

§ 12105. Registry endorsements

(a) A certificate of documentation may be endorsed with a registry endorsement.

(b) A vessel for which a registry endorsement is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 586; Pub. L. 100-710, title I, § 104(a)(4), Nov. 23, 1988, 102 Stat. 4750; Pub. L. 101-225, title III, § 301(a)(5), Dec. 12, 1989, 103 Stat. 1920.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12105	46:65h

Section 12105 authorizes the Secretary to issue a vessel a registry entitling it to be employed in the foreign trade, and to issue special endorsements for the coastwise trade, the Great Lakes trade or the fisheries. It also prohibits foreign built vessels from engaging in United States domestic trades.

AMENDMENTS

1989—Pub. L. 101-225, § 301(a)(5)(D), inserted “endorsements” after “Registry” in section catchline.

Subsec. (a). Pub. L. 101-225, § 301(a)(5)(A), amended subsec. (a) generally, substituting “certificate of documentation may be endorsed with a registry endorsement” for “registry may be issued for a vessel eligible for documentation”.

Subsec. (b). Pub. L. 101-225, § 301(a)(5)(B), inserted “endorsement” after “registry”.

Subsecs. (c), (d). Pub. L. 101-225, § 301(a)(5)(C), struck out subsecs. (c) and (d) which read as follows:

“(c) On application of the owner of a vessel that qualifies for a coastwise license under section 12106 of this title, a Great Lakes license under section 12107 of this title, or a fishery license under section 12108 of this title, the Secretary of Transportation may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

“(d) Except as provided in sections 12106-12108 of this title, a foreign built vessel registered under this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.”

1988—Subsec. (c). Pub. L. 100-710 inserted “of Transportation” after “Secretary”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-710 effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as an Effective Date note under section 30101 of this title.

SAVINGS PROVISION

Pub. L. 100-239, § 6(b), Jan. 11, 1988, 101 Stat. 1782, provided that: “Notwithstanding the requirements of chapter 121 of title 46, United States Code, a vessel for which a coastwise, Great Lakes, or fishery license, or an appropriately endorsed registry, was issued before July 28, 1987, may continue to be employed in the specified trades for which it was qualified at the time the license or registry was issued for one year from date of enactment [Jan. 11, 1988] or until the certificate of documentation is renewed, whichever comes later. On renewal, the owner or master of a documented vessel shall make the vessel’s certificate of documentation available as the law or Secretary may require for replacement with an appropriately endorsed certificate.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12101, 12103 of this title; section 1187a of Appendix to this title.

§ 12106. Coastwise endorsements

(a) A certificate of documentation may be endorsed with a coastwise endorsement for a vessel that—

- (1) is eligible for documentation;
- (2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a certificate of documentation with a coastwise endorsement is issued may be employed in the coastwise trade.

(c) A coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

(1) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(2) was not built in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(d)(1) A vessel may be issued a certificate of documentation with a coastwise endorsement if—

(A) the vessel is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative who dedicate the vessel to use by the cooperative;

(B) the vessel is at least 50 percent owned by persons or entities described in section 12102(a) of this title;

(C) the vessel otherwise qualifies under section 12106 to be employed in the coastwise trade; and

(D) use of the vessel is restricted to—

(i) the deployment of equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States, or within the Exclusive Economic Zone, or

(ii) for training exercises to prepare to respond to such a discharge.

(2) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act of 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection shall be considered to be owned exclusively by citizens of the United States.

(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

(A) the vessel is eligible for documentation;

(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a par-

ent entity of that person, is primarily engaged in leasing or other financing transactions;

(C) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

(D) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary; and

(E) the vessel is otherwise eligible for documentation under this section.

(2) The demise charter and any amendments to that charter shall be filed with the certificate required by this subsection, or within 10 days following the filing of an amendment to the charter, and such charter and amendments shall be made available to the public.

(3) Upon termination by a demise charterer required under paragraph (1)(C), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on such terms and conditions as the Secretary may prescribe.

