legally available to the owner or managing operator, including the review of available court and police records in the applicant's country of citizenship, and any other country in which the applicant has received employment referrals, or resided, for the past 20 years prior to the date of application; and,

(iii) All information derived from the employer-conducted background check.

(3) The employer-conducted background check must be conducted to the satisfaction of the Coast Guard for a merchant mariner's document to be issued to the applicant.

(b) If a merchant mariner's document is issued to the applicant, the report and information required in paragraph (a)(2) of this section must be securely kept by the employer on the U.S.-flag large passenger vessel, or U.S.-flag large passenger vessels, on which the applicant is employed. The report and information must remain on the last U.S.-flag large passenger vessel on which the applicant was employed until such time as the merchant mariner's document is returned to the Coast Guard in accordance with paragraph (d) of this section.

(c) If a merchant mariner's document or a transportation worker identification credential (TWIC) is issued to the applicant, each merchant mariner's document and TWIC must be securely kept by the employer on the U.S.-flag large passenger vessel on which the applicant is employed. The employer must maintain a detailed record of the seaman's total service on all authorized U.S.-flag large passenger vessels, and must make that information available to the Coast Guard upon request, to demonstrate that the limitations of § 12.40–13(c) have not been exceeded.

(d) In the event that the seaman's merchant mariner's document and/or TWIC expires, the seaman's visa status terminates, the seaman serves onboard the U.S.-flag large passenger vessel(s) for 36 months in the aggregate as a nonimmigrant crewman, the employer terminates employment of the seaman or if the seaman otherwise ceases working with the employer, the employer must return the merchant mariner's document to the Coast Guard and/or the TWIC to the Transportation Security Administration within 10 days of the event.

(e) In addition to the initial material disciplinary actions report and the initial employer-conducted background check specified in paragraph (a) of this section, the employer must:

(1) Submit an annual material disciplinary actions report to update whether there have been any material disciplinary actions related to the applicant since the last material disciplinary actions report was submitted to the Coast Guard.

(i) The annual material disciplinary actions report must be submitted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(1) of this section, except that the period of time examined for the material disciplinary actions report need only extend back to the date of the last material disciplinary actions report; and

(ii) The annual material disciplinary actions report must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner's document.

(2) Conduct a background check each year that the merchant mariner's document is valid to search for any changes that might have occurred since the last employer-conducted background check was performed:

(i) The annual background check must be conducted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(2) of this section, except that the period of time examined during the annual background check need only extend back to the date of the last background check; and

(ii) All information derived from the annual background check must be submitted to the Coast Guard on or before the anniversary of the issuance date of the merchant mariner's document.

(f) The employer is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f) for any violation of this section.

§ 12.40–9 Basis for denial.

In addition to the requirements for a merchant mariner's document established elsewhere in this subchapter, and the basis for denial established in

§ 12.02–4 of this part, an applicant for a merchant mariner's document issued pursuant to this subpart must:

(a) Have been employed, for a period of at least one year, on a foreign-flag passenger vessel, or foreign flag passenger vessels, that are under the same common ownership or control as the U.S.-flag large passenger vessel, or U.S.-flag large passenger vessels, on which the applicant will be employed upon issuance of a merchant mariner's document under this subpart.

(b) Have no record of material disciplinary actions during the employment required under paragraph (a) of this section, as verified in writing by the owner or managing operator of the U.S.-flag large passenger vessel, or U.S.-flag large passenger vessels, on which the applicant will be employed.

(c) Have successfully completed an employer-conducted background check, to the satisfaction of both the employer and the Coast Guard.

(d) Meet the citizenship and identity requirements of § 12.40–11.

§ 12.40–11 Citizenship and identity.

(a) In lieu of the requirements of §§ 12.02–10, 12.02–12 and 12.02–14 of this part, a non-resident alien may apply for a Coast Guard-issued merchant mariner's document, endorsed and valid only for service in the steward's department of a U.S.-flag large passenger vessel as defined in this subpart, if he or she is employable in the United States under the Immigration and Nationality Act (8 U.S.C. 1101, *et seq.*), including an alien crewman described in section 101 (a)(15)(D)(i) of that Act.

(b) To meet the citizenship and identity requirements of this subpart, an applicant must present an unexpired passport issued by the government of the country of which the applicant is a citizen or subject; and either a valid U.S. C–1/D Crewman Visa or other valid U.S. visa or authority deemed acceptable by the Coast Guard.

(c) Any non-resident alien applying for a merchant mariner's document under this subpart may not be a citizen of, or a temporary or permanent resident of, a country designated by the Department of State as a ''State Sponsor of Terrorism'' pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

§ 12.40–13 Restrictions.

(a) A merchant mariner's document issued to a non-resident alien under this subpart authorizes service only in the steward's department of the U.S.-flag large passenger vessel(s), that is/are under the same common ownership and control as the foreign-flag passenger vessel(s), on which the non-resident alien served to meet the requirements of § 12.40–9(a):

(1) The merchant mariner's document will be endorsed for service in the steward's department in accordance with § 12.25–10 of this part;

(2) The merchant mariner's document may also be endorsed for service as a food handler if the applicant meets the requirements of § 12.25–20 of this part; and

(3) No other rating or endorsement is authorized, except lifeboatman, in which case all applicable requirements of this subchapter and the STCW Convention and STCW Code must be met.

(b) The following restrictions must be printed on the merchant mariner's document, or listed in an accompanying Coast Guard letter, or both:

(1) The name and official number of all U.S.-flag vessels on which the non-resident alien may serve. Service is not authorized on any other U.S.-flag vessel;

(2) Upon issuance, the merchant mariner's document must remain in the custody of the employer at all times;

(3) Upon termination of employment, the merchant mariner's document must be returned to the Coast Guard within 10-days in accordance with § 12.40–7;

(4) A non-resident alien issued a merchant mariner's document under this subpart may not perform watchstanding, engine room duty watch, or vessel navigation functions; and,

(5) A non-resident alien issued a merchant mariner's document under this subpart may perform emergency-related duties provided: