

## § 67.20

coastwise trade, dredging, towing, and any other employment for which a registry, fishery, or Great Lakes endorsement is not required.

(b) A Great Lakes endorsement entitles a vessel to employment in the Great Lakes trade, towing in the Great Lakes, and any other employment for which a registry, fishery, or coastwise endorsement is not required.

(c) If eligible for documentation and not restricted from coastwise or Great Lakes trade by paragraph (d) or (e) of this section, the following vessels are eligible for a coastwise or Great Lakes endorsement or both:

(1) Vessels built in the United States (§ 67.97);

(2) Forfeited vessels (§ 67.131);

(3) Vessels granted coastwise trading privileges by special legislation (§ 67.132);

(4) Wrecked vessels (§ 67.133);

(5) Captured vessels (§ 67.134); and

(6) Vessels purchased, chartered, or leased from the Secretary of Transportation by persons who are citizens of the United States (46 U.S.C. app. 808).

(d) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section permanently loses that eligibility if:

(1) It is thereafter sold in whole or in part to an owner:

(i) Not a citizen as defined in subpart C of this part, or

(ii) Not a person permitted to document vessels pursuant to 46 CFR part 68;

(2) It is thereafter registered under the laws of a foreign country;

(3) It undergoes rebuilding as defined in § 67.177 outside of the United States; or

(4) It is a crude oil tanker of 20,000 deadweight tons or above, and after October 17, 1978, has segregated ballast tanks, a crude oil washing system, or an inert gas system installed outside of the United States as defined in § 67.3.

(e) A vessel otherwise eligible for a coastwise or Great Lakes endorsement under paragraph (c) of this section loses that eligibility, except as provided in paragraph (f) of this section, during any period in which it is:

(1) Owned by a corporation which does not meet the citizenship requirements of § 67.39(c);

(2) Owned by a partnership which does not meet the citizenship requirements of § 67.35(a); or

(3) Mortgaged to a person not identified in § 67.233(b).

(f) The restriction imposed by paragraph (e)(2) of this section does not apply to any vessel for which the Maritime Administration has given approval for unrestricted transfer pursuant to regulations set forth in 46 CFR part 221.

[CGD 89-007, CGD 89-007a, 58 FR 60266, Nov. 15, 1993; 58 FR 65131, Dec. 13, 1993, as amended by CGD 94-008, 59 FR 49846, Sept. 30, 1994; CGD 94-040, 61 FR 17815, Apr. 22, 1996; USCG-2002-13058, 67 FR 61278, Sept. 30, 2002]

## § 67.20 Coastwise endorsement for a vessel under a demise charter.

(a) Except as under paragraphs (b) through (e) of this section, to be eligible for a coastwise endorsement under 46 U.S.C. 12106(e) and to operate in coastwise trade under 46 U.S.C. 12106(e) and 12110(b), a vessel under a demise charter must meet the following:

(1) The vessel is eligible for documentation under 46 U.S.C. 12102.

(2) The vessel is eligible for a coastwise endorsement under § 67.19(c), has not lost coastwise eligibility under § 67.19(d), and was financed with lease financing.

(3) The person that owns the vessel, the parent of that person, or a subsidiary of the parent of that person is primarily engaged in leasing or other financing transactions.

(4) The person that owns the vessel is organized under the laws of the United States or of a State.

(5) None of the following is primarily engaged in the direct operation or management of vessels:

(i) The person that owns the vessel.

(ii) The parent of the person that owns the vessel.

(iii) The group of which the person that owns the vessel is a member.

(6) The ownership of the vessel is primarily a financial investment without the ability and intent to directly or indirectly control the vessel's operations by a person not primarily engaged in the direct operation or management of vessels.

(7) The majority of the aggregate revenues of each of the following is not derived from the operation or management of vessels:

- (i) The person that owns the vessel.
- (ii) The parent of the person that owns the vessel.
- (iii) The group of which the person that owns the vessel is a member.

(8) None of the following is primarily engaged in the operation or management of commercial, foreign-flag vessels used for the carriage of cargo for parties unrelated to the vessel's owner or charterer:

- (i) The person that owns the vessel.
- (ii) The parent of the person that owns the vessel.
- (iii) The group of which the person that owns the vessel is a member.

(9) The person that owns the vessel has transferred to a qualified U.S. citizen under 46 U.S.C. app. 802 full possession, control, and command of the U.S.-built vessel through a demise charter in which the demise charterer is considered the owner *pro hac vice* during the term of the charter.

(10) The charterer must certify to the Director, National Vessel Documentation Center, that the charterer is a citizen of the United States for engaging in the coastwise trade under 46 U.S.C. app. 802.

(11) The demise charter is for a period of at least 3 years, unless a shorter period is authorized by the Director, National Vessel Documentation Center, under circumstances such as—

- (i) When the vessel's remaining life would not support a charter of 3 years; or
- (ii) To preserve the use or possession of the vessel.

