

MARINE SAFETY MANUAL

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CHAPTER 26: MANNING OF UNINSPECTED VESSELS

A. General.

Although there are very few statutory requirements that allow the Coast Guard to regulate the manning of uninspected vessels, this chapter will discuss those statutes and regulations that do apply to the uninspected vessel industry. The discussions and manning recommendations in this chapter are not meant to be all-inclusive and should be used as a general guide only. (See chapters 22, 23 and 24 for discussions concerning watchstanding qualifications necessary to meet U.S. and international requirements when applicable to certain vessels discussed in this chapter.)

B. Towing Vessels (Including Integrated Tug-Barges (ITBs)).

Generally, uninspected towing vessels are subject only to the provisions of 46 U.S.C. 8904 for licensed operators. Seagoing towing vessels of at least 200 or more GT are subject to 46 U.S.C. 8304, and therefore, also require masters and mates with appropriate endorsements to be assigned to the vessel. Furthermore, the employment of an operator of uninspected towing vessels (OUTV) is not permitted. With regards to carriage of pilots on towing vessels, operators need not be an Operator of Uninspected Passenger Vessels because the towing vessel transports the pilot without consideration being paid for such carriage. In addition, operators who transport up to 12 government or industry personnel with consideration being paid for the carriage of at least one of the passengers, must have a separate OUPV endorsement on his or her OUTV license or a superior license enabling operation of both types of vessels.

1. Definitions.

a. Oceans (Domestic Trade) Voyages.

An Oceans (domestic trade) voyage can be interpreted to include a voyage from any U.S. port to any other U.S. port. 46 U.S.C. 2101(44) states that "United States", when used in a geographical sense means the States of the United States and the following territories or possessions: Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States. Therefore, a voyage from New York, NY to Guam could be considered an Oceans (domestic trade) voyage.

b. Near Coastal Voyages.

46 CFR 10.103 states near coastal means ocean waters not more than 200 nautical miles offshore. In cases where a U.S. vessel regularly operates in the vicinity of another country's coast, a U.S. near-coastal endorsement should be sufficient. However, the extent to which the local near-coastal limits as defined by the coastal state must be respected, is currently being deliberated at IMO. Under no circumstances shall the 200 nautical mile limitation be increased.

2. Towing Vessels On Oceans (Domestic Trade) Voyages.

Towing vessels of less than 200 gross tons engaged in domestic voyages on ocean routes may be under the direction and control of individuals licensed as OUTV Oceans (Domestic Trade) Waters.

3. Operator Of Uninspected Towing Vessel (OUTV) Work Site Exclusion.

The statute addressing licensed operators for uninspected towing vessels, 46 U.S.C. 8904, requires a towing vessel that is at least 26 feet (7.9 meters) in length to be operated by a licensed individual. The U.S. Senate Committee on Commerce Report of June 27, 1972, however, described various situations in which the statute was not intended to apply. The following statement was included in the report: "The licensing requirement will apply only to those vessels which are documented solely for other services or are not required to be documented. The vessels covered are those which perform towing services as a business and the bill does not cover vessels towing in an emergency or on an intermittent basis, not directly connected with the service for which the vessel may have been documented. Excluded from coverage would be, for instance, work boats which are used to move dredging equipment for short distances at the dredging site" (H.R. 92-125, 92nd Cong., 1st sess., 3.). The import of the legislative history comment was that workboats, at a work site, that may be called upon to move a piece of equipment a short distance at a work site, would not be required to be operated by licensed individuals. On the other hand, vessels engaged to perform towing services, however intermittently, would be required to be operated by licensed individuals.

Towing vessels not specifically engaged in the commercial towing service, operating solely as work boats in dredging operations may be exempt from the manning requirements of 46 U.S.C. 8904. Each case shall be carefully scrutinized to determine whether the exemption applies. The Coast Guard, therefore, must consider the facts of a particular situation in making a determination as to the applicability of the statute.

4. Navigation Watches.

There is no specific number of licensed or unlicensed personnel required on an uninspected towing vessel. Watchstanding requirements do, however, prescribe a minimum complement. 46 U.S.C. 8104(d), (g) and (h) require different watchstanding arrangements for the various types of towing vessels and towing operations.

