

## 29 C.F.R. § 783.36

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### Barge tenders.

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Barge tenders on non-selfpropelled barges who perform the normal duties of their occupation, such as attending to the lines and anchors, putting out running and mooring lights, pumping out bilge water, and other similar activities necessary and usual to the navigation of barges, are considered to be employed as “seamen” for the purposes of the Act unless they do a substantial amount of “non-seaman's” work (*Gale v. Union Bag & Paper Corp.*, 116 F. (2d) 27 (C.A. 5, 1940), cert. den. 313 U.S. 559 (1941)). However, there are employees who, while employed on vessels such as barges and lighters, are primarily or substantially engaged in performing duties such as loading and unloading or custodial service which do not constitute service performed primarily as an aid in the operation of these vessels as a means of transportation and consequently are not employed as “seamen” (*McCarthy v. Wright & Cobb Lighterage Co.*, 163 F. (2d) 92; *Anderson v. Manhattan Lighterage Corp.*, 148 F. (2d) 971, certiorari denied 326 U.S. 722; *Woods Lumber Co. v. Tobin*, 20 Labor Cases 66, 640 (W.D. Tenn, 1951), aff'd, 199 F. (2d) 455). Whether an employee is on board a vessel primarily to perform maritime services as a seaman or loading and unloading services typical of such shore-bases personnel as longshoremen is a question of fact and can be determined only after reviewing all the facts in the particular case.

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