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CG-MMC Policy Letter
No. 02-23

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From: M. Medina
COMDT (CG-MMC)

To: National Maritime Center

Subj: Status of American Samoans for Merchant Mariner Credentialing

Ref: (a) Title 46 United States Code section 104
(b) Title 46 United States Code section 7102
(c) Title 46 United States Code section 8103
(d) Title 46 United States Code section 12131

1. PURPOSE. This policy letter provides guidance on the status of American Samoans with respect to statutory requirements that certain individuals be citizens of the United States. It further advises Coast Guard personnel of the definition of "citizen of the United States" contained in reference (a) and which is applicable to all of Title 46 United States Code (U.S.C.). Citizenship requirements are found in merchant mariner credentialing, vessel manning, and vessel documentation statutes (references (b)-(d)).
2. ACTION. The Coast Guard will use this policy when evaluating Merchant Mariner Credential (MMC) applications and making citizenship determinations concerning mariners from American Samoa. This policy letter only applies to individuals from American Samoa. If other nationals claim to be citizens of the U.S. based upon 46 U.S.C. 104, the servicing legal office will be consulted for advice prior to resolving the issue.
3. DIRECTIVES AFFECTED. None.
4. BACKGROUND. Various statutory provisions in Title 46, U.S.C. and the implementing regulations (46 CFR 10.221) require an individual to be citizens of the United States to qualify for an MMC.
 - a. The relevant definitions are:
 - i. From 46 U.S.C. 104: "In this title, the term "citizen of the United States", when used in reference to a natural person, means an individual who is a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))."
 - ii. From 8 U.S.C. 1101(a)(22): "The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States."

- iii. From 8 U.S.C. 1101(a)(29): “The term “outlying possessions of the United States” means American Samoa and Swains Island.”
 - b. Title 8 U.S.C. 1408 lists those persons deemed to be nationals of the United States but not citizens of the United States. The list includes those persons born in the outlying possessions of the United States.
 - c. The definition of “citizen of the United States” is specific for Title 46 U.S.C. and varies from the typical definitions used in immigration law. Not only is it specific for Title 46 U.S.C., but it also only encompasses natural persons and does not apply to corporations, trusts, or other legal entities. Care should also be taken to ensure that American Samoans are distinguished from citizens of Samoa (formerly Western Samoa), an independent nation.
5. DISCUSSION. Although American Samoans are not considered citizens of the United States for other purposes, for purposes of statutory requirements in Title 46 U.S.C. and the regulations in 46 CFR 10.221 which implement those provisions, American Samoans are citizens of the United States in accordance with the definition in paragraph 4.a.i.
- a. Applications for MMCs. American Samoans are citizens of the United States for the purposes of obtaining an MMC. As noted in 46 CFR 10.221(c)(1)(i) a birth certificate from an outlying possession is adequate proof of citizenship.
 - b. Crediting of Sea Service. As citizens of the United States (for the purposes of Title 46 U.S.C.), American Samoans may be employed on U.S. documented vessels, including service as master and on vessels subject to the citizenship requirements of 46 U.S.C. 8103; and such service is creditable to meet the service requirements for an MMC.
 - c. Safety and Suitability. Mariners must provide citizenship and other information to the Transportation Security Administration in accordance with 46 CFR 10.203 and 10.211(c). When making safety and suitability determinations for the issuance of an MMC, the Coast Guard will accept the citizenship determination made by TSA as part of the TWIC enrollment process.
 - d. Shipment and Discharge of Mariners. The regulation at 46 CFR 14.203 requires the citizenship of the mariner to be entered onto the certificate of discharge. Given the definition in paragraph 4.a.i, it is correct to enter it as “United States.”
 - e. Notation of nationality on MMC. Title 46 U.S.C. 7304 requires acceptable proof of a mariner’s U.S. citizenship before entering that notation on an MMC. A birth certificate from an outlying possession is adequate proof in accordance with 46 CFR 10.221(c)(1)(i).
6. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a regulation. It is not intended to, nor does it impose legally binding requirements on any party. This guidance represents the Coast Guard’s current thinking on this topic and may assist industry, mariners, the general public, and the Coast Guard, as well as other Federal and State regulators, in applying statutory and regulatory requirements. Alternative approaches for fulfilling this policy

may be acceptable if the approach satisfies the requirements of the applicable statutes and regulations.

7. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this guidance and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Standards Evaluation and Development, Commandant (CG-REG). Pursuant to Department of Homeland Security Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), we have determined that this action is categorically excluded (CE) from further environmental analysis under paragraphs #A3, #L5 and #L56 in Appendix A, of Table 1 of DHS Directive Instruction Manual 023-01, Rev. 1. Our rationale for selecting these CEs is as follows. “Promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies ... and other guidance ... that implement, without substantive change, statutory or regulatory requirements” or “...that interpret or amend an existing regulation without changing its environmental effect “are covered under DHS CE #A3. Promulgation of this policy and its associated guidance implements, without substantive change, the applicable Commandant Instruction or other federal agency regulations, procedures, manuals, and other guidance documents. Accordingly, Coast Guard CE #L5 applies. In addition, the policy letter includes elements that pertain to training, qualifying, licensing and disciplining maritime personnel. These latter aspects of the policy letter and its associated guidance are covered under Coast Guard CE #L56.
- b. This guidance will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this guidance must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates.

8. REQUEST FOR CHANGES. All requests for changes and questions regarding implementation of this policy and/or requests for changes should be directed to the Office of Merchant Mariner Credentialing (CG-MMC), at (202) 372-2357 or MMCPolicy@uscg.mil.