

46 U.S.C. 12113 (2006). Fishery endorsement.

(a) Requirements. A fishery endorsement may be issued for a vessel that –

- (1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);
- (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 engage in the fisheries.

(b) Authorized activity.

- (1) In general. Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.
- (2) Use by prohibited persons. A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is 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.

(c) Ownership requirements for entities.

- (1) In general. A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent interest. In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms “control” or “controlled”--
 - (2) Determining 75 percent interest. In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms “control” or “controlled”--
 - (A) include the right to--
 - (i) direct the business of the entity;
 - (ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of entity;or

(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

(3) Exceptions. This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 301(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

(d) Requirements based on length, tonnage, or horsepower.

(1) Application. This subsection applies to a vessel that--

(A) is greater than 165 feet in registered length;

(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

(2) Requirements. A vessel subject to this subsection is not eligible for a fishery endorsement unless--

(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

(ii) the vessel is not placed under foreign registry after October 21, 1998; and

(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved,

conservation and management measures in accordance with the American Fisheries Act (Public Law 105-277, div. C, title II) (*16 U.S.C. 1851* note) to allow the vessel to be used in fisheries under the council's authority.

(e) Vessels measuring 100 or greater.

(1) In general. The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered in length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

(2) Regulations. Regulations to implement this subsection shall conform to the extent practicable with the regulations established the form citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

(3) Transfer of ownership. Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to--

(A) leases, charters, mortgages, financing, and similar arrangements;

(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over management, sales, financing, or other operations of an entity; and

(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living maritime resources harvested by a fishing vessel.

(f) Vessels measuring left than 100 feet. The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek minimized the administrative burden on individuals who own and operate those vessels.

(g) Vessels purchased through fishing capacity reduction program. A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

(h) Revocation of endorsements. The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

(i) Regulations. Regulations to implement subsection (c) and (d) and sections ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.