

**United States
Coast Guard**

COMDTPUB P16700.4
NVIC 8 - 94
4 October 1994

NAVIGATION AND VESSEL INSPECTION CIRCULAR NO. 8-94

Electronic Version for Distribution on the World Wide Web

Subj: ISSUES REGARDING FEDERAL PILOTAGE

1. PURPOSE. This Circular provides Coast Guard Captains of the Port (COTPs) and members of industry with answers to various questions regarding Federal pilotage requirements.
2. DIRECTIVES AFFECTED. Interpretations of Various Issues Regarding Pilots and the Pilotage Regulations, NVIC 3-91, is hereby canceled.
3. DISCUSSION. Regulations concerning pilots have been under revision since about 1980. There have been numerous changes to the regulations, and consequently, there are areas where interpretations and guidance are necessary. The pilot licensing regulations are located at 46 CFR §10.701 through §10.713. The pilot manning regulations are located at 46 CFR §15.812. Enclosure (1) is meant to answer some of the common questions asked about topics related to Federal pilotage requirements.



J. C. CARD

Rear Admiral, U.S. Coast Guard
Chief, Office of Marine Safety, Security
and Environmental Protection

Issues Regarding Federal Pilotage Requirements

General questions

Question - What vessels require pilots?

Answer - Attachment (1) is a summary of U.S. pilotage requirements which apply everywhere in the U.S., except the Great Lakes and Saint Lawrence Seaway. Attachment (2) is a summary of U.S. pilotage requirements for U.S. vessels on the Great Lakes and Saint Lawrence Seaway. Attachment (3) is a summary of U.S. pilotage requirements for foreign merchant vessels on the Great Lakes and Saint Lawrence Seaway.

Question - Who may serve as a Federal pilot?

Answer - There are two types of individuals who may serve as a pilot. One is an individual holding a Federal first class pilot's license with endorsement for the route, in accordance with 46 CFR §15.812(b)(1).

The other individual who may serve as a pilot is generally referred to as an "acting as" pilot. An "acting as pilot is an individual who is a licensed member of the vessel's crew and who also satisfies the qualification requirements found at 46 CFR §15.812(b)(2) and (b)(3).

In 46 CFR §15.812(b)(2), the phrase "employed aboard a vessel" is interpreted by the Coast Guard to mean that the individual is a licensed member of the vessel's crew, or an appropriately licensed permanent employee of the vessel owner or operator, serving aboard the vessel.

Question - What is meant by "pilotage routes" for licensed first class pilots and for "acting as" pilots?

Answer - Federal first class pilot's licenses are issued with endorsements which describe the geographic limits of the waters upon which the holder is authorized to serve, in accordance with 46 CFR §15.812(b)(1).

"Acting as" pilots, must complete a specified number of round trips over the route to be traversed in accordance with 46 CFR §15.812(b)(2). These individuals self-certify as to their qualifications for a route, i.e., they are not issued a pilot's license or endorsement that describes the specific waters upon which they are authorized to serve as pilot.

First class pilot's licenses and endorsements may be issued with inclusive route descriptions to applicants who have not made familiarization trips on every section of every waterway included within the described route. Applicants are not always required to obtain familiarization trips on each tributary along the route being applied for, nor are they always required to present evidence of having docked at each facility within the route. In addition, in many zones, applicants are not required to obtain round trips into the minor ports included in the route.

For "acting as" pilots, the requirements concerning routes should parallel the route requirements for licensed first class pilots. A description of the route requirements for a licensed first class pilot and an "acting as" pilot may be obtained from the OCMI concerned. It is incumbent upon the mariner who will "act as" a pilot to determine in advance whether he/she meets the local pilotage requirements.

The specific requirements for qualifying to act as a pilot on those waters may be obtained from the OCMI concerned. For purposes of establishing the requisite number of round trips in a given pilotage route segment, the local knowledge requirements may be satisfied when the licensed individual has transited the length of the segment or, if the local pilotage requirements permit, has made trips to one or more facilities within the segment.

OCMIs will make available to interested persons, a description of the pilotage routes/route segments within their respective zones.

Mariners who will be completing routes, route segments and round trips to qualify as pilots (both "acting as" and applicants for a first class pilot's license) should verify in advance with the appropriate OCMI, what constitutes a qualifying trip.

Question - May observer experience satisfy route familiarization requirements?