- a. A 3-watch system is required for the licensed individuals, sailors, coal passers (e.g. wipers), firemen, oilers and watertenders on seagoing towing vessels of 200 GT or more, on a voyage greater than 600 nautical miles.
- b. A 3-watch system is also required for the licensed engineers, sailors, coal passers (e.g. wipers), firemen, oilers, and watertenders on seagoing towing vessels between 100 and 200 GT on a voyage greater than 600 nautical miles. In this situation the licensed operators may be divided into a 2-watch system as allowed by 46 CFR 15.705(d).
- c. A 2-watch system is permitted for the licensed individuals and crewmembers (except the coal passers, firemen, oilers, and watertenders) on seagoing towing vessels of 100 GT or more when on a voyage less than 600 nautical miles. Certain unlicensed members of the engine department must remain in a 3-watch system as required by 46 U.S.C. 8104(g).

d. Operators of uninspected towing vessels less than 200 GT on the high seas, and of all uninspected towing vessels not on the high seas, may be divided into a 2-watch system regardless of the length of the voyage as permitted by 46 CFR 15.705(d).

5. Engineering Workers.

Considering the above statutes and interpretations the following can be concluded: Certain unlicensed members of the engine department (e.g., Coal passer, firemen, oilers and watertenders) on towing vessels of 100 GT or greater must be divided into a 3 watch system at all times. Also, seagoing vessels of 200 GT or more which employ or engage personnel to perform the duties of a chief engineer or engineer of the watch must employ appropriately licensed engineers (see 46 U.S.C. 8304).

6. Workhour Limits.

46 U.S.C. 8104(h) allows licensed operators working aboard towing vessels subject to the provisions of 46 U.S.C. 8904 (e.g., vessels less than 200 GT) to work no more than 12 hours in a consecutive 24-hour period. There is no similar maximum workhour limit for the unlicensed crewmembers on towing vessels subject to 46 U.S.C. 8904, with some exceptions as follows. Seagoing towing vessels of more than 100 GT are subject to the provisions of 46 U.S.C. 8104(d) (a licensed individual or seaman may not be required to work more than 8 hours in one day). However, regardless of the route of the vessel, or work rules agreed to by crewmembers, individually or through collective bargaining, the owner and master (or licensed operator) are required to provide an adequate and fit watch as per 46 CFR 15.1111, 46 CFR 15.601 and 15.705. Consequently, if the licensed or unlicensed individuals have no relief and are too fatigued to stand an alert watch, a hazardous condition is created and the owner and/or master should not permit the vessel to continue to operate until the situation is remedied.

C. Motor-Propelled Yachts And Fishing Vessels.

Seagoing uninspected, documented yachts of 200 or more gross tons and vessels of 200 or more gross tons engaged in fishing on the high seas, are subject to the provisions of 46 U.S.C. 8304. The following manning scale is considered appropriate for such vessels:

1-Master

*1-Chief Engineer

1-Licensed Mate

*1-Licensed Assistant Engineer

*Optional

There are no statutory requirements for watch systems or minimum number of licensed individuals on fishing industry vessels, with the exception of certain fish processing vessels, or fish tending vessels in Aleutian trade. It is the master's responsibility to ensure an adequate watch for the safety of the vessel. While there may be individuals who can routinely and safely perform work for periods in excess of 12 consecutive hours, the rigors of watchkeeping at sea greatly increase the likelihood of fatigue beyond such a period. Between 12 and 24 hours of operation there is a gray area in which the OCMI must judge the prudence of the master's decision to sail without a second licensed individual to implement the watch, based on the specific circumstances.

