



# Mercante's Sea Trials



## "Documented Vessel" - What The Heck is That?

Pleasure boaters (sail or motor) often hear the term "documented vessel." But, in an informal poll on the waterfront, 9 out of 10 boaters surveyed had no clue what this means. Then, after receiving a recent query about documentation from insurance broker to the marine stars, Arthur Buhr III of Total Dollar Insurance, I knew it was high time for a *Sea Trials* article.

Vessel documentation is a form of "national registration" administered by the U.S. Coast Guard. Documentation provides evidence of U.S. nationality for international purposes, facilitates commerce between states, and allows your vessel to engage in certain restricted operations such as coastwise trade and fisheries. Documenting a vessel results in the issuance of a "Certificate of Documentation." The regulations concerning documentation are codified in the Code of Federal Regulations, Title 46, Part 67 (Shipping).

### COD

A Certificate of Documentation ("COD") may be endorsed for fishery, coastwise, registry, or even recreation. Any documented vessel can be used for recreational purposes, regardless of its endorsement. But, a documented vessel with only a recreational endorsement, may not be used for any other purpose. COD's are valid for one year only and are renewed

annually (free of charge). Once a vessel is documented, the COD can be removed only by written request of the vessel owner or authorized agent. The COD must be returned to the U.S. Coast Guard at that time.

Any vessel that measures *at least* five net tons in size, and is completely owned by a U.S. citizen (or corporation), may be *voluntarily* documented. This includes small privately-owned pleasure craft weighing in at least 5 net tons. Thus, a smaller power or sailboat can *not* be documented. However, if a vessel meets the minimum tonnage requirement and is used in commercial fishing upon any navigable waters of the U.S. or in the Exclusive Economic Zone (EEZ), or used in coastwise trade, then it is *required* to be documented.

An owner of a documented vessel is obligated to comply with the laws of any state in which they operate. In fact, some states still require documented vessels to be state registered and to display state licenses (such as a commercial fishing or lobster license) in a conspicuous place on board. A documented vessel (unlike a state-registered vessel) does not display state registration numbers on the port and starboard sides of the hull. A documented vessel is required to display its name and hailing port (city and state) on the hull. A commercial vessel must display this information on the stern, whereas a

recreational craft may do so on the sides or stern. For example, a vessel meeting this requirement that I have seen carries the name "MAN OVERBROAD" on the stern and the hailing port "Point Lookout, New York." Once a vessel's name is established and recorded, it cannot be changed without submitting an application, paying a fee, and receiving the approval from the Director, U.S. Coast Guard National Vessel Documentation Center. And, names can be duplicated. So, that means "MAN OVERBROAD II" is not off limits.

Vessels that are *exempt* from documentation include those that do not operate in navigable waters of the U.S., or in fisheries in the EEZ, and certain non-self propelled vessels that are used in coastwise trade within harbors, rivers, lakes, or in internal waters or canal of any state.

### Lienholders

Some "preferred mortgage" lenders require that a vessel over five net tons be *voluntarily* documented as a condition of the mortgage lien. This is not a legal requirement, but a condition of the lender. A "preferred mortgage" is a mortgage that is given the status of a "maritime lien." Sometimes "maritime liens" have priority over other claims in a maritime

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dispute or litigation. The U.S. Coast Guard will collect the lien information and record it in the COD file of the vessel. This provides protection to the lender because the COD cannot be transferred to a new owner without a bill of sale, or other acceptable evidence showing transfer of the vessel, and satisfaction of the lien. This is a useful tool for lenders to protect their assets, especially when it involves a vessel required to be documented. Not even the U.S. Coast Guard can make changes to the vessel ownership, its name, and/or hailing port without the consent of a lienholder identified on the COD. Indeed, a vessel cannot be removed from documentation with an outstanding mortgage.

In summary, certain vessels are *required* by the U.S. Coast Guard to be documented, and others may be documented on a *voluntary* basis. There are perceived advantages and disadvantages, some real, some imagined.

### Disadvantages

There are some perceived disadvantages of documenting a vessel: (i) documenting a vessel opens the owner/corporation to oversight by the federal agencies and, naturally, each documentation transaction creates more paper trails; (ii) the documented vessel might still be required to be "regis-

tered" in the state where it operates. For example, in New York, a pleasure craft owner that documents his/her vessel with the U.S. Coast Guard, is still required to register the vessel with the State, but is not required to display registration numbers on the hull; and, (iii) selling/transferring a documented vessel might be difficult and time consuming in certain circumstances when liens are recorded.

### Advantages

Advantages of documentation include: (i) documentation creates a nationally-recognized record of the vessel, allowing for easier state and international travel; (ii) documentation allows the vessel to engage in coastwise trade and fisheries if a proper endorsement is obtained; (iii) If a documented vessel is stolen from one state, and transported to another state, documentation will make it easier to identify, recover and deliver the vessel to its rightful owner. This is because not all state police agencies can easily check other "state" boating registries, but they can check federal documentation records and accept these as valid/official; (iv) Documented vessels usually have less contacts with state law enforcement entities. In this regard, the view is that a documented vessel is owned and maintained by professionals, giving the perception that it likely meets all safety requirements. Thus, law enforcement officials might

"skip" boarding a documented vessel, and focus their enforcement activities on (smaller) state registered vessels. This becomes especially relevant, when a (recreational) documented vessel crosses state lines. Law enforcement officials will likely consider a documented pleasure craft as being in compliance with federal laws, and not bother the vessel owner. Indeed, state law enforcement officials can often be confused as to what boating laws applies to documented vessel.

### Conclusion

So, when you see a vessel name and hailing port on the stern (and no registration numbers on the hull), you'll know why, and that its owner answers to a higher (federal) authority!

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