

Editorial Notes

AMENDMENTS

2018—Subsecs. (b), (c). Pub. L. 115-232 redesignated subsec. (c) as (b).

1984—Subsec. (b). Pub. L. 98-557 struck out subsec. (b) which contained duplicate tankerman manning requirements. See section 7317(a) of this title.

§ 8704. Alien deemed to be employed in the United States

An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

(Added Pub. L. 100-239, §5(f)(1), Jan. 11, 1988, 101 Stat. 1781; amended Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

Editorial Notes

AMENDMENTS

1996—Par. (2). Pub. L. 104-208 substituted “Magnuson-Stevens Fishery” for “Magnuson Fishery”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

CONSTRUCTION

Pub. L. 100-239, §5(f)(3), Jan. 11, 1988, 101 Stat. 1781, provided that: “With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term ‘date of the enactment of this section’ [translated as “November 6, 1986”] as used in section 274A(i) of the Immigration and Nationality Act [former 8 U.S.C. 1324a(i)] means the date 180 days after the enactment of this section [Jan. 11, 1988].”

CHAPTER 89—SMALL VESSEL MANNING

Table with 2 columns: Sec. and description. Rows include 8901. Freight vessels, 8902. Small passenger vessels, 8903. Self-propelled, uninspected passenger vessels, 8904. Towing vessels, 8905. Exemptions, 8906. Penalty.

HISTORICAL AND REVISION NOTES

Chapter 89 provides for the manning of freight vessels, small passenger vessels, uninspected passenger vessels, and towing vessels. It permits a licensed operator to be in charge of a vessel in lieu of a licensed master or pilot. It also sets forth exemption and civil penalties.

Editorial Notes

AMENDMENTS

1986—Pub. L. 99-307, §1(14)(A), May 19, 1986, 100 Stat. 446, substituted “Self-propelled, uninspected” for “Uninspected” in item 8903.

§ 8901. Freight vessels

A freight vessel of less than 100 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 shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 555; Pub. L. 104-324, title VII, §733, Oct. 19, 1996, 110 Stat. 3941.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section and Source section (U.S. Code). Row 8901 ..... 46:390b

Section 8901 requires that a freight vessel of less than 100 gross tons be operated by a licensed individual for that type vessel and for a particular geographic area.

Editorial Notes

AMENDMENTS

1996—Pub. L. 104-324 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 “100 gross tons”.

§ 8902. Small passenger vessels

A small passenger vessel shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 555.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section and Source section (U.S. Code). Row 8902 ..... 46:390b

Section 8902 requires that a small passenger vessel of less than 100 gross tons be operated by a licensed individual for that type vessel and for a particular geographic area.

§ 8903. Self-propelled, uninspected passenger vessels

A self-propelled, uninspected passenger vessel shall be operated by an individual licensed by the Secretary to operate that type of vessel, under prescribed regulations.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 555; Pub. L. 99-307, §1(14)(B), (C), May 19, 1986, 100 Stat. 446.)

HISTORICAL AND REVISION NOTES

Table with 2 columns: Revised section and Source section (U.S. Code). Row 8903 ..... 46:1461(e), (f)

Section 8903 requires that an uninspected passenger vessel be operated by a licensed individual for that type of vessel.

**Editorial Notes**

**AMENDMENTS**

1986—Pub. L. 99-307 substituted “Self-propelled, uninspected” for “Uninspected” in section catchline and “A self-propelled,” for “An” in text.

**§ 8904. Towing vessels**

(a) A towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding sheer), shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

(b) A vessel that tows a disabled vessel for consideration shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and recordkeeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 555; Pub. L. 99-640, §12(a), Nov. 10, 1986, 100 Stat. 3550; Pub. L. 108-293, title IV, §409(a), Aug. 9, 2004, 118 Stat. 1044.)

**HISTORICAL AND REVISION NOTES**

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8904 .....	46:405(b)(2)

Section 8904 requires that a 26-foot or larger towing vessel be operated by a licensed individual for that type of vessel and for a particular geographic area.

**Editorial Notes**

**AMENDMENTS**

2004—Subsec. (c), Pub. L. 108-293 added subsec. (c).  
1986—Pub. L. 99-640 designated existing provisions as subsec. (a) and added subsec. (b).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1986 AMENDMENT**

Pub. L. 99-640, §12(b), Nov. 10, 1986, 100 Stat. 3551, provided that: “The amendments made by subsection (a) of this section [amending this section] shall take effect on January 1, 1988.”

**DEMONSTRATION PROJECT**

Pub. L. 108-293, title IV, §409(b), Aug. 9, 2004, 118 Stat. 1045, provided that: “Prior to prescribing regulations under this section [amending this section] the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.”

**§ 8905. Exemptions**

(a) Section 8903 of this title applies to a recreational vessel operated in dealer demonstrations only if the Secretary decides that the application of section 8903 is necessary for recreational vessel safety under section 4302(d) of this title.

(b) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.

(c) After consultation with the Governor of Alaska and the State boating law administrator of Alaska, the Secretary may exempt an individual operating a self-propelled uninspected passenger vessel from the requirements of section 8903 of this title, if—

- (1) the individual only operates such vessel wholly within waters located in Alaska; and
- (2) such vessel is—
  - (A) 26 feet or less in length; and
  - (B) carrying not more than 6 passengers.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 556; Pub. L. 104-324, title VII, §734, title XI, §1104(f), Oct. 19, 1996, 110 Stat. 3941, 3967; Pub. L. 111-281, title VI, §606, Oct. 15, 2010, 124 Stat. 2967; Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8317, Jan. 1, 2021, 134 Stat. 4700.)

**HISTORICAL AND REVISION NOTES**

<i>Revised section</i>	<i>Source section (U.S. Code)</i>
8905(a) .....	46:1461(f)
8905(b) .....	46:405(b)(3)

Section 8905 provides for certain exemptions from the requirements of this chapter.

Subsection (a) exempts dealer demonstration recreational vessels from the licensed operator requirement in section 8903 unless the Secretary decides that safety considerations require the application of that section.

Subsection (b) exempts an offshore supply vessel of less than 200 gross tons from the licensed operator requirement under section 8904 when used in the offshore mineral and oil industry.

**Editorial Notes**

**AMENDMENTS**

2021—Subsec. (c), Pub. L. 116-283 added subsec. (c).  
2010—Subsecs. (b), (c), Pub. L. 111-281 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “Section 8904 of this title does not apply to a vessel of 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 engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.”

1996—Subsec. (b), Pub. L. 104-324, §734, 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 “200 gross tons”.

Subsec. (c), Pub. L. 104-324, §1104(f), added subsec. (c).

**§ 8906. Penalty**

An owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$25,000. The vessel also is liable in rem for the penalty.

(Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 556; Pub. L. 104-324, title III, §306(b), Oct. 19, 1996, 110 Stat. 3918.)