If a fishing vessel is operating at sea for extended periods of time it may be assumed that the master of the vessel must, due to normal sleep and body function requirements, relinquish the watch to another crew member. When this occurs, the person who is assigned the

watch, becomes the mate and is the person in charge of navigating or maneuvering the vessel. His or her actual status as “mate” does not diminish even if his/her standing orders are to notify the master upon the slightest change of watch conditions which could impact the safety of the vessel. While there is no direct authority by which the Coast Guard can require an uninspected fishing vessel to carry a master and a mate in terms of a “manning requirement,” if the master of the vessel is found to be too fatigued to stand watch and there is no licensed mate to assume the duties of officer in charge of the navigation watch, then the master of the vessel could be charged with negligence for failure to maintain an adequate watch. OCMIs should strongly encourage uninspected fishing vessels of over 200 gross tons operating in excess of 12 hours to have at least two licensed individuals assigned to prevent fatigue. (See chapters 22, and 24 for additional discussions.) The controlling statute requires only that persons serving as “officers” shall hold a license for their positions. Motor vessels of any size, regardless of their numbering or documentation, engaged exclusively in fishing on other than the high seas, are not currently subject to any federal manning requirements. 46 U.S.C. 12110 does require that a documented vessel be placed under the command of a citizen of the United States. However, unless subject to 46 U.S.C. 8304 this person may be unlicensed. There is an exception to this citizenship requirement for documented fishing vessels operating in the waters subject to jurisdiction of the State of California. [Note: Pub.L. 101-595 provides that the phrase “citizen of the United States” includes an alien lawfully admitted to the United States for permanent residence for the purposes of applying sections 8103(a), 12102, 12110, and 12111 of title 46 U.S.C. for fishing vessels operating in waters subject to the jurisdiction of the United States off the coast of the State of California. (Note: This section terminates on October 1, 2000.)]

D. Uninspected Passenger Vessels.

46 U.S.C. 8903, and 46 CFR 15.605 require each self-propelled uninspected passenger vessel to be under the “direction and control” of a licensed individual. In this regard, if a water-skier, or para-sailor is towed for hire, the vessel is considered to be carrying passengers for hire, and the operator of the vessel must be licensed. Licensed masters, mates, or operators of uninspected passenger vessels (OUPV) may serve as person in charge of navigation.

1. Workhour Limitations.

46 U.S.C. 8104(b) provides that licensed individuals on oceangoing vessels of not more than 100 GT “may not be required” to work more than 12 hours in a 24-hour period while at sea. Licensed individuals serving as OUPV may, however, voluntarily work more than 12 hours in a 24-hour period. (See chapters 22 and 24 for additional discussions.)

2. Adequate Watches.

While an OUPV may work more than 12 hours, he or she must maintain an adequate watch. If the OUPV has no relief and is too fatigued to stand an alert watch, then that individual would be negligent for failure to maintain an adequate watch. While there may be individuals who can routinely and safely perform work for periods in excess of 12 consecutive hours, the rigors of watchkeeping at sea greatly increase the likelihood of fatigue beyond such a period. Between 12 and 24 hours of operation, there is a gray area in which the OCMI must judge the prudence of the licensed operator's decision to sail without a second licensed individual, based on the specific circumstances. Charter fishing and dive vessels routinely operating more than 24 consecutive hours with only one licensed operator present a dangerous situation, raising significant issues of negligence on the part of the OUPV and owner for failure to provide an adequate watch.

3. Enforcement Action.

OCMIs should strongly encourage uninspected passenger vessels operating in excess of 12 hours to have at least two licensed individuals assigned to prevent fatigue. It has been suggested by some operators that a qualified seaman could be left at the helm while the licensed operator sleeps close by. This is an untenable position. 46 U.S.C. 8903 mandates the vessel be operated by a licensed individual; the Coast Guard does not have the discretion to allow any unlicensed seaman to control the vessel without supervision. When a sole licensed OUPV is assigned to a vessel and is found to have been unfit to maintain vigilance due to fatigue, or allows an unlicensed seaman to control the vessel while the OUPV sleeps, the OCMI should consider charging the licensed individual with negligence, misconduct, or violation of law, as may be appropriate to the specific circumstances.

E. Oceanographic Research Vessels.

Undocumented, uninspected oceanographic research vessels under 200 GT are not subject to the provisions of 46 U.S.C. 8304 or 46 CFR 15.701. However, if they are of 100 or more GT, they are subject to 46 U.S.C. 8702 and 8104.

