nate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ''500 gross tons''.

Subsec. (*o*)(2). Pub. L. 104–324, § 728(6), 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 ''500 gross tons''.

Subsec. (p). Pub. L. 104–324, § 1104(c), amended subsec. (p) generally. Prior to amendment, subsec. (p) read as follows: ''On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.''

1993—Subsec. (g). Pub. L. 103–206, § 322(a)(1), struck out ''a vessel used only to respond to a discharge of oil or a hazardous substance,'' after ''an offshore supply vessel,''.

Subsec. (p). Pub. L. 103–206, § 322(a)(2), added subsec. (p).

1992—Subsec. (g). Pub. L. 102–587, § 5212(1), inserted ''a vessel used only to respond to a discharge of oil or a hazardous substance,'' after ''an offshore supply vessel,''.

Subsecs. (n), (*o*). Pub. L. 102–587, § 5212(2), redesignated subsec. (n), relating to fish tender vessels of not more than 500 gross tons engaged in Aleutian trade, as (*o*).

1990—Subsecs. (i), (j). Pub. L. 101–380, § 4302(f), substituted ''$10,000'' for ''$100'' in subsec. (i) and for ''$500'' in subsec. (j).

Subsec. (n). Pub. L. 101–595 added subsec. (n) relating to fish tender vessels of not more than 500 gross tons engaged in Aleutian trade.

Pub. L. 101–380, § 4114(b), added subsec. (n) relating to tankers.

1986—Subsec. (k). Pub. L. 99–307 substituted ''watches'' for ''watchers''.

1984—Subsec. (b). Pub. L. 98–364, § 402(11)(A), substituted ''100 gross tons (except a fishing, fish processing, or fish tender vessel)'' for ''100 gross tons''.

Subsec. (c). Pub. L. 98–364, § 402(11)(B), substituted ''fishing, fish processing, fish tender,'' for ''fishing''.

Subsec. (d). Pub. L. 98–364, § 402(11)(C), substituted ''a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons'' for ''a fishing or whaling vessel''.

Subsec. (k). Pub. L. 98–557 substituted ''shall'' for ''may''.

Pub. L. 98–364, § 402(11)(D), added subsec. (k).

Subsec. (*l*). Pub. L. 98–557 substituted ''shall'' for ''may'' in provisions preceding par. (1).

Pub. L. 98–364, § 402(11)(D), added subsec. (*l*).

Subsec. (m). Pub. L. 98–364, § 402(11)(D), added subsec. (m).

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)(1) is effective with enactment of Pub. L. 109–241.

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.

§ 8105. Fishing vessel exemption

Notwithstanding any other provision of law, neither the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, nor any amendment to such convention, shall apply to a fishing vessel, including a fishing vessel used as a fish tender vessel.

(Added Pub. L. 104–324, title XI, § 1146(a), Oct. 19, 1996, 110 Stat. 3992.)

PRIOR PROVISIONS

A prior section 8105, Pub. L. 98–89, Aug. 26, 1983, 97 Stat. 550, authorized Secretary to prescribe regulations to carry out this part prior to repeal by Pub. L. 101–595, title VI, § 603(7)(A), Nov. 16, 1990, 104 Stat. 2993.

§ 8106. Riding gangs

(a) IN GENERAL.—The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall—

(1) ensure that—

(A) subject to subsection (d), each riding gang member on the vessel—

(i) is a United States citizen or an alien lawfully admitted to the United States for permanent residence; or

(ii) possesses a United States nonimmigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

(B) all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

(C) each riding gang member is identified on the vessel's crew list;

(2) ensure that—

(A) the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel's cargo, the ports the vessel visits, or other individuals onboard the vessel;

(B) the background check consisted of a search of all information reasonably available to the owner or managing operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

(C) the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

(D) the information derived from any such background check is made available to the Secretary upon request;

(3) ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

(4) ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

(5) prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member—

(A) who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section 7703;

(B) whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section 7704; or

(C) who otherwise constitutes a threat to the safety of the vessel;

(6) ensure and certify to the Secretary that the sum of—

(A) the number of riding gang members on board a freight vessel, and

(B) the number of individuals in addition to crew permitted under section 3304,

does not exceed 12;

(7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party, including all of the merchant seamen protection and relief provided under United States law; and

(8) ensure that each riding gang member—

(A) is supervised by an individual who holds a license issued under chapter 71; and

(B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.

(b) PERMITTED WORK.—Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence may not perform any work on board the vessel other than—

(1) work in preparation of a vessel entering a shipyard located outside of the United States;

(2) completion of the residual repairs after departing a shipyard located outside of the United States; or

(3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.

(c) WORKDAY LIMIT.—

(1) IN GENERAL.—The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.

(2) CALCULATION.—For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.

