



Citizenship Requirements on Commercial Fishing Industry Vessels

The requirement for U.S. citizens to serve as masters, and the requirements, exceptions, and waivers for U.S. citizens serving as crewmembers on board commercial fishing vessels are often confusing issues that lead to misunderstanding. The law sets forth the requirements and the Coast Guard is tasked with enforcing them. There are certain exceptions and provisions for waivers of the citizenship requirements under certain conditions. Exceptions and waivers of the citizenship requirements only apply to unlicensed seamen.

What the U. S. Code (USC) Says

Title 46 USC §8103(a) – Only a citizen of U.S. may serve as master, chief engineer, radio officer, or officer in charge of a deck watch or engineering watch on a documented vessel.

46 USC §8103(i)(1) – ... 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 USC 1101, et seq.); or ...

46 USC §8103(i)(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.

Exceptions – The unlicensed seaman requirements do not apply to vessels fishing exclusively for highly migratory species [46 USC §8103(i)(3)].

Authority to Waive Requirements – 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 any vessel if it is determined, after an investigation, that qualified seamen who are citizens of the United States are not available [46 USC §8103(b)(3)(C)].

Interpretation and Policy

- On a federally-documented commercial fishing industry vessel the master must be a U.S. citizen.
- At least 75% of the unlicensed crewmembers on any fishing vessel must be U.S. citizens, or resident aliens (“Green Card” holders). That means no more than 25% of the unlicensed crewmembers may be non-resident aliens holding H-2B visas (temporary non-agricultural workers) unless a waiver has been granted to that particular vessel.

Example 1: Vessel with a compliment of 4.

U.S. Master — 1, Unlicensed crew — 3
 $25\% \text{ of } 3 = 0.75$; that is less than 1, so all crew must be U.S. citizens or resident aliens. Otherwise a waiver is required for employment of H-2B visa holders.

Example 2: Vessel with compliment of 5.

U.S. Master — 1, Unlicensed crew — 4
 $25\% \text{ of } 4 = 1$; so one of the unlicensed crew may be an H-2B visa holder without necessity of a waiver.

Example 3: Vessel with compliment of 3, and with a waiver. U.S. master — 1 The two crew can be H-2B visa holders.

Waiver from the “75/25” Rule

- If qualified seaman who are U.S. citizens or resident aliens are not available, a waiver of the 75% requirement may be requested.
- Your State must certify to the Dept. of Labor the unavailability of workers. DOL will certify your application that must be sent to U.S. Citizenship and Immigration Services (USCIS) for approval of H-2B visas within statutory limits. (No other category of temporary workers may be employed on commercial fishing industry vessels.)
- You must submit the approved forms, names and country of proposed workers, and vessel information with a letter request for a waiver to the Coast Guard, Commandant (G-PCV-3). After verification of your request, documents, and that your vessel is in compliance with the regulations, a waiver may be granted.

For more information, go to:

www.FishSafe.info