F. Manning Charts.

Figure 26-1 lists typical requirements and the references for citizenship, manning, and watch requirements that apply to uninspected, documented, vessels. It is not meant to be all-inclusive and should be used as a general guide only. In certain cases the STCW will apply to uninspected vessels. See chapter 9 for guidance.

Figure 26-1: Manning Requirements And References For Documented Uninspected Vessels

Vessel Types	Percentage Of Crew Required To Be A U.S. Citizen Or Alien Lawfully Admitted For Permanent Residency 46 U.S.C. 8103(I) 46 U.S.C. 8103 (B)	Crew Required To Hold Merchant Mariner's Document (MMDs) 46 U.S.C. 8701(A)	Percentage Of Deck Crew Required To Be Able Seaman 46 U.S.C. 7312(A-F) 46 U.S.C. 8702	Licensed Operator Required 46 U.S.C. 8901 46 U.S.C. 8904	Licensed Master 46 U.S.C.8304	Licensed Mates 46 U.S.C.8304	Licensed Chief Engineer 46 U.S.C. 8304	Licensed Asst. Engineer 46 U.S.C. 8304	Required Watch Divisions 46 U.S.C. 8104
Fishing Vessels (< 200gt)	---- ³	NO	----	----	----	----	----	----	----
Fishing Vessels (200gt Or >)	---- ³	NO	----	----	YES ⁴	1 ⁴	YES ⁵	1	----
Tender Vessels (< 200gt)	100% ³	NO ⁶	---- ⁶	----	----	----	----	----	---- ⁶
Tender Vessels (200gt - 500gt)	100% ³	NO ⁶	---- ⁶	----	YES ⁴	1 ⁴	YES ⁵	1 ⁵	---- ⁶
Processor1 (< 1600gt)	100% ³	NO	----	----	YES ⁴	1 ⁴	YES ⁵	1 ⁵	----
Processor2 (1600gt - 5000gt)	100% ³	YES ⁷	50%	----	YES ⁴	1 ⁴	YES ⁵	1 ⁵	2
Salvage Vessel	100%	YES ⁷	65%	NO	YES ⁴	1 ⁴	YES ⁵	1 ⁵	----
Towboats Seagoing (600 NM or >)	100%	YES ⁷	65%	YES	YES ⁹	2 ⁴	YES ⁵	2 ⁵	3
Towboats Seagoing (< 600 NM)	100%	YES ⁷	50%	YES	YES ⁹	1 ⁴	YES ⁵	1 ⁵	2 ¹⁰
Towboats Great Lakes	100%	YES ⁷	65%	YES ¹¹	----	----	----	----	3 ¹¹

Figure 26-1: Manning Requirements And References For Documented Uninspected Vessels

Vessel Types	Percentage Of Crew Required To Be A U.S. Citizen Or Alien Lawfully Admitted For Permanent Residency 46 U.S.C. 8103(I) 46 U.S.C. 8103 (B)	Crew Required To Hold Merchant Mariner’s Document (MMDs) 46 U.S.C. 8701(A)	Percentage Of Deck Crew Required To Be Able Seaman 46 U.S.C. 7312(A-F) 46 U.S.C. 8702	Licensed Operator Required 46 U.S.C. 8901 46 U.S.C. 8904	Licensed Master 46 U.S.C.8304	Licensed Mates 46 U.S.C.8304	Licensed Chief Engineer 46 U.S.C. 8304	Licensed Asst. Engineer 46 U.S.C. 8304	Required Watch Divisions 46 U.S.C. 8104
Towboats Inland & W/R	100%	NO	----	YES ¹²	----	----	----	----	2 ¹²
Yachts	----	NO	----	----	YES ⁴	1 ⁴	YES ⁵	1 ⁵	----
Uninspected Passenger Vessels	100%	NO	----	YES ¹³	----	----	----	----	2 ¹³
Other Vessels	100%	YES ⁷	65% ⁹	YES	YES ⁴	2 ⁴	YES ⁵	2 ⁵	3 ⁸

Figure 26-1: Manning Requirements And References For Documented Uninspected Vessels (Cont'd.)