Answer - Yes. "Observer" experience has been acceptable for many years in satisfying the round trip requirements for route familiarization (46 CFR §10.705(b)).

Question - What are Federal pilotage waters?

Answer - Federal pilotage waters include all navigable waters of the United States out to the outer limits of the Territorial Sea (the 3 mile limit).

Tug and barges

Question - To qualify as an "acting as" tank barge pilot, must the tug have a barge in tow during the required twelve round trips?

Answer - No. Coast Guard policy requires that only 2/3 of the required round trips be made with the barge in tow. An OCMI may, however, further reduce or eliminate the number of round trips required with the barge in tow if he/she determines that it is appropriate for any routes or segments within the zone.

Question - Will an individual seeking a Federal first class pilot's license or endorsement, who obtains his or her qualifying experience exclusively on tug and barge combinations, be limited to piloting only tug and barge combinations?

Answer - In general, applicants who obtain their qualifying experience on tug and barge combinations of over 1,600 gross tons should be issued an unrestricted first class pilot's license or endorsement of "any gross tons" without a "tug and barge combinations" limitation. However, there are routes where, due to the nature of the waters, an OCMI could reasonably conclude that it is appropriate to require an applicant, irrespective of other licenses held, to obtain experience on self-propelled vessels greater than 1,600 gross tons on those particular waters in order to qualify for an unrestricted first class pilot license or endorsement for that route. Accordingly, when appropriate, and in the OCMI's sole discretion, the OCMI may place a limitation on such a license or endorsement.

Those cases where the restrictive endorsement is warranted are expected to be relatively few in number, and limited primarily to those individuals who have little or no self-propelled deep draft vessel experience and who have performed their round trips primarily on tug and barge combinations.

OCMIs will identify and notify the Regional Exam Centers (RECS) of all waters in their zones that are of a nature such that the "tug and barge combination" restriction may be warranted.

Docking Pilots/Masters and Mooring Masters

Question - What is the official status of docking pilots and docking masters, and are they required to be licensed?

Answer - In some ports, particularly on the East and Gulf Coasts, individuals frequently referred to as docking pilots or docking masters direct the docking and undocking of vessels. In most cases, these individuals are employees of tug boat companies.

Coast Guard licensing regulations (46 CFR Part 10) do not address docking pilots or docking masters and, to our knowledge, the states also do not issue these licenses. Therefore, "docking pilot" and "docking master" are unofficial employer trade designations, rather than types of licenses.

Inspected, coastwise seagoing vessels, not sailing on register, when underway and not on the high seas, must be under the direction and control of a Federal pilot (46 U.S.C. §8502) (46 CFR §15.812). With respect to these vessels, the law and regulations are clear. If a vessel meets the above description, it must be operated under the direction and control of a federally licensed pilot at all times when it is underway in U.S. navigable waters. Any individual directing the navigation of such a vessel (a docking pilot/master, or an individual called by any other name) must have the appropriate first class pilot's license issued by the Coast Guard for the particular route in question. Vessels sailing on a registry endorsement are subject to state pilotage requirements. Under 46 U.S.C. §8503, the Coast Guard may require a Federal pilot in those instances where the states do not require a pilot. This is generally accomplished through the regulatory process. In emergency situations, however, it may be accomplished through a Captain of the Port Order.

Question - What are the requirements for mooring masters.

Answer - The regulations concerning mooring masters are found at 33 CFR §150.211. These regulations have no bearing on pilotage requirements. Under 46 U.S.C. §8502, if a U.S. coastwise seagoing vessel is within U.S. pilotage waters, a mooring master or anyone else directing the movements of the vessel must have the appropriate pilotage credentials for that vessel.

Licensing questions

Question - Do trips made by tug operators prior to June 1985, when the operator was not an observer or under instruction, count towards fulfillment of the round trip requirements found in 46 CFR §15.812?

Answer - Yes. Round trips made both prior to and after June 24, 1985, while the operator was directing the navigation of the tug and barge, count towards the requisite number of round trips.

Question - Does a dry-cargo barge qualify for the trips required with a barge in tow, or must the barge in tow be a tank barge?

Answer - Round trips made with dry-cargo barges qualify for the round trip requirement.

Question - What documentation must the towing vessel operator produce to demonstrate compliance with the round trip requirement?

