

scribed under section 7302 if the individual does not have one. Except for licensed or registered individuals, the document must specify the capacity in which the individual is engaged or employed.

Subsection (c) requires an individual to exhibit the required document to the master, if not otherwise required to do so in some other manner before that individual may be employed.

Subsection (d) prescribes the penalty for violation of this section.

AMENDMENTS

2002—Subsec. (a)(9), (10). Pub. L. 107-295 added par. (9) and redesignated former par. (9) as (10).

1996—Subsec. (a). Pub. L. 104-324, § 731(1), 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” in introductory provisions.

Subsec. (a)(6). Pub. L. 104-324, § 731(2), 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”.

Subsec. (a)(9). Pub. L. 104-324, § 1104(e), added par. (9). 1986—Subsec. (a)(8). Pub. L. 99-640 added par. (8).

1984—Subsec. (a)(3). Pub. L. 98-364, § 402(12)(A)(i), substituted “fishing, fish tender, or whaling” for “fishing or whaling”.

Subsec. (a)(6), (7). Pub. L. 98-364, § 402(12)(A)(ii)-(iv), added pars. (6) and (7).

§ 8702. Certain crew requirements

(a) This section applies to a vessel of at least 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 except—

- (1) a vessel operating only on rivers and lakes (except the Great Lakes);
- (2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);
- (3) a fishing, fish tender, or whaling vessel (except a fish tender vessel engaged in the Aleutian trade) or a yacht;
- (4) a sailing school vessel with respect to sailing school instructors and sailing school students;
- (5) an oceanographic research vessel with respect to scientific personnel;
- (6) a fish processing vessel entered into service before January 1, 1988, and not more 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 or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and
- (7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.

(b) A vessel may operate only if at least—

- (1) 75 percent of the crew in each department on board is able to understand any order spoken by the officers, and
- (2) 65 percent of the deck crew (excluding licensed individuals) have merchant mariners’

documents endorsed for a rating of at least able seaman, except that this percentage may be reduced to 50 percent—

- (i) on a vessel permitted under section 8104 of this title to maintain a 2-watch system; or
- (ii) on a fish tender vessel engaged in the Aleutian trade.

(c) An able seaman is not required on a towing vessel operating on bays and sounds connected directly with the seas.

(d) An individual having a rating of less than able seaman may not be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic, or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 554; Pub. L. 98-364, title IV, § 402(12)(B), July 17, 1984, 98 Stat. 449; Pub. L. 100-239, § 5(e), Jan. 11, 1988, 101 Stat. 1781; Pub. L. 101-380, title IV, § 4302(i), Aug. 18, 1990, 104 Stat. 539; Pub. L. 101-595, title VI, § 602(e)(2), Nov. 16, 1990, 104 Stat. 2992; Pub. L. 104-324, title VII, § 732, Oct. 19, 1996, 110 Stat. 3941.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8702	46:643 46:672

Section 8702 specifies certain crew requirements. Subsection (a) applies this section to the same vessels to which section 8701 applies. Subsection (b) requires that 75 percent of the crew in each department on board a vessel understand any order spoken by the officers and that 65 percent of the deck crew be at least able seamen, except for the licensed officers. For 2-watch system vessels under section 8104, the 65-percent deck crew requirement may be reduced to 50 percent. Subsection (c) exempts certain inland towing vessels from the able seaman requirement. Subsection (d) prohibits anyone having a rating of less than able seamen from serving as a helmsman in congested vessel traffic or under hazardous conditions. Subsection (e) prescribes the penalty for violation of this section.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-324, § 732(1), 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” in introductory provisions.

Subsec. (a)(6). Pub. L. 104-324, § 732(2), 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—Subsec. (a)(3). Pub. L. 101-595, § 602(e)(2)(A), substituted “vessel (except a fish tender vessel engaged in the Aleutian trade)” for “vessel”.

Subsec. (b)(2). Pub. L. 101-595, § 602(e)(2)(B), inserted provisions authorizing reduction to 50 percent of the deck crew in the case of a fish tender vessel engaged in the Aleutian trade.

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

1988—Subsec. (b). Pub. L. 100-239 substituted “operate” for “depart from a port of the United States”.

1984—Subsec. (a)(3). Pub. L. 98-364, § 402(12)(B)(i), substituted “fishing, fish tender, or whaling” for “fishing or whaling”.

