

(c) Nothing in this section prohibits the United States from calling the employee or member as an expert witness to testify on its behalf. Further, nothing in this section prohibits the employee or member from being called as a fact witness in any case in which the United States is a party. If the employee or member is called as an expert or fact witness, the applicable Federal Rules of Civil Procedure govern discovery. If the employee or member is called as a witness, the report of a marine casualty investigation conducted under section 6301 of this title shall not be admissible, as provided in subsections (a) and (b), and shall not be considered the report of an expert under the Federal Rules of Civil Procedure.

(d) The information referred to in subsections (a), (b), and (c) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions and statements.

(Added Pub. L. 104-324, title III, §313(a), Oct. 19, 1996, 110 Stat. 3921; amended Pub. L. 109-241, title IX, §902(e)(2), formerly §902(e)(2)-(4), July 11, 2006, 120 Stat. 567, renumbered §902(e)(2) and amended Pub. L. 111-281, title IX, §903(a)(5)(B)-(7), Oct. 15, 2010, 124 Stat. 3010.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2010—Subsecs. (c), (d). Pub. L. 111-281 made technical amendment to directory language of Pub. L. 109-241, §902(e). See 2006 Amendment notes below.

2006—Subsec. (a). Pub. L. 109-241, §902(e)(2)(B), added subsec. (a) and struck out former subsec. (a) which read as follows: “Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States. Any employee of the Department of Transportation, and any member of the Coast Guard, investigating a marine casualty pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary of Transportation. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.”

Subsec. (b). Pub. L. 109-241, §902(e)(2)(B), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 109-241, §902(e)(2)(A), (C), formerly §902(e)(2)(A), (3), renumbered §902(e)(2)(A), (C) and amended Pub. L. 111-281, §903(a)(5)(B), (C), (6), redesignated subsec. (b) as (c) and substituted “subsections (a) and (b)” for “subsection (a)”. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-241, §902(e)(2)(A), (D), formerly §902(e)(2)(A), (4), renumbered §902(e)(2)(A), (D) and amended Pub. L. 111-281, §903(a)(5)-(7), redesignated subsec. (c) as (d) and substituted “subsections (a), (b), and (c)” for “subsections (a) and (b)”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-281, title IX, §903(a), Oct. 15, 2010, 124 Stat. 3010, provided that the amendment by section

903(a)(5)(B)-(7), is effective with enactment of Pub. L. 109-241.

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

HISTORICAL AND REVISION NOTES

Part E establishes the authority for the Coast Guard to issue, suspend, and revoke licenses, certificates of registry, and merchant mariner’s documents for individuals who are to be engaged on vessels of the United States.

AMENDMENTS

1985—Pub. L. 99-36, §1(a)(9)(B), May 15, 1985, 99 Stat. 67, substituted “Merchant Seamen Licenses, Certificates, and” for “Licenses, Certificates, and Merchant Mariners’” in part E heading.

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

| Sec. | |
|-------|--|
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AMENDMENTS

2010—Pub. L. 111-281, title II, §210(c), Oct. 15, 2010, 124 Stat. 2914, added item 7115.

1990—Pub. L. 101-380, title IV, §4102(e)(2), Aug. 18, 1990, 104 Stat. 510, substituted “Review of criminal records” for “Renewal of licenses” in item 7109.

1984—Pub. L. 98-364, title IV, §402(8)(A), July 17, 1984, 98 Stat. 447, substituted “Oral examinations for licenses” for “Licenses for fishing vessels not subject to inspection” in item 7111.

§ 7101. Issuing and classifying licenses and certificates of registry

(a) Licenses and certificates of registry are established for individuals who are required to hold licenses or certificates under this subtitle.

(b) Under regulations prescribed by the Secretary, the Secretary—

(1) issues the licenses and certificates of registry; and

(2) may classify the licenses and certificates of registry as provided in subsections (c) and (f) of this section, based on—

(A) the tonnage, means of propulsion, and horsepower of machine-propelled vessels;

(B) the waters on which vessels are to be operated; or

(C) other reasonable standards.

