

(6) Any foreign vessel.

(c) A vessel which engages in trade or commerce or carries one or more passengers, cannot operate under a certificate of inspection as a sailing school vessel, but must meet the rules and regulations governing the service in which it is engaged.

[CGD 83-005, 51 FR 896, Jan. 9, 1986, as amended by USCG-1999-5040, 67 FR 34799, May 15, 2002]

§ 169.107 Definitions.

Anniversary date means the day and the month of each year, which corresponds to the date of expiration of the Certificate of Inspection.

Approved means accepted by the Commandant unless otherwise stated.

Coast Guard District Commander means an officer of the Coast Guard designated by the Commandant to command all Coast Guard activities within a district.

Commandant means the Commandant of the Coast Guard or an authorized representative of the Commandant.

Demise charter means a legally binding document for a term of one year or more under which for the period of the charter, the party who leases or charters the vessel, known as the demise or bareboat charterer, assumes legal responsibility for all of the incidents of ownership, including insuring, manning, supplying, repairing, fueling, maintaining and operating the vessel. The term demise or bareboat charterer is synonymous with "owner pro hac vice".

Existing vessel means a sailing school vessel, whose keel was laid prior to (January 9, 1986), which applies for certification as a sailing school vessel prior to (January 9, 1987), and whose initial inspection for certification is completed prior to (January 9, 1988).

Exposed Waters means waters more than 37 kilometers (20 nautical miles) from the mouth of a harbor of safe refuge, or other waters the Officer in Charge, Marine Inspection determines to present special hazards due to weather or other circumstances.

Headquarters means the Office of the Commandant, U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593-7126.

Instructor means any person who is aboard a sailing school vessel for the purpose of providing sailing instruction and is not an officer, operator, or member of the crew required by regulation to be aboard the vessel, and has not paid any consideration, either directly or indirectly for his or her carriage on the vessel.

Length means the mean length. It is the mean or average between length on deck (LOD) and length between perpendiculars (LBP). *Length on deck* (LOD) means the length between the forward-most and after-most points on the weather deck, excluding sheer. *Length between perpendiculars* (LBP) means the horizontal distance between the perpendiculars taken at the forward-most and after-most points on a vessel's waterline corresponding to the deepest operating draft.

Marine Inspector means any person from the civilian or military branch of the Coast Guard assigned by the Officer in Charge, Marine Inspection or any other person designated by the Coast Guard to perform duties with respect to the inspection, enforcement, and administration of vessel safety and navigation laws and regulations.

Master means the senior credentialed individual having command of the vessel.

New vessel means a sailing school vessel which is not an existing vessel.

Officer In Charge, Marine Inspection (OCMI) means any person from the civilian or military branch of the Coast Guard designated as such by the Commandant and who, under the direction of the Coast Guard District Commander, is in charge of the inspection zone in which the vessel is located for the performance of duties with respect to the inspections, enforcement, and administration of vessel safety and navigation laws and regulations.

Partially Protected Waters means—

(1) Waters within 37 kilometers (20 nautical miles) of a harbor of safe refuge, unless determined by the OCMI to be exposed waters; and

(2) Those portions of rivers, harbors, lakes, etc. which the OCMI determines not to be sheltered.

Passenger on a sailing school vessel means an individual carried on the vessel except—

(1) The owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(2) The master;

(3) A member of the crew engaged in the business of the vessel, who has not contributed consideration for carriage, and who is paid for onboard services;

(4) An employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(5) An employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(6) A sailing school instructor or sailing school student.

Protected Waters means sheltered waters presenting no special hazards such as most rivers, harbors, lakes, etc.

Qualified Organization means an educational organization, State, or political subdivision of a State that owns or demise charters, and operates a sailing school vessel for the purpose of providing sailing instruction. The educational organization must satisfy the requirements of section 501(c)(3) of the Internal Revenue Code of 1954 and must be exempt from tax under section 501(a) of such Code, as now or hereafter amended.

Recognized Classification Society means the American Bureau of Shipping or other classification society recognized by the Commandant.

Rules of the Road means the statutory and regulatory rules governing navigation of vessels.

Sailing instruction means teaching, research, and practical experience in operating vessels propelled primarily by sail, and may include any subject related to that operation and the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature. In conjunction with any of those subjects, “sailing instruction” also includes instruction in mathematics and language arts skills to a sailing school student with a learning disability.

Sailing School Student means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.

Sailing School Vessel means a vessel of less than 500 gross tons, carrying six or more individuals who are sailing school students or sailing school instructors, principally equipped for propulsion by sail even if the vessel has an auxiliary means of propulsion, and owned or demise chartered and operated by a qualified organization during such times as the vessel is operated exclusively for the purposes of sailing instruction.

Ship’s Company means the officers and crew of a sailing school vessel, sailing school students, and sailing school instructors.

Watertight means designed and constructed to withstand a static head of water without any leakage, except that *watertight equipment* means enclosed equipment constructed so that a stream of water from a hose (not less than 1 inch in diameter) under head of about 35 feet from a distance of about 10 feet, and for a period of 5 minutes, can be played on the apparatus without leakage.

Weathertight means that water will not penetrate into the unit in any sea condition, except that *weathertight equipment* means equipment constructed or protected so that exposure to a beating rain will not result in the entrance of water.

[CGD 83–005, 51 FR 897, Jan. 9, 1986; 51 FR 3785, Jan. 30, 1986, as amended by USCG–1999–4976, 65 FR 6507, Feb. 9, 2000; USCG–1999–5040, 67 FR 34799, May 15, 2002; USCG–2006–24371, 74 FR 11266, Mar. 16, 2009; USCG–2012–0832, 77 FR 59788, Oct. 1, 2012]

§ 169.109 Equivalentents.

Substitutes for a fitting, appliance, apparatus, or equipment, may be accepted by the Commandant if the substituted item is as effective and consistent with the requirements and minimum safety standards specified in this subchapter.

§ 169.111 Administrative procedures.

(a) Upon receipt of a written application for inspection, the Officer in Charge, Marine Inspection assigns a marine inspector to inspect the vessel at a mutually agreed upon time and place.

(b) The owner or a representative shall be present during the inspection.