

46 U.S. Code § 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. ^[1]

(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 or operating 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 or operating 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 Saint 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 the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.

(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

(3) This subsection does not apply to 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](#))).

(j) Riding Gang Member.— This section does not apply to an individual who is a riding gang member.

(k) Crew Requirements for Large Passenger Vessels.—

(1) Citizenship and nationality.— Each unlicensed seaman on a large passenger vessel shall be—

(A) a citizen of the United States;

(B) an alien lawfully admitted to the United States for permanent residence;

(C) an alien allowed to be employed in the United States under the Immigration and Nationality Act ([8 U.S.C. 1101](#) et seq.), including an alien crewman described in section 101(a)(15)(D)(i) of that Act ([8 U.S.C. 1101 \(a\)\(15\)\(D\)\(i\)](#)), who meets the requirements of paragraph (3)(A) of this subsection; or

(D) a foreign national who is enrolled in the United States Merchant Marine Academy.

(2) Percentage limitation for alien seamen.— Not more than 25 percent of the unlicensed seamen on a vessel described in paragraph (1) of this subsection may be aliens referred to in subparagraph (B) or (C) of that paragraph.

(3) Special rules for certain unlicensed seamen.—

(A) Qualifications.— An unlicensed seaman described in paragraph (1)(C) of this subsection—

(i) shall have been employed, for a period of not less than 1 year, on a passenger vessel under the same common ownership or control as the vessel described in paragraph (1) of this subsection, as certified by the owner or managing operator of such vessel to the Secretary;

(ii) shall have no record of material disciplinary actions during such employment, as verified in writing by the owner or managing operator of such vessel to the Secretary;

(iii) shall have successfully completed a United States Government security check of the relevant domestic and international databases, as appropriate, or any other national security-related information or database;

(iv) shall have successfully undergone an employer background check—

(I) for which the owner or managing operator provides a signed report to the Secretary that describes the background checks undertaken that are reasonably and legally available to the owner or managing operator including personnel file information obtained from such seaman and from databases available to the public with respect to the seaman;

(II) that consisted of a search of all information reasonably available to the owner or managing operator in the seaman's country of citizenship and any other country in which the seaman receives employment referrals, or resides;

(III) that is kept on the vessel and available for inspection by the Secretary; and

(IV) the information derived from which is made available to the Secretary upon request; and

(v) may not be a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

(B) Restrictions.— An unlicensed seaman described in paragraph (1)(C) of this subsection—

(i) may be employed only in the steward's department of the vessel; and

(ii) may not perform watchstanding, automated engine room duty watch, or vessel navigation functions.

(C) Status, documentation, and employment.— An unlicensed seaman described in subparagraph (C) or (D) of paragraph (1) of this subsection—

(i) is deemed to meet the nationality requirements necessary to qualify for a merchant mariners document notwithstanding the requirements of part 12 of title 46, Code of Federal Regulations;

(ii) is deemed to meet the proof-of-identity requirements necessary to qualify for a merchant mariners document, as prescribed under regulations promulgated by the Secretary, if the seaman possesses—

(I) an unexpired passport issued by the government of the country of which the seaman is a citizen or subject; and

(II) an unexpired visa issued to the seaman, as described in paragraph (1)(C);

(iii) shall, if eligible, be issued a merchant mariners document with an appropriate annotation reflecting the restrictions of subparagraph (B) of this paragraph; and

(iv) may be employed for a period of service on board not to exceed 36 months in the aggregate as a nonimmigrant crewman described in section 101(a)(15)(D)(i) of the Immigration and Nationality Act ([8 U.S.C. 1101 \(a\)\(15\)\(D\)\(i\)](#)) on vessels engaged in domestic voyages notwithstanding the departure requirements and time limitations of such section and section 252 of the Immigration and Nationality Act ([8 U.S.C. 1282](#)) and the regulations and rules promulgated thereunder.

(4) Merchant mariner's document requirements not affected.— This subsection shall not be construed to affect any requirement under Federal law that an individual must hold a merchant mariner's document.

(5) Definitions.— In this subsection:

(A) Steward's department.— The term "steward's department" means the department that includes entertainment personnel and all service personnel, including

wait staff, housekeeping staff, and galley workers, as defined in the vessel security plan approved by the Secretary pursuant to section [70103 \(c\)](#) of this title.

(B) Large passenger vessel.— The term “large passenger vessel” means a vessel of more than 70,000 gross tons, as measured under section [14302](#) of this title, with capacity for at least 2,000 passengers and documented with a coastwise endorsement under chapter [121](#) of this title.

[\[1\]](#) So in original. The period probably should be “; and”.