(c) The Secretary may issue licenses in the following classes to applicants found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness:

(1) masters, mates, and engineers.

- (2) pilots.
- (3) operators.
- (4) radio officers.

(d) In classifying individuals under subsection (c)(1) of this section, the Secretary shall establish, when possible, suitable career patterns and service and other qualifying requirements appropriate to the particular service or industry in which the individuals are engaged.

(e) An individual may be issued a license under subsection (c)(2) of this section only if the applicant—

- (1) is at least 21 years of age;
- (2) is of sound health and has no physical limitations that would hinder or prevent the performance of a pilot's duties;
- (3) has a thorough physical examination each year while holding the license, except that this requirement does not apply to an individual who will serve as a pilot only on a 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;
- (4) demonstrates, to the satisfaction of the Secretary, that the applicant has the requisite general knowledge and skill to hold the license;
- (5) demonstrates proficiency in the use of electronic aids to navigation;
- (6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in those waters;
- (7) has sufficient experience, as decided by the Secretary, to evidence ability to handle any vessel of the type and size which the applicant may be authorized to pilot; and
- (8) meets any other requirement the Secretary considers reasonable and necessary.

(f) The Secretary may issue certificates of registry in the following classes to applicants found qualified as to character, knowledge, skill, and experience:

- (1) pursers.
- (2) medical doctors.
- (3) professional nurses.

(g) The Secretary may not issue a license or certificate of registry under this section unless an individual applying for the license or certificate makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3)(A) or (B) of that Act committed by the individual.

(h) The Secretary may review the criminal record of an individual who applies for a license or certificate of registry under this section.

(i) The Secretary shall require the testing of an individual who applies for issuance or renewal of a license or certificate of registry under this chapter for use of a dangerous drug in violation of law or Federal regulation.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 539; Pub. L. 98-557, § 29(a), Oct. 30, 1984, 98 Stat. 2873; Pub. L. 101-380, title IV, § 4101(a), Aug. 18, 1990, 104 Stat. 509; Pub. L. 104-324, title VII, § 720, Oct. 19, 1996, 110 Stat. 3938.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 7101 | 46:214 |
| | 46:224 |
| | 46:226 |
| | 46:228 |
| | 46:229 |
| | 46:229a |
| | 46:229b |
| | 46:242 |
| | 46:243 |
| | 46:244 |
| | 46:247 |

Section 7101(a) provides the authority for the establishment of licenses and certificates of registry for officers and individuals operating vessels who are required to hold them under Subtitle II.

Subsection (b) authorizes the Secretary to issue licenses and certificates of registry based on tonnage, means of propulsion, horsepower, vessel operating area, and other reasonable standards.

Subsection (c) authorizes the Secretary to issue licenses to masters, mates, engineers, pilots, operators, and radio officers when found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness. These qualifying standards must by necessity be reasonable and related to the rigors of the profession.

Subsection (d) requires the Secretary to establish, when possible, suitable career patterns and service for and other qualifying requirements appropriate to the particular service or industry for the individuals so engaged.

Subsection (e) sets forth the requirements that pilots must meet before being issued a license.

Subsection (f) authorizes the Secretary to issue certificates of registry to qualified individuals as pursers, medical doctors, and professional nurses.

REFERENCES IN TEXT

Sections 205(a)(3)(A) or (B) and 206(b)(7) of the National Driver Register Act of 1982, referred to in subsec. (g), are sections 205(a)(3)(A), (B) and 206(b)(7) of Pub. L. 97-364, which are set out as a note under section 401 of Title 23, Highways.

AMENDMENTS

1996—Subsec. (e)(3). 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 “1,600 gross tons”.

1990—Subsecs. (g) to (i). Pub. L. 101-380 added subsecs. (g) to (i).

1984—Subsec. (e)(3). Pub. L. 98-557 inserted exemption for pilots on a vessel of less than 1,600 gross tons.

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.