Answer - Any method of recording round trips is acceptable. The date, route, time of day, and the name and gross tonnage of the vessel on which the round trips were made must be included in the documentation. It is expected that most individuals would use a personal log book.

Question - Must this round trip documentation be kept on the vessel?

Answer - No, it is not a requirement to have round trip documentation aboard the vessel. Should the information be necessary for investigation, it must be provided within a reasonable period of time.

However, if an OCMI/COTP has reason to doubt an individual's qualifications to "act as" a pilot in accordance with 46 CFR §15.812(b)(2), the vessel's departure could be delayed pending receipt of satisfactory evidence that required round trips have been made.

Question - How does an operator document trips made in the employ of companies that no longer exist or for which records are no longer available?

Answer - By self-certification, however, the individual could be asked to provide additional information that would corroborate the self-certification.

Question - What documentation must the towing vessel operator produce to demonstrate compliance with the requirement for an annual physical?

Answer - In accordance with 46 CFR §15.812(d), documentation proving compliance with applicable portions of the regulations, including the results of the operator's 5 current physical examination, must be produced within a reasonable period of time, if required by the Coast Guard.

Question - Must this annual physical exam documentation be kept on the vessel?

Answer - No.

Question - Different Coast Guard districts use different forms for physical examinations. Coast Guard officers may not accept forms with which they are unfamiliar. What form must be used?

Answer - The regulations (46 CFR §10.205(d)) state that the results of the physical exam must be recorded on Coast Guard physical exam form (CG-719K) or equivalent. However, it should be understood that any form is acceptable provided it contains the required information contained in 46 CFR §10.205.

Question - Sections 15.812(d) and 15.812(e)(1) require round trips, among other things, to serve as pilot. What size vessel must these round trips be made on?

Answer - With regard to tank barges, at least 2/3 of the round trips must be made with a barge in tow (unless reduced by the OCMI), and the remaining 1/3 round trips may be made on any vessel of reasonable size. An outboard motorboat is not a vessel of reasonable size, but a towboat is reasonable. Regarding self-propelled vessels, again, any vessel of reasonable size is acceptable, however, an outboard motorboat is not reasonable.

Federal vs. State Pilotage

Question - When is a vessel subject to pilotage requirements? How is it determined whether state or Federal pilotage law applies in any given case?

Answer - The states regulate pilotage on foreign trade vessels (foreign vessels and U.S. vessels operating on register) in the bays, rivers, harbors and ports of the United States (46 U.S.C. §8501). The responsibility for establishing pilotage requirements rests with the states in these cases and it is to the law of the state in whose waters a particular vessel is found that one must look to determine those requirements. Any U.S. documented vessel with only a registry endorsement on its certificate of documentation (COD) would be subject to state pilotage laws. All foreign vessels are subject to state pilotage laws.

Coastwise seagoing vessels are subject to Federal pilotage requirements and are to be under the direction and control of a Federal pilot if the vessel is not sailing on register, is underway, not on the high seas, propelled by machinery, and subject to inspection under either part B of subtitle II of title 46, United States Code or subject to inspection under chapter 37 of title 46 (46 U.S.C. §8502). A U.S. documented vessel meeting these requirements, with only a coastwise endorsement on its COD is subject to Federal pilotage.

There are two exceptions to the guidelines listed above. The first exception occurs on the Great Lakes, where all vessels are subject to Federal pilotage laws pursuant to 46 U.S.C. §9306. The second exception occurs where a state fails to provide for pilotage under 46 U.S.C. §8501. In this case the Federal government may intervene in accordance with 46 U.S.C. §8503 and require a Federal pilot on vessels engaged in foreign trade and operating on the navigable waters of the United States. In those cases, the assertion of Federal pilotage requirements will expressly appear by regulation in the Code of Federal Regulations.

Dual or Multi-Documented Vessels

Question - When is a dual- or multi-documented U.S. vessel deemed to be sailing on its registry endorsement and when is it deemed to be sailing on its coastwise endorsement?

Answer - Pursuant to 46 U.S.C. §12103 a vessel eligible for documentation may have its certificate of documentation (COD) endorsed with one or multiple endorsements. Where a vessel possesses more than one endorsement on its COD, the actual use of the vessel determines the endorsement under which the vessel must sail. See 46 CFR §67.17-1(c). Vessels carrying two or more such endorsements are generally referred to as dual- or multi-documented vessels. For each voyage leg upon which such a vessel is engaged, it may sail under only one of its endorsements. It cannot claim to be sailing under more than one endorsement at any given time. Where a vessel is sailing under its coastwise endorsement, it is subject to Federal pilotage requirements. Where the vessel sails under its registry endorsement, it is subject to state pilotage laws.

