



Immigration Status of Unlicensed Seamen on Fishing Vessels

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Recently, the Hearing Office has seen several civil penalty case files alleging a violation of 46 U.S.C. § 8103(i) in which the Narrative Overview of the Activity identified one or more unlicensed seamen as a “Mexican citizen” or a “Mexican national,” without further describing the immigration status of the seamen. Often there will be information in the case file that provides more information about the immigration status of the seamen, but it would be helpful to the Hearing Officer, and to the charged party, if the Narrative Overview of the Activity included the alleged immigration status of the seamen that violates 46 U.S.C. § 8103(i).

There are few, if any, stateless persons, so almost any unlicensed seaman you come across will be a citizen or national of some country. Foreign citizens/nationals in the United States may be here illegally either because they entered illegally or because they entered legally and then overstayed, for example, the duration of their visa. If an unlicensed seaman is in the United States illegally, there is a violation of 46 U.S.C. § 8103(i). This is because the provision prohibits such a person from being employed as an unlicensed seaman on a fishing vessel. In such a case, it would be helpful to state in the Narrative Overview of the Activity that the unlicensed seaman is a foreign citizen or national who is in the United States illegally. Naturally, there must be evidence in the civil penalty case file to support the allegation to meet the Coast Guard’s burden of proof.

If the foreign citizens or nationals have some type of lawful immigration status in the United States, the Narrative Overview of the Activity should include the immigration status of those persons. There is no limit on the number of permanent resident aliens that 46 U.S.C. § 8103(i) allows to be employed as unlicensed seamen. Foreign citizens and nationals who are temporarily admitted to the United States and lawfully allowed to be employed are limited to no more than 25% of the unlicensed seamen onboard.

Considering that 46 U.S.C. § 8103(i) is very specific about the status of the persons who may be employed as unlicensed seamen on a fishing vessel, it is a

good practice to be very clear about the status of every unlicensed seaman onboard, if a violation of that provision is being alleged. Alleging that an unlicensed seaman is a foreign citizen or national is not, by itself, enough information for a Hearing Officer to find that a violation has occurred. The Hearing Officer will consider any reliable evidence in the case file that shows the person's status. Additionally, a clear statement in the Narrative Overview of the Enforcement Summary of the status of each unlicensed seaman will make it much easier for the Hearing Officer, and the charged party, to understand why the Coast Guard is alleging that there was a violation of 46 U.S.C. § 8301(i).