NOTES:

1. Small Fish Processor:
 - (a) no more than 1600 GT, entering service before 1/1/88, or
 - (b) GT or over, entering service after 12/31/87 with no more than 16 people on board primarily employed in the preparation of fish and fish products.
2. Medium Fish Processor:
 - (a) over 1600 GT but not more than 5000 GT, entering service before 1/1/88, or
 - (b) 100 GT or over, entering service after 12/31/87 with more than 16 people on board primarily employed in the preparation of fish and fish products.
3. Inside the exclusive economic zone (EEZ): On a fishing, fish processing, or fish tender vessel that is engaged in the fisheries of the EEZ, 75% of the unlicensed seamen must be either U.S. Citizens or aliens lawfully admitted to the U.S. for permanent residence. The remaining 25% may be any other alien allowed to be employed under the Immigration and Nationality Act [8 U.S.C. 1101]. Masters, chief engineers, deck watch officers, engineering watch officers and radio officers must be U.S. citizens. [46 U.S.C. 8103].
4. A person in charge of navigating or maneuvering vessels of 200 or more GT operating outside of the Boundary Lines must be licensed as per 46 U.S.C. 8304. [46 CFR 15.810(c)]
5. A person on a seagoing mechanically propelled vessel performing the duties of chief engineer and any one in charge of an engineering watch must be properly licensed. [46 CFR 15.820(b) and 15.825(a)]
6. Fish tender vessels engaged in the Aleutian trade must comply with 46 U.S.C. 8702(b). As a general matter, section 8702(b) requires 65% of the unlicensed deck crew to be ABs, except that this may be reduced to 50% for fish tender vessel engaged in the Aleutian trade. Section 8104(o)(1) requires fish tender vessels of not more than 500 GT to divide the licensed individuals and crewmembers into a 3-watch system. However, section 8104(o)(2) allows a 2-watch system for fish tender vessels operating or purchased to be used in the trade before September 8, 1990, and entered into service before June 1, 1992. [46 CFR 15.705(e)]
7. A merchant mariner's document (MMD) is required for personnel to be employed on vessels of 100 or more GT per 46 U.S.C. 8701. [46 CFR 15.401]
8. Vessels not included under the exemptions of 46 U.S.C. 8702(a) must comply with 8702(b). In general, section 8702(b) requires 65% of the unlicensed deck crew to be ABs for a 3-watch system and 50% for a 2-watch system. Section 8104 determines the applicable watch system. [46 CFR 15.401, and 15.705]

9. For Towboats under 200 GT the deck officers who satisfy the requirements of 46 U.S.C. 8304 also satisfy the requirements of 46 U.S.C. 8904. For towboats 200 GT and greater operators licensed solely under the provisions of 46 U.S.C. 8904 do not meet the requirements of 46 U.S.C. 8304. [46 CFR 15.910]
10. 46 U.S.C. 8104(g) allows licensed officers and members of the crew other than coal passers, firemen, oilers, and water tenders to be divided into not less than two watches while at sea. [46 CFR 15.705]
11. 46 U.S.C. 8903 requires the OUTV to be licensed by the Secretary under prescribed regulations. 46 U.S.C. 8104© does not permit any licensed or unlicensed seamen on a towing vessel operating on the Great Lakes to work more than 8 hours in one day. In practice this would require a two or three watch system for operations greater than 8 hours. [46 CFR 15.910]
12. 46 U.S.C. 8903 requires the OUTV to be licensed by the Secretary under prescribed regulations. 46 U.S.C. 8104(h) does not permit an OUTV to work more than 12 hours in a consecutive 24-hour period. The Coast Guard has interpreted this law to allow OUTVs to be divided into two watches. [46 CFR 15.705(d) and 15.910]
13. 46 U.S.C. 8903 requires the OUPV to be licensed by the Secretary under prescribed regulations. 46 U.S.C. 8104(b) provides that licensed individuals on oceangoing vessels of not more than 100 GT “may not be required” to work more than 12 hours in a 24-hour period while at sea. Therefore an uninspected passenger vessel operating greater than 12 hours should have a two watch system. If the OUPV has no relief and is too fatigued to stand an alert watch, then that individual would be negligent for failure to maintain an adequate watch. [46 CFR 15.601, 15.705 and 15.905]