For pilotage purposes, the use to which a vessel is being put is determined by examining the voyage leg upon which it is engaged at any given time. A voyage leg is considered to be any trip between two ports or any transit within a port. For any given voyage leg, a dual- or multi-documented U.S. vessel is deemed to be operating on its registry endorsement so long as it is:

- (a) carrying any domestic cargo for delivery to a foreign port;
- (b) carrying any foreign cargo for delivery to a U.S. port or place embraced within the coastwise laws;
- (c) carrying any foreign cargo for delivery to a foreign port (even though there may be intermediate stops in U.S. ports); or
- (d) sailing in ballast from a U.S. port to a foreign port or from a foreign port to a U.S. port.

If a dual- or multi-documented U.S. vessel is not engaged in any of the above activities on any given voyage leg, it is deemed to be operating on its coastwise endorsement for pilotage purposes.

Vessels in Ballast

Question - If a vessel is not carrying any cargo or passengers, i.e., it is in ballast, what pilotage requirements apply?

Answer - All the requirements of 46 U.S.C. §8502 still apply, whether the vessel is in ballast or not. For pilotage purposes, whether the vessel is carrying cargo or passengers, or whether it is in ballast at any given moment is immaterial.

46 U.S.C. §12105 states that a vessel for which a registry endorsement is issued may be employed in foreign trade. 46 U.S.C. §12106 states that a vessel with a coastwise endorsement may be employed in coastwise trade. For pilotage purposes a vessel remains a U.S. documented vessel required to be sailing on one endorsement or the other regardless of whether the vessel is carrying cargo or passengers, or is in ballast.

To determine which endorsement the vessel is sailing on, see the answers to the questions above. The trigger for pilotage is not whether the vessel is in coastwise trade or foreign trade, rather it is whether the vessel is sailing on a registry or a coastwise endorsement. This is significant because the emphasis is on insuring no gaps in pilotage jurisdiction even though a vessel is not, per se, engaged in trade.

Vessels being Towed

Question - What self-propelled vessels require pilots when they are towed?

Answer - Any self-propelled vessel that would require a pilot if it were not being towed would still require a pilot if it is being towed. All the requirements of 46 U.S.C. §8502 still apply, whether the vessel is being towed or not.

46 U.S.C. §8502(a)(4)(A) states that Federal pilotage requirements apply to vessels "propelled by machinery." However, this is interpreted to be a description of the vessel's design, not a description of how a vessel is moving through the water. If the reverse were true, then Federal pilotage requirements could be interpreted to cease the moment an engine casualty occurred.

Question - If a self-propelled vessel being towed requires a pilot, where is the pilot required to be located, on the vessel being towed, or on the vessel doing the towing?

Answer - Either location is acceptable, as long as the ship can safely be piloted from that location.

46 U.S.C. §8502(a) states that a coastwise seagoing vessel ... shall be under the direction and control of a pilot.. Generally, the pilot would be on the vessel required by statute or the regulations to have a pilot. However, either location would be acceptable as long as the pilot can maintain proper control over the vessel from that location.

"T" Boats

Question - Do "T" Boats have a pilotage requirement?

Answer - Pursuant to 46 U.S.C. §8502, any U.S. vessel which is an inspected "coastwise seagoing vessel" is subject to pilotage requirements.

While an individual can obtain a license to operate a "T" Boat at age 18, the 1978 amendments to the Port and Tanker Safety Act established the minimum age requirement for a Federal first class pilot's license (including an "acting as" pilot) at 21 years (46 U.S.C. §7101(e)(1)).

Existing pilotage law and regulations do not permit an exemption from pilotage requirements because of small gross tonnage. The "acting as" pilot established by the 1985 pilotage regulation permits coastwise seagoing vessels of not more than 1600 gross tons to satisfy their pilotage requirement by the master or mate who has, among other things, made four round trips over the route to be traversed.

Public Vessels

Question - What are the Federal pilotage requirements for public vessels".

