arrives at a port in the United States from a foreign port shall not be required to unlade any merchandise manifested for a foreign destination provided a bond on Customs Form 301, containing the bond conditions set forth in § 113.64 of this chapter relating to international carriers in a suitable amount is on file with the director of the port of first entry.¹¹⁹

(b) The port director shall designate the items of such merchandise, if any, for which foreign landing certificates¹²⁰ will be required.

(c) If the vessel clears directly foreign from the first port of arrival, cargo brought in from foreign ports and retained on board may be declared on the Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (see § 4.63), by the insertion of the following statement:

All cargo declared on entry in this port as cargo for discharge at foreign ports and so shown on the Cargo Declaration filed upon entry has been and is retained on board.

¹¹⁹ "Any vessel having on board merchandise shown by the manifest to be destined to a foreign port or place may, after the report and entry of such vessel under the provisions of this Act, proceed to such foreign port of destination with the cargo so destined therefor, without unlading the same and without the payment of duty thereon. * * *" (Tariff Act of 1930, sec. 442; 19 U.S.C. 1442)

¹²⁰ "The Secretary of the Treasury may by regulations require the production of landing certificates in respect of merchandise exported from the United States, or in respect of residue cargo, in cases in which he deems it necessary for the protection of the revenue." (Tariff Act of 1930, sec. 622; 19 U.S.C. 1622)

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If any such cargo has been landed, the Cargo Declaration shall describe each item of the cargo from a foreign port which has been retained on board (see § 4.63(a)).

(d) If the vessel is proceeding to other ports in the United States with foreign residue cargo on board manifested for discharge at a foreign port or ports, a procedure like that set forth in § 4.85 shall be followed with respect thereto.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-255, 42 FR 56324, Oct. 25, 1977; T.D. 83-214, 48 FR 46513, Oct. 13, 1983; T.D. 84-193, 49 FR 35485, Sept. 10, 1984; 49 FR 41164, Oct. 19, 1984]

§ 4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.

(a) A vessel proceeding from port to port in the United States in accordance with §§ 4.85, 4.86, or 4.87 may touch at an intermediate foreign port or ports to lade or discharge cargo or passengers. In such a case the vessel shall obtain clearance from the last port of departure in the United States before proceeding to the intermediate foreign port or ports at which it is intended to touch. The Cargo Declaration Outward With Commercial Forms, Customs Form 1302-A (see § 4.63), shall show the cargo for such foreign destination in the manner provided in § 4.88(c).

(b) The master shall also present to the port director the Cargo Declaration or Cargo Declarations required by §§ 4.85, 4.86, or 4.87, and obtain a permit to proceed on the Vessel Entrance or Clearance Statement, Customs Form 1300, to the next port in the United States at which the vessel will touch.

(c) Upon arrival at the next port in the United States after touching at a foreign port or ports a report of arrival and entry shall be made. The Cargo Declaration, Customs Form 1302, filed at time of entry shall list the cargo laden at the intermediate foreign port or ports.

(d) The master shall also present to the port director the permit to proceed on the Vessel Entrance or Clearance Statement, Customs Form 1300, and the Cargo Declaration from the last

previous port in the United States as provided for in §§4.85, 4.86, or 4.87.

[T.D. 77-255, 42 FR 56324, Oct. 25, 1977, as amended by T.D. 84-193, 49 FR 35485, Sept. 10, 1984; T.D. 00-22, 65 FR 16517, Mar. 29, 2000]

§ 4.90 Simultaneous vessel transactions.

(a) A vessel may proceed from port to port in the United States for the purpose of engaging in two or more of the following transactions simultaneously,¹²¹ subject to the limitations hereafter mentioned in this section and the conditions stated in the sections indicated in the list:

- (1) Coastwise trade (§4.80).
- (2) Touching at a foreign port while in coastwise trade (§4.82).
- (3) Trade with noncontiguous territory of the United States (§4.84).
- (4) Carriage of residue cargo or passengers from foreign ports (§§4.85-4.86).
- (5) Carriage of cargo or passengers laden for foreign ports (§4.87).
- (6) Carriage of residue cargo for foreign ports (§4.88).