PLAN FOR LICENSING OPERATORS OF FISHING INDUSTRY VESSELS

Pub. L. 100-424, § 3, Sept. 9, 1988, 102 Stat. 1590, provided that: “The Secretary of the department in which the Coast Guard is operating shall, within two years after the date of enactment of this Act [Sept. 9, 1988], and in close consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), prepare and submit to the Congress a plan for the licensing of operators of documented fishing, fish processing, and fish tender vessels. The plan shall take into consideration the nature and variety of the different United States fisheries and of the vessels engaged in those fisheries, the need to license all operators or only those working in certain types of fisheries or vessels, and other relevant factors.”

§ 7102. Citizenship

Licenses and certificates of registry for individuals on documented vessels may be issued only to citizens of the United States.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 540.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 7102 | 46:222 46:1132(a) |

Section 7102 requires that any individual issued a license or certificate of registry allowing the individual to be engaged on a documented vessel must be a U.S. citizen.

§ 7103. Licenses for radio officers

(a) A license as radio officer may be issued only to an applicant who has a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) Except as provided in section 7318 of this title, this part does not affect the status of radiotelegraph operators serving on board vessels operating only on the Great Lakes.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 540.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 7103 | 46:229a 46:229b 46:229g |

Section 7103 requires an applicant for a license as a radio officer to have, as a prerequisite, a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission (FCC). It also exempts radiotelegraph operators that are engaged on Great Lakes vessels from the requirement of having to obtain a radio officer's license.

§ 7104. Certificates for medical doctors and nurses

A certificate of registry as a medical doctor or professional nurse may be issued only to an applicant who has a license as a medical doctor or registered nurse, respectively, issued by a State.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 540.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 7104 | 46:243 |

Section 7104 requires an applicant for a certificate of registry as a medical doctor or professional nurse to have, as a prerequisite, a license as a medical doctor or registered nurse issued by a State.

§ 7105. Oaths

An applicant for a license or certificate of registry shall take, before the issuance of the license or certificate, an oath, without concealment or reservation, that the applicant will perform faithfully and honestly, according to the best skill and judgment of the applicant, all the duties required by law.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 540; Pub. L. 111-281, title VI, §613, Oct. 15, 2010, 124 Stat. 2970.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|-----------------------------------|
| 7105 | 46:229e 46:231 46:244 |

Section 7105 requires all individuals who wish to be issued a license or certificate of registry to take an oath before a government official that they will perform all the duties required by law according to their best skill and judgment.

AMENDMENTS

2010—Pub. L. 111-281 struck out “before a designated official” after “an oath”.

§ 7106. Duration of licenses

(a) IN GENERAL.—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) ADVANCE RENEWALS.—A renewed license issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued license expires or until the completion of any active suspension or revocation of that previously issued merchant mariner's document, whichever is later.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 540; Pub. L. 101-380, title IV, §4102(a), Aug. 18, 1990, 104 Stat. 509; Pub. L. 111-281, title VI, §614(b), Oct. 15, 2010, 124 Stat. 2970.)

HISTORICAL AND REVISION NOTES

| <i>Revised section</i> | <i>Source section (U.S. Code)</i> |
|------------------------|--|
| 7106 | 46:214(c) 46:225 46:226 46:228 46:229 46:229c |

Section 7106 sets a 5 year time limit on the validity of a license. It also requires a licensed radio officer to be in continuous possession of an FCC license.

AMENDMENTS

2010—Pub. L. 111-281 amended section generally. Prior to amendment, text read as follows: “A license issued under this part is valid for 5 years and may be renewed for additional 5-year periods. However, the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.”

1990—Pub. L. 101-380 inserted “and may be renewed for additional 5-year periods” after “for 5 years”.

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.

TERMINATION OF EXISTING LICENSES, CERTIFICATES, AND DOCUMENTS; APPLICABILITY OF 1990 AMENDMENT

Pub. L. 101-380, title IV, §4102(d), Aug. 18, 1990, 104 Stat. 510, provided that: “A license, certificate of registry, or merchant mariner's document issued before the date of the enactment of this section [Aug. 18, 1990] terminates on the day it would have expired if—