Subsec. (a)(6), (7). Pub. L. 98-364, § 402(12)(B)(ii)– (iv), added pars. (6) and (7).

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by section 602(e)(2)(A) of Pub. L. 101-595 effective Nov. 16, 1990, and requirements imposed by subsec. (b)(2), as amended by section 602(e)(2)(B) of Pub. L. 101-595, effective 1 year after Nov. 16, 1990, see section 602(f) of Pub. L. 101-595, set out as a note under section 4502 of this title.

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.

EXEMPTION OF CERTAIN FISH PROCESSING VESSELS

Certain fish processing vessels exempt from crew requirements of subsec. (b) of this section, see section 403(b) of Pub. L. 98-364, as amended, set out as a note under section 3302 of this title.

§ 8703. Tankermen on tank vessels

(a) A vessel of the United States to which chapter 37 of this title applies, that has on board oil or hazardous material in bulk as cargo or cargo residue, shall have a specified number of the crew certified as tankermen as required by the Secretary. This requirement shall be noted on the certificate of inspection issued to the vessel.

(b) A vessel to which section 3702(b) of this title applies shall have on board as a crewmember in charge of the transfer operation an individual certified as a tankerman (qualified for the grade of fuel transferred), unless a master, mate, pilot, engineer, or operator licensed under section 7101 of this title is present in charge of the transfer. If the vessel does not have that individual on board, chapter 37 of this title applies to the vessel.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 555; Pub. L. 98-557, § 18, Oct. 30, 1984, 98 Stat. 2869; Pub. L. 115-232, div. C, title XXXV, § 3546(h), Aug. 13, 2018, 132 Stat. 2326.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section, Source section (U.S. Code). Rows include 8703(a), 8703(b), and 8703(c) with corresponding source sections.

Section 8703 sets requirements for tankermen on board vessels carrying oil or hazardous material in bulk as cargo or cargo residue.

Subsection (a) requires a specified number of the crew certified as tankermen on board these vessels and a notation be made to that effect on the vessel’s certificate of inspection. A tankerman is an individual who is experienced and trained in the procedures for transferring oil or hazardous material to or from a vessel and is responsible for carrying out these duties and responsibilities.

Subsection (b) authorizes the Secretary to regulate tankermen and restrict the types of oil or hazardous materials on the basis of safety to the vessel and the marine environment.

Subsection (c) requires a tankerman or licensed master, pilot, engineer, or operator to be present and in

charge of a transfer of oil or hazardous material on certain vessels in the service of oil exploitation. If this individual is not on board, then the tank vessel requirements of chapter 37 apply to the vessel.

AMENDMENTS

2018—Subsecs. (b), (c). Pub. L. 115-232 redesignated subsec. (c) as (b).

1984—Subsec. (b). Pub. L. 98-557 struck out subsec. (b) which contained duplicate tankerman manning requirements. See section 7317(a) of this title.

§ 8704. Alien deemed to be employed in the United States

An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

(2) is not engaged in 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).

(Added Pub. L. 100-239, § 5(f)(1), Jan. 11, 1988, 101 Stat. 1781; amended Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

AMENDMENTS

1996—Par. (2). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

CONSTRUCTION

Pub. L. 100-239, § 5(f)(3), Jan. 11, 1988, 101 Stat. 1781, provided that: “With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term ‘date of the enactment of this section’ [translated as ‘November 6, 1986’] as used in section 274A(i) of the Immigration and Nationality Act [former 8 U.S.C. 1324a(i)] means the date 180 days after the enactment of this section [Jan. 11, 1988].”

CHAPTER 89—SMALL VESSEL MANNING

- Sec. 8901. Freight vessels.
8902. Small passenger vessels.
8903. Self-propelled, uninspected passenger vessels.
8904. Towing vessels.
8905. Exemptions.
8906. Penalty.

HISTORICAL AND REVISION NOTES

Chapter 89 provides for the manning of freight vessels, small passenger vessels, uninspected passenger vessels, and towing vessels. It permits a licensed operator to be in charge of a vessel in lieu of a licensed master or pilot. It also sets forth exemption and civil penalties.

AMENDMENTS

1986—Pub. L. 99-307, § 1(14)(A), May 19, 1986, 100 Stat. 446, substituted “Self-propelled, uninspected” for “Uninspected” in item 8903.