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on Customs Form 1300. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged.

(c) A foreign vessel is not authorized by this section to engage in the coastwise trade, including trade with noncontiguous territory embraced within the coastwise laws.

(d) A documented vessel may engage in transactions (2), (4), (5), or (6) only if the vessel's document has a registry or, where appropriate, a Great Lakes license endorsement. Such a vessel shall not engage in transactions (1) or (3) unless permitted by the endorsement on its Certificate of Documentation to do so.

¹²¹ For the purposes of this part, an inward foreign voyage is completed at the port of final discharge of inbound passengers or cargo, and an outward foreign voyage begins at the port where cargo or passengers are first laden for carriage to a foreign destination.

(e) When a single entry bond, containing the bond conditions set forth in §113.64, relating to international carriers, is filed at any port and it is applicable to the current voyage of the vessel, it shall cover all other transactions engaged in on that voyage of a like nature and another bond containing the international carrier bond conditions need not be filed.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 71-169, 36 FR 12605, July 2, 1971; T.D. 83-214, 48 FR 46513, Oct. 13, 1983; T.D. 84-213, 49 FR 41164, Oct. 19, 1984; T.D. 00-22, 65 FR 16517, Mar. 29, 2000]

§ 4.91 Diversion of vessel; transshipment of cargo.

(a) If any vessel granted a permit to proceed from one port in the United States for another such port as provided for in §§4.81(e), 4.85, 4.87, or 4.88, is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed (Customs Form 1300),¹²² the owner or agent of the vessel immediately shall give notice of the diversion to the port director who granted the permit, informing him of the new destination of the vessel and requesting him to notify the director of the latter port. Such notification by the port director shall constitute an amendment of the permit previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the director of the latter port with the Form 1300 submitted on entry of the vessel.

(b) If any vessel cleared from a port in the United States for a foreign port as provided for in §4.60 is diverted, while en route, to a port in the United States other than that from which it was cleared, the owner or agent of the vessel immediately shall give notice of the diversion to the port director who granted the clearance, informing him of the new destination of the vessel and requesting him to notify the director of the latter port. Such notification by the port director shall constitute a permit to proceed coastwise, and shall authorize the vessel to proceed to the new destination. On arrival at the new destination, the master shall immediately report arrival. He shall also make

¹²² See §4.33.

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entry within 48 hours by presenting (1) the vessel's document, (2) the foreign clearance on Form 1300 granted by the director of the port of departure, (3) a certificate that when the vessel was cleared from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still retained on board, and (5) a Ship's Stores Declaration in duplicate of the stores on board.

(c) In a case of necessity, a port director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transship¹²³ all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transhipped to another vessel, a separate traveling manifest (Cargo Declaration, Customs Form 1302, or Passenger List, Customs and Immigration Form I-418) shall be used for the transhipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel.

[T.D. 71-169, 36 FR 12605, July 2, 1971, as amended by T.D. 77-255, 42 FR 56324, Oct. 25, 1977; T.D. 93-96, 58 FR 67317, Dec. 21, 1993; T.D. 00-22, 65 FR 16517, Mar. 29, 2000]

¹²³ See § 4.31.

¹²⁴ [Reserved]

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§ 4.92 Towing.

No vessel other than a vessel documented for the coastwise or Great Lakes trade, or which would be entitled to be so documented except for its tonnage (see § 4.80), may tow a vessel other than a vessel in distress between points in the U.S. embraced within the coastwise laws, or for any part of such towing (46 U.S.C. App. 316(a)). The penalties for violation of this prohibition are a fine of from \$250 to \$1000 against the owner or master of the towing vessel and a further penalty against the towing vessel of \$50 per ton of the towed vessel.

[T.D. 93-12, 58 FR 13197, Mar. 10, 1993]

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

(a) Vessels of the United States prohibited from engaging in the coastwise trade and vessels of nations found to grant reciprocal privileges to vessels of the United States may transport the following articles between points embraced within the coastwise laws of the United States:

(1) Empty cargo vans, empty lift vans, and empty shipping tanks; equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and equipment, excluding propulsion equipment, for use with such barges; and empty instruments of international traffic exempted from application of the Customs laws by the Secretary of the Treasury pursuant to the provisions of section 322(a), Tariff Act of 1930 (19 U.S.C. 1322(a)), if such articles are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade.

(2) Stevedoring equipment and material, if such equipment and material is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or

title 46, United States Code.¹³⁵ If any such vessel engages in a salvage operation in territorial waters of the United States, the owner or master of the vessel shall make a full report of the operation as soon as possible to the director of the port nearest the place where the operation was conducted.

(e) A Mexican vessel may engage in a salvage operation on a Mexican vessel in any territorial waters of the United States in which Mexican vessels are permitted to conduct such operations by the treaty between the United States and Mexico signed on June 13, 1935.¹³⁶

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 69-266, 34 FR 20423, Dec. 31, 1969]

"It is further agreed that such reciprocal wrecking and salvage privileges shall include all necessary towing incident thereto, and that nothing in the Customs, Coasting or other laws or regulations of either country shall restrict in any manner the salvaging operations of such vessels or wrecking appliances.

"Vessels from either country employed in salvaging in the waters of the other shall, as soon as practicable afterwards, make full report at the nearest custom house of the country in whose waters such salvaging takes place." (35 Stat. 2036)

¹³⁵ "Canadian vessels and wrecking apparatus may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada.

"This section shall be construed to apply to the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the Saint Mary's River and Canal: * * *." (46 U.S.C. 725)

The waters of Lake Michigan are not contiguous to the Dominion of Canada within the meaning of this statute.

¹³⁶ "The High Contracting Parties agree that vessels and rescue apparatus, public or private, of either country, may aid or assist vessels of their own nationality, including the passengers and crews thereof, which may be disabled or in distress on the shores or within the territorial waters of the other country within a radius of seven hundred and twenty nautical miles of the intersection of the International Boundary Line and the coast of the Pacific Ocean, or within a radius of two hundred nautical miles of the intersection of the International Boundary Line and the coast of the Gulf of Mexico." (49 Stat. 3360)

§ 4.98 Navigation fees.

(a)(1) The Customs Service shall publish a General Notice in the FEDERAL REGISTER and Customs Bulletin periodically, setting forth a revised schedule of navigation fees for the following services:

Fee No. and description of services

- 1 Entry of vessel, including American, from foreign port:
 - (a) Less than 100 net tons.
 - (b) 100 net tons and over.
- 2 Clearance of vessel, including American, to foreign port:
 - (a) Less than 100 net tons.
 - (b) 100 net tons or over.
- 3 Issuing permit to foreign vessel to proceed from port to port, and receiving manifest.
- 4 Receiving manifest of foreign vessel on arrival from another port, and granting a permit to unlade.
- 5 Receiving post entry.
- 6 [Reserved]
- 7 Certifying payment of tonnage tax for foreign vessels only.
- 8 Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated.

The published revised fee schedule shall remain in effect until changed.

(2) The fees shall be calculated in accordance with § 24.17(d) Customs Regulations (19 CFR 24.17(d)), and be based upon the amount of time the average service requires of a Customs officer in the fifth step of GS-9.

(3) The party requesting a vessel service described in paragraph (a)(1) of this section for which reimbursable overtime compensation is payable under 19 U.S.C. 267 or 19 U.S.C. 1451 and § 24.16 of this chapter shall pay only the applicable overtime charge, and not both the overtime charge and the fee specified in the fee schedule.

(4) The revised fee schedule shall be made available to the public in Customs offices.