Answer - Public vessels are exempted from Federal pilotage requirements, except for some Department of Transportation (DOT) vessels (see 46 U.S.C. §2109). The pilotage requirements for DOT vessels are as follows:

- (a) Coast Guard and St. Lawrence Seaway Development Corporation vessels are exempted from pilotage requirements; but
- (b) all other DOT vessels (such as Ready Reserve Fleet and other Maritime Administration vessels) are not exempted from pilotage requirements.

For assistance in determining the status of a vessel, it is recommended that the local Coast Guard Captain of the Port be contacted.

"Laid up" Vessels

Question - Do "laid up" vessels require pilots when they are towed?

Answer - Laid up vessels do not normally require a Federal pilot because they are not normally subject to Federal inspection. 46 U.S.C. §8502(a)(4) (A) and (B) state that Federal pilotage requirements only apply to vessels "subject to inspection under part B of this subtitle; or subject to inspection under chapter 37 of this title." 46 U.S.C. §3302(e) states, "A vessel laid up, dismantled, or out of commission is exempt from inspection." Accordingly, a laid up vessel is not required to carry a Federal pilot, because the vessel is exempt from inspection.

If the vessel is not officially laid up, and consequently is still subject to inspection, it still has its regular Federal pilotage requirements. For instance, when a laid up vessel fails to surrender an unexpired Certificate of Inspection (COI), the Coast Guard will look to the COI and the Certificate of Documentation (COD) to determine pilotage requirements. Where the COI permits the vessel to proceed beyond the boundary line (i.e., a coastwise or ocean route endorsement), and the COD contains a coastwise endorsement, a Federal pilotage requirement exists.

It should be stressed that the Captain of the Port has broad general authority under the Port and Waterways Safety Act (33 U.S.C. §1223) to regulate the safe movement of vessels, including the authority to require a pilot aboard a laid up vessel that is being moved. Notwithstanding the foregoing, State pilotage requirements apply where Federal pilotage is not required under 46 U.S.C. §8502. Reference should be made to the cognizant State pilotage commission respecting State pilotage requirements.

Question - Are "laid up" cargo vessels considered tank barges for pilotage purposes when they're towed if they have bunkers on board?

Answer - No. Vessels are not classified differently just because they are laid up.

According to MVI-1 Policy Letter No. 05-92 dated March 26, 1992, the existence of bunkers which were present when the vessel was initially laid up does not change the classification of that vessel to a tank barge, or anything else. However, if fuel or other cargo is loaded on board a laid up vessel prior to that vessel being towed to some location, then that vessel has changed its operation and is acting as a tank or a freight barge. In this case, the vessel would have to meet all the inspection and documentation standards associated with its new status. It would also have to meet all the pilotage requirements associated with its new status.

Dredges

Question - What are the pilotage requirements for dredges?

Answer - Dredges are normally exempt from Federal pilotage requirements. This exemption was granted by Public Law 101-595 of November 16, 1990 (The Federal Maritime Commission Authorization Act of 1990, title III, section 307, 46 U.S.C. §8502(i)(1) and (2)).

However, the exemption also provides that, if the Secretary determines, after notice and comment, that the exemption creates a hazard to navigational safety in a specified area, the Secretary may require that a dredge otherwise exempted by paragraph (1) take a pilot. To date, no exempted dredge has been required to take a pilot.

Voyage to Nowhere

Question - What is a "voyage to nowhere" and what pilotage requirements apply?

Answer - A "voyage to nowhere" is generally understood to be a voyage from one port, out to sea, and then back to the same port, without any other port calls in-between. For pilotage purposes, a voyage to nowhere involving a U.S. port, is treated as a trip between two U.S. ports.

For dual-documented vessels, the determination as to which endorsement the vessel is sailing on is the same as if it were sailing between two U.S. ports. (See 46 U.S.C. §12106, and 46 CFR §67.17-5.) Please refer to the previous section of this enclosure entitled "Dual- or Multi-Documented Vessels."

Vessels Trading with the U.S. Virgin Islands

Question - Since the U.S. Virgin Islands have been specifically exempted by statute from the coastwise trade laws of the U.S., but are not "foreign," what pilotage requirements apply?

Answer - Generally, either a registry or coastwise endorsement on a U.S. vessel's Certificate of Documentation (COD) would allow the vessel to trade with the U.S. Virgin Islands. Pilotage requirements are linked to the endorsement a vessel is sailing on, as discussed in previous questions.