(4) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection is deemed to be owned exclusively by citizens of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 586; Pub. L. 98-454, title III, §301(b), Oct. 5, 1984, 98 Stat. 1734; Pub. L. 100-239, §6(a)(2), (3), Jan. 11, 1988, 101 Stat. 1781; Pub. L. 101-225, title III, §301(a)(6), Dec. 12, 1989, 103 Stat. 1921; Pub. L. 101-380, title IV, §4205, Aug. 18, 1990, 104 Stat. 533; Pub. L. 104-324, title VII, §743, title XI, §1113(d), Oct. 19, 1996, 110 Stat. 3942, 3971.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
12106	46:651

Section 12106 provides for the issuance of a certificate of documentation in the form of a coastwise license or an appropriately endorsed registry for any vessel that is eligible for documentation, is built in the United States, and qualifies under the laws of the United States to be employed in the coastwise trade. It also provides for the documentation of certain vessels captured during war that have not been built in the United States.

REFERENCES IN TEXT

Section 27 of the Merchant Marine Act, 1920, referred to in subsec. (d)(2), is classified to section 883 of the Appendix to this title.

Section 2 of the Shipping Act of 1916, referred to in subsecs. (d)(2) and (e)(1)(C), (4), is classified to sections 802 and 803 of the Appendix to this title.

AMENDMENTS

1996—Subsec. (c)(1). Pub. L. 104-324, §743, substituted “200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” for “two hundred gross tons”.

Subsec. (e). Pub. L. 104-324, §1113(d), added subsec. (e).

1990—Subsec. (d). Pub. L. 101-380 added subsec. (d).

1989—Pub. L. 101-225, §301(a)(6)(E), substituted “endorsements” for “licenses and registry” in section catchline.

Subsec. (a). Pub. L. 101-225, §301(a)(6)(A), substituted “certificate of documentation may be endorsed with a coastwise endorsement” for “coastwise license or, as provided in section 12105(c) of this title, an appropriately endorsed registry, may be issued”.

Subsec. (b). Pub. L. 101-225, §301(a)(6)(B), substituted “certificate of documentation with a coastwise endorsement” for “coastwise license or an appropriately endorsed registry”.

Subsec. (c). Pub. L. 101-225, §301(a)(6)(C), substituted “endorsement” for “license”.

Subsec. (d). Pub. L. 101-225, §301(a)(6)(D), struck out subsec. (d) which read as follows: “On application of the owner of a vessel that qualifies for a Great Lakes license under section 12107 or a fishery license under section 12108 of this title, the Secretary may issue an endorsement authorizing the vessel to be employed in the Great Lakes trade or fisheries, as the case may be.”

1988—Subsec. (b). Pub. L. 100-239, §6(a)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Subject to the laws of the United States regulating the coastwise trade and the fisheries, only a vessel for which a coastwise license or an appropriately endorsed registry is issued may be employed in—

- “(1) the coastwise trade; and
- “(2) the fisheries.”

Subsec. (d). Pub. L. 100-239, §6(a)(3), added subsec. (d).
1984—Subsec. (c). Pub. L. 98-454 added subsec. (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

ADMINISTRATIVE PROCESS FOR JONES ACT WAIVERS

Pub. L. 105-383, title V, Nov. 13, 1998, 112 Stat. 3445, as amended by Pub. L. 107-295, title II, §207(c), Nov. 25, 2002, 116 Stat. 2097, provided that:

“SEC. 501. FINDINGS.

“The Congress finds that—

“(1) current coastwise trade laws provide no administrative authority to waive the United-States-built requirement of those laws for the limited carriage of passengers for hire on vessels built or rebuilt outside the United States;

“(2) requests for such waivers require the enactment of legislation by the Congress;

“(3) each Congress routinely approves numerous such requests for waiver and rarely rejects any such request; and

“(4) the review and approval of such waiver requests is a ministerial function which properly should be executed by an administrative agency with appropriate expertise.

“SEC. 502. ADMINISTRATIVE WAIVER OF COASTWISE TRADE LAWS.

“Notwithstanding sections 12106 and 12108 of title 46, United States Code, section 8 of the Act of June 19, 1886 (46 U.S.C. App. 289), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel for an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

- “(1) United States vessel builders; or
- “(2) the coastwise trade business of any person who employs vessels built in the United States in that business.

“SEC. 503. REVOCATION.

“(a) REVOCATION FOR FRAUD.—The Secretary shall revoke a certificate or an endorsement issued under sec-

tion 502, after notice and an opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.

