

person (including an individual) violating this subsection is liable to the Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate offense.

(h) The owner, charterer, or managing operator of a freight vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, a small passenger vessel, or a sailing school vessel not manned as required by this section is liable to the Government for a civil penalty of \$1,000. The vessel also is liable in rem for the penalty.

(i) When the 2 next most senior licensed officers on a vessel reasonably believe that the master or individual in charge of the vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel, the next most senior master, mate, or operator licensed under section 7101(c)(1) or (3) of this title shall—

- (1) temporarily relieve the master or individual in charge;
- (2) temporarily take command of the vessel;
- (3) in the case of a vessel required to have a log under chapter 113 of this title, immediately enter the details of the incident in the log; and
- (4) report those details to the Secretary—
  - (A) by the most expeditious means available; and
  - (B) in written form transmitted within 12 hours after the vessel arrives at its next port.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 547; Pub. L. 98-557, §29(b), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 99-640, §11(b), Nov. 10, 1986, 100 Stat. 3550; Pub. L. 101-380, title IV, §§4104, 4114(c), 4302(e), Aug. 18, 1990, 104 Stat. 511, 517, 538; Pub. L. 104-324, title VII, §725, Oct. 19, 1996, 110 Stat. 3939.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8101 .....	46:222 46:224 46:446d

Section 8101 provides for the required composition of the complement of licensed individuals and crew of an inspected vessel when being operated.

Subsection (a) requires that the certificate of inspection for a vessel state the manning necessary for safe navigation. Manning means the complement of licensed officers and crew (including lifeboatmen). Any manning requirements for sailing school vessels shall take into account the participation of sailing school instructors and sailing school students in the operation of those vessels.

Subsection (b) permits the Secretary to modify the manning requirements for reasons of changed conditions or employment.

Subsection (c) permits an appeal to the Secretary of any manning requirements made by an authorized official.

Subsection (d) prohibits the operation of a vessel without the manning required in the vessel's certificate of inspection.

When a vessel has a vacancy in the manning required by its certificate of inspection without the consent, fault, or collusion of anyone responsible for the management or operation of the vessel, subsection (e) requires that the master hire replacements, if possible, in the same or higher grade or rating. However, if the master finds the vessel sufficiently manned and re-

placements are not available, the vessel may proceed on its voyage. Within 12 hours of arrival at its destination, the master is required to file a written report with the Secretary stating the cause of each deficiency or be liable for a civil penalty. The report of deficiency should include both the reason for the vacancy in the first instance and the reason for the unavailability of a qualified replacement.

Subsections (f), (g) and (h) prescribe civil penalties for noncompliance with manning requirements. Subsection (g) also prohibits the employment or service of an individual in a licensed capacity who is not licensed by the Secretary.

Editorial Notes

AMENDMENTS

1996—Subsec. (h). Pub. L. 104-324 inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

1990—Subsec. (a)(3). Pub. L. 101-380, §4114(c), added par. (3).

Subsec. (e). Pub. L. 101-380, §4302(e)(1), substituted “\$1,000” for “\$50”.

Subsec. (f). Pub. L. 101-380, §4302(e)(2), substituted “\$10,000” for “\$100, or, for a deficiency of a licensed individual, a penalty of \$500”.

Subsec. (g). Pub. L. 101-380, §4302(e)(3), substituted “\$10,000” for “\$500”.

Subsec. (i). Pub. L. 101-380, §4104, added subsec. (i).

1986—Subsec. (a). Pub. L. 99-640 amended subsec. (a) generally, inserting cl. (1) designation before “a sailing school” and adding cl. (2).

1984—Subsec. (g). Pub. L. 98-557 substituted provisions relating to inspection under chapter 33 of this title, for provisions relating to applicability of part B of this subtitle.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

§ 8102. Watchmen

(a) The owner, charterer, or managing operator of a vessel carrying passengers during the nighttime shall keep a suitable number of watchmen in the vicinity of the cabins or state-rooms and on each deck to guard against and give alarm in case of a fire or other danger. An owner, charterer, or managing operator failing to provide watchmen required by this section is liable to the United States Government for a civil penalty of \$1,000.

(b) The owner, charterer, managing operator, agent, master, or individual in charge of a fish processing vessel of more than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title shall keep a suitable number of watchmen trained in firefighting on board when hotwork is being done to guard against and give alarm in case of a fire.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 548; Pub. L. 98-364, title IV, §402(10), July 17, 1984, 98 Stat. 448; Pub. L. 104-324, title VII, §726, Oct. 19, 1996, 110 Stat. 3939.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8102 .....	46:470 46:471

Section 8102 requires the person responsible for the management of a vessel carrying passengers to have a suitable watch at night to guard against, and to sound an alarm in case of fire or other danger, or be liable for a civil penalty.

**Editorial Notes**

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-324 inserted “as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title” after “100 gross tons”.

1984—Pub. L. 98-364 designated existing provisions as subsec. (a) and added subsec. (b).

**§ 8103. Citizenship and Navy Reserve requirements**

(a) Except as otherwise provided in this title, only a citizen of the United States may serve as master, chief engineer, radio officer, or officer in charge of a deck watch or engineering watch on a documented vessel.

(b)(1) Except as otherwise provided in this section, on a documented vessel—

(A) each unlicensed seaman must be—

- (i) a citizen of the United States;
- (ii) an alien lawfully admitted to the United States for permanent residence; or
- (iii) a foreign national who is enrolled in the United States Merchant Marine Academy; and

(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

(2) Paragraph (1) of this subsection does not apply to—

- (A) a yacht;
- (B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)); and

(C) a fishing vessel fishing outside of the exclusive economic zone.

(3) The Secretary may waive a citizenship requirement under this section, other than a requirement that applies to the master of a documented vessel, with respect to—

- (A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that operates from a foreign port;
- (B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.

(c) On each departure of a vessel (except a passenger vessel) for which a construction differential subsidy has been granted, all of the seamen of the vessel must be citizens of the United States.

(d)(1) On each departure of a passenger vessel for which a construction differential subsidy has been granted, at least 90 percent of the entire complement (including licensed individuals) must be citizens of the United States.

(2) An individual not required by this subsection to be a citizen of the United States may be engaged only if the individual has a declaration of intention to become a citizen of the United States or other evidence of admission to the United States for permanent residence. An alien may be employed only in the steward’s department of the passenger vessel.

(e) If a documented vessel is deprived for any reason of the services of an individual (except the master and the radio officer) when on a foreign voyage and a vacancy consequently occurs, until the vessel’s return to a port at which in the most expeditious manner a replacement who is a citizen of the United States can be obtained, an individual not a citizen of the United States may serve in—

- (1) the vacancy; or
- (2) a vacancy resulting from the promotion of another individual to fill the original vacancy.

(f) A person employing an individual in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$500 for each individual so employed.

(g) A deck or engineer officer employed on a vessel on which an operating differential subsidy is paid, or employed on a vessel (except a vessel of the Coast Guard or Great Lakes St. Lawrence Seaway Development Corporation) owned or operated by the Department of Transportation or by a corporation organized or controlled by the Department, if eligible, shall be a member of the Navy Reserve.

(h) The President may—

- (1) suspend any part of this section during a proclaimed national emergency; and
- (2) when the needs of commerce require, suspend as far and for a period the President considers desirable, subsection (a) of this section for crews of vessels of the United States documented for foreign trade.

(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

- (A) a citizen of the United States;
- (B) an alien lawfully admitted to the United States for permanent residence;
- (C) any other alien allowed to be employed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or
- (D) an alien allowed to be employed under the immigration laws of the Commonwealth of