(5) The respective fees shall be designated in correspondence and reports by the applicable fee number.

(b) Fee 1 shall be collected at the first port of entry only. It shall not be collected from a vessel entering directly from a port in noncontiguous territory of the United States nor from one entering at a port on a northern,

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northeastern, or northwestern frontier otherwise than by sea.

(c) Fee 2 shall be collected at the final port of departure from the United States. It shall be collected from a yacht or public vessel which obtains a clearance, but shall not be collected from a vessel clearing directly for a port in noncontiguous territory of the United States nor from one clearing from a port on the northern, northeastern, or northwestern frontier otherwise than by sea. It shall be collected only upon the first clearance each year of a vessel making regular daily trips between a port of the United States and a port in Canada wholly upon interior waters not navigable to the ocean.

(d) Fee 3 shall be collected for granting a permit to a foreign vessel to proceed to another Customs port. It shall be collected from a foreign vessel clearing directly for a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel proceeding on a voyage by sea from one port in the United States to another port via a foreign port. Only one fee shall be collected in case of simultaneous vessel transactions.

(e) Fee 4 shall be collected for receiving the manifest of a foreign vessel arriving from another Customs port. It shall be collected from a foreign vessel entering directly from a port in noncontiguous territory of the United States outside its Customs territory. This fee shall not be collected in the case of a foreign vessel which arrives at one port in the United States from another port on a voyage by sea via a foreign port. Only one fee shall be collected in the case of simultaneous vessel transactions.

(e-1) Fee 5 shall be collected from a foreign or American vessel at each port where the vessel is required to file a post entry in accordance with the provisions of §4.12(a)(3). An original post entry may be supplemented by additional post entries in instances where items were omitted from the original post entry. A separate fee shall be collected for each supplemental post entry made to the original post entry.

(f) [Reserved]

(g) Fee 7 shall be collected from foreign vessels only.

(h) Fee 8 shall be collected for each copy of any official document, whether certified or not, furnished to any person other than a Government officer.

(i) Private and commercial vessels, and passengers aboard commercial vessels, may be subject to the payment of fees for services provided in connection with their arrival as set forth in §24.22 of this chapter.

(j) The loading or unloading of merchandise or passengers from a commercial vessel at a U.S. port may cause the harbor maintenance fee set forth in §24.24 of this chapter to be assessed.

[T.D. 69-266, 34 FR 20423, Dec. 31, 1969, as amended by T.D. 74-194, 39 FR 26153, July 17, 1974; T.D. 80-25, 45 FR 3572, Jan. 18, 1980; T.D. 82-224, 47 FR 53727, Nov. 29, 1982; T.D. 84-149, 49 FR 28698, July 16, 1984; T.D. 86-109, 51 FR 21155, June 11, 1986; T.D. 87-44, 52 FR 10211, Mar. 30, 1987; T.D. 93-85, 58 FR 54282, Oct. 21, 1993]

§4.99 Forms; substitution.

(a) Customs Forms 1300, 1302, 1302-A, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed:

(1) Conform to the official Customs forms in wording arrangement, style, size of type, and paper specifications;

(2) Conform to the official Customs forms in size, except that:

(i) Each form may be printed on metric A4 size paper, 210 by 297 millimeters (approximately 8¼ by 11⅔ inches).

(ii) The vertical format of Customs Forms 1300, 1302-A, 1303, and 1304 may be increased in size up to a maximum of 14 inches.

(iii) Customs Form 1302 may be reduced in size to not less than either 8½ by 11 inches or 210 by 297 millimeters (metric A4 size). If Customs Form 1302 is reduced in size, the size of type used may be reduced proportionately.

(b) If instructions are printed on the reverse side of the official Customs form, the instructions may be omitted from the privately printed forms, but the instructions shall be followed.

(c) The port director, in his discretion, may accept a computer printout instead of Customs Form 1302 for use at a specific port. However, to ensure that computer printouts may be used at all