“(b) APPLICATION WITH CRIMINAL PENALTIES.—Nothing in this section affects—

“(1) the criminal prohibition on fraud and false statements provided by section 1001 of title 18, United States Code; or

“(2) any other authority of the Secretary to revoke a certificate or endorsement issued under section 502 of this Act.

“SEC. 504. DEFINITIONS.

“In this title:

“(1) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(2) ELIGIBLE VESSEL.—The term ‘eligible vessel’ means a vessel that—

“(A) was not built in the United States and is at least 3 years of age; or

“(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certification requested under section 502, if granted, would take effect.

“(3) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms ‘small passenger vessel’, ‘uninspected passenger vessel’, and ‘passenger for hire’ have the meaning given such terms by section 2101 of title 46, United States Code.

“SEC. 505. SUNSET.

[Repealed. Pub. L. 107-295, title II, §207(c)(1), Nov. 25, 2002, 116 Stat. 2097.]”

[Pub. L. 107-295, title II, §207(c)(1), Nov. 25, 2002, 116 Stat. 2097, provided that: “Section 505 of the Coast Guard Authorization Act of 1998 [Pub. L. 105-383] (formerly) 46 U.S.C. 12106 note) is repealed. The repeal of section 505 shall have no effect on the validity of any certificate or endorsement issued under section 502 of that Act [set out above].]

STUDY AND REPORT ON FINANCING METHODS

Section 1113(f) of Pub. L. 104-324 provided that:

“(1) STUDY.—The Secretary of Transportation shall conduct a study of the methods for leasing, demise chartering, and financing of vessels operating in the coastal trades of other countries and whether the laws of other countries provide reciprocity for United States banks, leasing companies, or other financial institutions with respect to the rights granted under the amendment made by subsection (d) [amending this section]. The study shall develop recommendations whether additional laws requiring reciprocity should be considered for non-United States banks, leasing companies, or other financial institutions.

“(2) REPORT.—The Secretary shall submit to the Congress a report 1 year after the date of enactment of this Act [Oct. 19, 1996] of the results of the study required under paragraph (1), including recommendations developed in the study.”

APPLICATION OF WEIGHT LIMITATIONS TO NORTHERN MARIANA ISLANDS

Section 303 of Pub. L. 98-454 provided that: “The weight limitations contained in subsections (b) and (c) of section 301 above [amending sections 12106 and 12108 of this title] shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands (61 Stat. 3301).” [For termination of Trusteeship Agreement for Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 12101, 12103, 14305 of this title; sections 316, 808 of Appendix to this title.

[§ 12107. Repealed. Pub. L. 104-324, title XI, § 1115(a), Oct. 19, 1996, 110 Stat. 3972]

Section, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 587; Pub. L. 100-239, §6(a)(4), (5), Jan. 11, 1988, 101 Stat. 1782; Pub. L. 101-225, title III, §301(a)(7), Dec. 12, 1989, 103 Stat. 1921, related to requirements for Great Lakes endorsement and significance of certificate of documentation with Great Lakes endorsement.

§ 12108. Fishery endorsements

(a) A certificate of documentation may be endorsed with a fishery endorsement for a vessel that—

- (1) is eligible for documentation;
(2) was built in the United States;
(3) if rebuilt, was rebuilt in the United States;

(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

(5) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a certificate of documentation with a fishery endorsement is issued may be employed in the fisheries.

(c) A fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

(1) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(2) was not built or rebuilt in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(d) A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act¹ (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 587; Pub. L. 98-454, title III, §301(c), Oct. 5, 1984, 98 Stat. 1734; Pub. L. 100-239, §§3(4), (5), 6(a)(6), Jan. 11, 1988, 101 Stat. 1779, 1782; Pub. L. 101-225, title III, §301(a)(8), Dec. 12, 1989, 103 Stat. 1921; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41; Pub. L. 104-324, title III, §301(e), title VII, §744, Oct. 19, 1996, 110 Stat. 3917, 3942; Pub. L. 107-295, title IV, §409, Nov. 25, 2002, 116 Stat. 2117.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Row 1: 12108, 46:65k

Section 12108 provides that a certificate of documentation in the form of a fishery license or an appro-

¹ So in original. Probably should be “Act of 1986”.