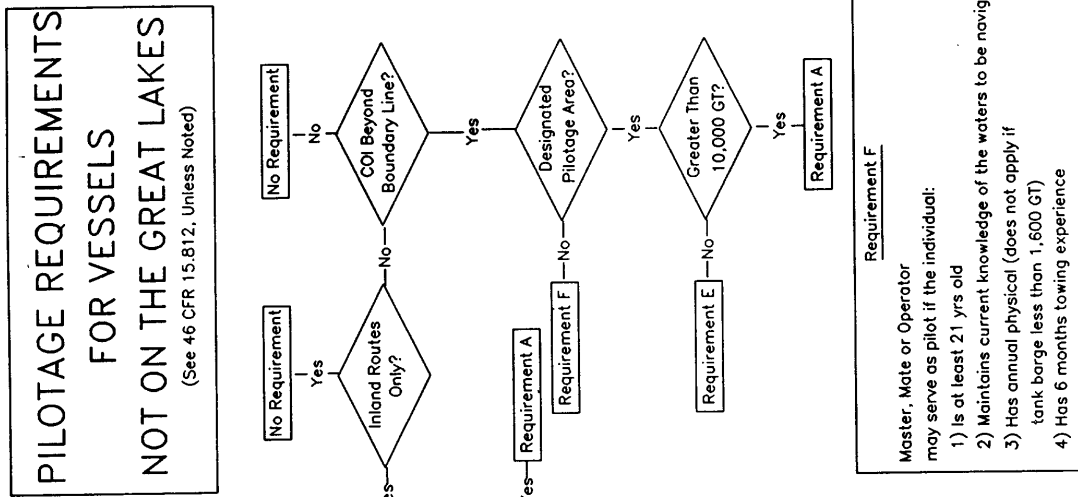
A registry endorsement on a U.S. vessel's COD would, as stated, allow the vessel to trade with the U.S. Virgin Islands. This is derived from 46 CFR §67.17-3(a), which states: "(a) registry endorsement is available to a vessel to be employed in foreign trade: trade with Guam, American Samoa, Wake, Midway, or Kingman Reef; and in other employments for which a coastwise license or Great Lakes license or fishery license is not required"(emphasis added). Because a coastwise endorsement is not required to trade with the U.S. Virgin Islands, there is nothing to preclude a U.S. vessel with a registry endorsement from trading between the U.S. Virgin Islands and points embraced within the coastwise laws of the United States. A coastwise license would not be required because the President of the United States has not by proclamation extended the coastwise laws to the Virgin Islands. 46 U.S.C. §877, states: "...the coastwise laws of the United States shall not extend to the Virgin Islands of the United States until the President of the United States shall by proclamation, declare that such coastwise laws shall extend to the Virgin Islands and fix a date for the going into effect of the same." As of this date, the President of the United States has not done so.

A coastwise license endorsement on a U.S. vessel's Certificate of Documentation would also allow the vessel to trade with the U.S. Virgin Islands. This is derived from 46 CFR §67.17-5(a), which states: "(a) coastwise license endorsement entitles the vessel to employment in the coastwise trade and any other employment for which a registry, fishery, or Great Lakes license is not required"(emphasis added). A registry endorsement would not be required because, as stated in 46 CFR §67.17-3(a), "(a) registry endorsement is available to a vessel to be employed in foreign trade: trade with Guam, American