(b) A vessel under a demise charter that was eligible for, and received, a document with a coastwise endorsement under § 67.19 and 46 U.S.C. 12106(e) before February 4, 2004, may continue to operate under that endorsement on and after that date and may renew the document and endorsement if the certificate of documentation is not subject to—

- (1) Exchange under § 67.167(b)(1) through (b)(3);
- (2) Deletion under § 67.171(a)(1) through (a)(6); or
- (3) Cancellation under § 67.173.

(c) A vessel under a demise charter that was constructed under a building contract that was entered into before February 4, 2004, in reliance on a letter ruling from the Coast Guard issued before February 4, 2004, is eligible for documentation with a coastwise endorsement under § 67.19 and 46 U.S.C. 12106(e). The vessel may continue to operate under that endorsement and may renew the document and endorsement if the certificate of documentation is not subject to—

- (1) Exchange under § 67.167(b)(1) through (b)(3);
- (2) Deletion under § 67.171(a)(1) through (a)(6); or
- (3) Cancellation under § 67.173.

(d) A barge deemed eligible under 46 U.S.C. 12106(e) and 12110(b) to operate in coastwise trade before February 4, 2004, may continue to operate in that trade after that date unless—

- (1) The ownership of the barge changes in whole or in part;
- (2) The general partners of a partnership owning the barge change by addition, deletion, or substitution;
- (3) The State of incorporation of any corporate owner of the barge changes;
- (4) The barge is placed under foreign flag;
- (5) Any owner of the barge ceases to be a citizen within the meaning of subpart C of this part; or
- (6) The barge ceases to be capable of transportation by water.

(e) A barge under a demise charter that was constructed under a building contract that was entered into before February 4, 2004, in reliance on a letter ruling from the Coast Guard issued before February 4, 2004, is eligible to operate in coastwise trade under 46 U.S.C. 12106(e) and 12110(b). The barge may continue to operate in coastwise trade unless—

- (1) The ownership of the barge changes in whole or in part;
- (2) The general partners of a partnership owning the barge change by addition, deletion, or substitution;
- (3) The State of incorporation of any corporate owner of the barge changes;
- (4) The barge is placed under foreign flag;
- (5) Any owner of the barge ceases to be a citizen within the meaning of subpart C of this part; or

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(6) The barge ceases to be capable of transportation by water.

(f) To apply for a coastwise endorsement for a vessel under a demise charter, see § 67.147 and, for a barge, see § 67.179.

[USCG–2001–8825, 69 FR 5400, Feb. 4, 2004]

### § 67.21 Fishery endorsement.

(a) A fishery endorsement entitles a vessel to employment in the fisheries as defined in § 67.3, subject to Federal and State laws regulating the fisheries, and in any other employment for which a registry, coastwise, or Great Lakes endorsement is not required. A fishery endorsement entitles a vessel to land its catch, wherever caught, in the United States.

(b) If eligible for documentation and not restricted from the fisheries by paragraph (c) of this section, the following vessels are eligible for a fishery endorsement:

(1) Vessels built in the United States (§ 67.97);

(2) Forfeited vessels (§ 67.131);

(3) Vessels granted fisheries privileges by special legislation (§ 67.132);

(4) Wrecked vessels (§ 67.133); and

(5) Captured vessels (§ 67.134).

(c) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section permanently loses that eligibility if it undergoes rebuilding as defined in § 67.177 outside of the United States.

(d) A vessel otherwise eligible for a fishery endorsement under paragraph (b) of this section loses that eligibility during any period in which it is:

(1) Owned by a partnership which does not meet the requisite citizenship requirements of § 67.35(b);

(2) Owned by a corporation which does not meet the citizenship requirements of § 67.39(b); or

(3) Chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement, except that time charters, voyage charters and other charters that are not a demise of the vessel may be entered into with Non-Citizens for the charter of dedicated Fish Tender Vessels and Fish Processing Vessels that are not engaged in the harvesting of fish or fishery re-

sources without the vessel losing its eligibility for a fishery endorsement.

(e) A vessel operating with a fishery endorsement on October 1, 1998, under the authority of the Western Pacific Fishery Management Council, or a purse seine vessel engaged in tuna fishing outside of the EEZ of the United States or pursuant to the South Pacific Regional Fisheries Treaty may continue to operate as set out in 46 U.S.C. 12102(c)(5), provided that the owner of the vessel continues to comply with the fishery endorsement requirements that were in effect on October 1, 1998.

(f) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible if an instrument or evidence of indebtedness, secured by a mortgage of the vessel, to a trustee eligible to own a vessel with a fishery endorsement is issued, assigned, transferred, or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Commandant determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee:

(1) Is organized as a corporation that meets § 67.39(b) of this part, and is doing business under the laws of the United States or of a State;

(2) Is authorized under those laws to exercise corporate trust powers which meet § 67.36(b) of this part;

(3) Is subject to supervision or examination by an official of the United States Government or a State;

(4) Has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

(5) Meets any other requirements prescribed by the Commandant.

For vessels greater than or equal to 100 feet in length, approval of such an arrangement from the Maritime Administration will be accepted as evidence that the above conditions are met and will be approved by the Commandant. For vessels less than 100 feet,