(d) EXCEPTIONS FOR WARRANTY WORK.—

(1) IN GENERAL.—Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is—

(A) customarily performed by original equipment manufacturers' technical representatives;

(B) required by a manufacturer's warranty on specific machinery and equipment; or

(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

(2) CITIZENSHIP REQUIREMENT.—Subsection (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

(e) RECORDKEEPING.—In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

(f) FAILURE TO EMPLOY QUALIFIED AVAILABLE U.S. CITIZENS OR RESIDENTS.—

(1) IN GENERAL.—The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section 8103(b)(3)(C), that there is not a sufficient number of United States citizens or individuals lawfully admitted to the United States for permanent residence who are qualified and available for the work for which the riding gang member is to be employed.

(2) CIVIL PENALTY.—A violation of paragraph (1) is punishable by a civil penalty of not more than $10,000 for each day during which the violation continues.

(3) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this subsection shall not exceed—

(A) $50,000 if the violation occurs in fiscal year 2006;

(B) $75,000 if the violation occurs in fiscal year 2007; and

(C) $100,000 if the violation occurs after fiscal year 2007.

(4) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.

(5) COMPROMISE, MODIFICATION, AND REMITTAL.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(Added Pub. L. 109–241, title III, § 312(a), July 11, 2006, 120 Stat. 530.)

INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA

For International Conventions for the Safety of Life at Sea to which the United States has been a party, see

section 1602 of Title 33, Navigation and Navigable Waters, and notes thereunder.

§ 8107. Use of force against piracy

(a) LIMITATION ON LIABILITY.—An owner, operator, time charterer, master, mariner, or individual who uses force or authorizes the use of force to defend a vessel of the United States against an act of piracy shall not be liable for monetary damages for any injury or death caused by such force to any person engaging in an act of piracy if such force was in accordance with standard rules for the use of force in self-defense of vessels prescribed by the Secretary.

(b) PROMOTION OF COORDINATED ACTION.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements to promote coordinated action among flag- and port-states to deter, protect against, and rapidly respond to piracy against the vessels of, and in the waters under the jurisdiction of, those nations, and to ensure limitations on liability similar to those established by subsection (a).

(c) DEFINITION.—For the purpose of this section, the term ''act of piracy'' means any act of aggression, search, restraint, depredation, or seizure attempted against a vessel of the United States by an individual not authorized by the United States, a foreign government, or an international organization recognized by the United States to enforce law on the high seas.

(Added Pub. L. 111–281, title IX, § 912(a), Oct. 15, 2010, 124 Stat. 3016.)

STANDARD RULES FOR THE USE OF FORCE FOR SELF-DEFENSE OF VESSELS OF THE UNITED STATES

Pub. L. 111–281, title IX, § 912(c), Oct. 15, 2010, 124 Stat. 3017, provided that: ''Not later than 180 days after the date of enactment of this act [Oct. 15, 2010], the secretary [sic] of the department in which the coast guard [sic] is operating, in consultation with representatives of industry and labor, shall develop standard rules for the use of force for self-defense of vessels of the United States.''

CHAPTER 83—MASTERS AND OFFICERS

Sec.
8301. Minimum number of licensed individuals.
8302. Staff department.
8303. Service under licenses issued without examination.
8304. Implementing the Officers' Competency Certificates Convention, 1936.

HISTORICAL AND REVISION NOTES

For certain vessels of the United States, chapter 83 prescribes the minimum number of licensed individuals (including masters), establishes the staff department consisting of medical and clerical personnel, restricts service under certain licenses issued without examination, and implements the Officers' Competency Certificates Convention of 1936.

§ 8301. Minimum number of licensed individuals

(a) Except as provided in chapter 89 of this title and except for a vessel operating only on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a vessel subject to inspection under chapter 33 of this title shall engage a minimum of licensed individuals as follows:

(1) Each of those vessels propelled by machinery or carrying passengers shall have a licensed master.

(2) A vessel of at least 1,000 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 and propelled by machinery shall have 3 licensed mates, except—

(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.

(3) A vessel of at least 200 gross tons but less than 1,000 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 and propelled by machinery shall have 2 licensed mates.

(4) A vessel of at least 100 gross tons but less than 200 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 and propelled by machinery shall have one licensed mate. However, if the vessel is on a voyage of more than 24 hours, it shall have 2 licensed mates.

(5) A freight vessel or a passenger vessel of at least 300 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 and propelled by machinery shall have a licensed engineer.

(b)(1) An offshore supply vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have a licensed mate. If the vessel is on a voyage of at least 600 miles, however, the vessel shall have 2 licensed mates.

(2) An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have at least two licensed mates, provided the offshore supply vessel meets the requirements of section 8104(g)(2). An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title on a voyage of at least 600 miles shall have three licensed mates.

(3) An offshore supply vessel of more than 200 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, may not be operated without a licensed engineer.

(c) Subsection (a) of this section does not apply to a fishing or whaling vessel, a mobile offshore drilling unit when on location, or a yacht.