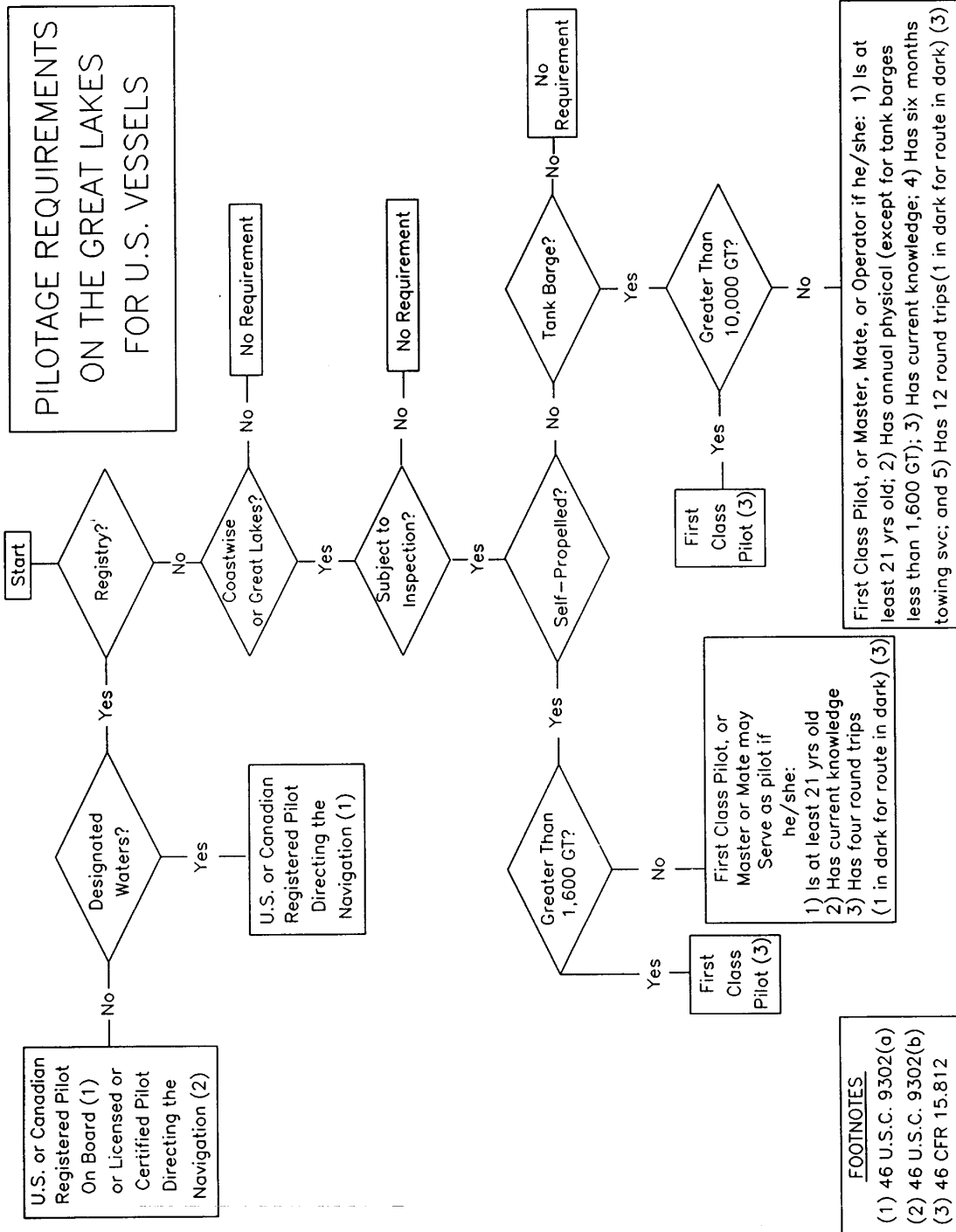
Samoa, Wake, Midway, or Kingman Reef." The U.S. Virgin Islands does not fall under any of these categories. Therefore, there is nothing to preclude a U.S. vessel with a coastwise endorsement from trading with the U.S. Virgin Islands.

Because of the foregoing, the master of a dual-documented U.S. vessel is free to elect which endorsement he/she is sailing on, in the absence of any factors which would preclude sailing under one endorsement or the other (e.g., foreign cargo, foreign ports, or foreign ownership). In order that there be no gap in pilotage jurisdiction, the master's election, however, must be consistent throughout the voyage

<p>Requirement A</p> <p>First Class Pilot</p>
<p>Requirement B</p> <p>First Class Pilot or Master or Mate may serve as pilot if the individual:</p> <ol style="list-style-type: none"> 1) Is at least 21 yrs old 2) Maintains current knowledge of the waters to be navigated 3) Has four round trips over the route (1 in dark for route in dark)
<p>Requirement C</p> <p>Master or Mate may serve as pilot if the individual:</p> <ol style="list-style-type: none"> 1) Is at least 21 yrs old 2) Maintains current knowledge of the waters to be navigated 3) Has an annual physical exam
<p>Requirement D</p> <p>Master or Mate may serve as pilot if the individual:</p> <ol style="list-style-type: none"> 1) Is at least 21 yrs old 2) Maintains current knowledge of the waters to be navigated
<p>Requirement E</p> <p>First Class Pilot or Master, Mate or Operator may serve as pilot if the individual:</p> <ol style="list-style-type: none"> 1) Is at least 21 yrs old 2) Maintains current knowledge of the waters to be navigated 3) Has annual physical (does not apply if tank barge less than 1,600 GT) 4) Has 6 months towing experience 5) Has 12 round trips over the route (3 in dark for route in dark)

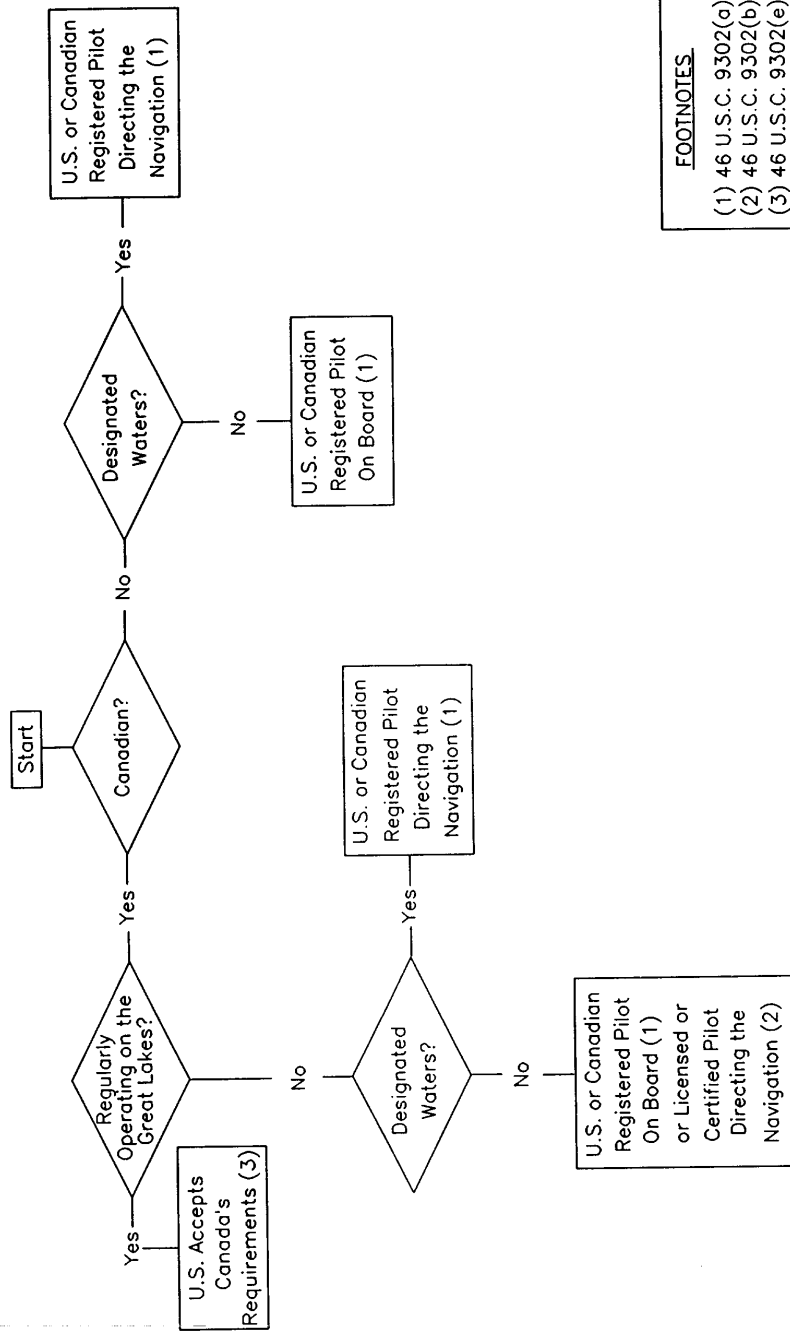


Attachment (1)



Attachment (2)

**PILOTAGE REQUIREMENTS
ON THE GREAT LAKES
FOR FOREIGN VESSELS**



FOOTNOTES:
 (1) 46 U.S.C. 9302(a)
 (2) 46 U.S.C. 9302(b)
 (3) 46 U.S.C. 9302(e)

Attachment (3)