

Coast Guard Authorization Act of 2010 (P.L. 111-281)

New Requirements for Commercial Fishing Industry Vessels Include ...

Section 604 of the "Coast Guard Authorization Act of 2010," (P.L. 111-281) signed into law on 15 October 2010, makes numerous significant changes to chapter 45 of Title 46 United States Code (U.S.C.), "Uninspected Commercial Fishing Industry Vessels" and chapter 51, "Load Lines." These new requirements build on the requirements set forth in the Commercial Fishing Industry Vessel Safety Act of 1988. When implemented through new or amended regulations, the commercial fishing industry should experience enhanced worker and vessel safety.

Parity for All Vessels

Uniform safety standards are established for all vessels, particularly those vessels operating beyond three nautical miles of the baseline of the territorial sea and coastline of the Great Lakes. In Title 46 U.S.C. §4502(b)(1), "documented" is deleted, so there will no longer be different standards for federally-documented and state-registered vessels operating on the same waters. Title 46 Code of Federal Regulations (CFR) Part 28, subpart C must be amended to reflect the change in applicability, and other requirements discussed in some of the following paragraphs.

Replacing Boundary Line with Three Nautical Miles

The "Boundary Line," used as the demarcation line for operating area and equipment standards, was often confusing and not uniform around the U.S. coastline. Title 46 U.S.C. §4502(b)(1)(A) is amended by deleting the words "Boundary Line" and replacing them with "3 nautical miles from the baseline from which the territorial sea of the United States is measured or 3 nautical miles from the coastline of the Great Lakes." The "3-mile line" is well-known and shown on most charts. Various sections of 46 CFR Part 28 must be amended to reflect this change that will affect several equipment carriage requirements.

Survival Craft

All fishing industry vessels operating beyond 3 nautical miles are required to carry survival craft that will meet a new performance standard for primary lifesaving equipment. Title 46 U.S.C. §4502(b)(2)(B) is amended by deleting the words "lifeboats or liferafts" and replacing them with "a survival craft that ensures that no part of an individual is immersed in water." This means that

lifefloats and buoyant apparatus will no longer be accepted as survival craft on any commercial fishing vessel operating beyond 3 nautical miles. 46 CFR Part 28 must be amended to reflect this change. There could be a phase-in period for this requirement to become effective.

Records

A new provision requires the individual in charge of a vessel operating beyond 3 nautical miles to maintain a "safety logbook" - a record of equipment maintenance and required instruction and drills. Title 46 U.S.C. §4502(f) is amended to add this requirement. 46 CFR part 28 must be amended to set forth the requirement. It will be incumbent upon the master/individual in charge of the vessel to maintain these records onboard.

Examinations and Certificates of Compliance

A dockside safety examination at least once every 2 years is now mandatory for vessels operating beyond 3 nautical miles. A "certificate of compliance" will be issued to a vessel successfully completing the exam. Title 46 U.S.C. §4502(f) is amended to add this requirement, and 46 CFR part 28 must be amended to implement it. Voluntary exams will continue to be promoted for vessel operating inside 3 NM.

Related to the requirements for an examination and certificate of compliance, is the authority to terminate a vessel's voyage for unsafe operations as set forth in Section 608 of the Authorization Act. Individuals authorized to enforce Title 46 may remove a certificate from a vessel operating in a condition that does not comply with the provisions of the certificate. And, if the vessel does not have the required certificate onboard, or if the vessel is being operated in an unsafe condition, it may be ordered to return to a mooring and remain there until the certificate is issued/reissued or the hazardous condition is corrected. Title 46 U.S.C. §2117 is amended to change this requirement and authority, and 46 C.F.R. part 28 must be amended to implement it for fishing vessels.

Training for Operators

A new provision applicable to vessels operating beyond 3 nautical miles requires individuals in charge of the vessel to pass a training program covering certain competencies. This is covered in a new 46 U.S.C. §4502(g) and 46 CFR part 28 must

be amended to set forth the requirement. The training must include seamanship, navigation, stability, fire fighting, damage control, safety and survival, emergency drills, and more. Credit can be considered for recent experience on fishing vessels. A certificate will be issued upon successful completion of the training, and refresher training is required every 5 years. A publicly accessible database listing individuals that have completed the training is required to be established.

Construction Standards for Smaller Vessels

Vessels built after January 1, 2010 and less than 50 feet overall in length must be constructed in a manner that provides a level of safety equivalent to the standards for recreational vessels established under Title 46 U.S.C. §4302. This provision is set forth in a new Title 46 U.S.C. §4502(h) and allows the Coast Guard to develop standards using the authority established in §4302. Implementing regulations must be developed.

It should be noted that “overall in length” means the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern excluding fittings and attachments. This is different from the “registered length.”

Load Lines

The Authorization Act amends 46 U.S.C. §5102(b) making assignment of a load line a requirement on fishing vessels 79 feet or greater in length and built after July 1, 2012.

Further, in Title 46 U.S.C. §5103, a new paragraph (c) is added that requires fishing vessels built on or before July 1, 2012 that undergo a substantial change to the dimensions of or type of vessel completed after July 1, 2012, or a later date set by the Coast Guard, to comply with an alternate load line compliance program developed in cooperation with the industry. Regulations must be developed to implement this program. It is anticipated that the Commercial Fishing Safety Advisory Committee will be engaged to provide recommendations on alternate compliance programs here, and those related to vessel classing below.

Classing of Vessels

The Authorization Act amends Title 46 U.S.C. §4503 to make that section applicable to fishing and fish tender vessels in addition to fish processing vessels. A new paragraph (c) is added that

requires survey and classification of a fishing vessel that is at least 50 feet overall in length, built after July 1, 2012, and operates beyond 3 nautical miles.

A new paragraph (d) is added in 46 U.S.C. §4503 that requires:

(1) development of an alternate safety compliance program by January 1, 2020 for vessels over 50 feet in length, built before July 1, 2012, and are 25 years of age or older;

(2) an alternate safety compliance program for vessels built before July 1, 2012 that undergo a substantial change to the dimension of or type of vessel completed after the later of July 1, 2012, or a date to be determined by the Coast Guard; and

(3) owner(s) of 30 or more vessels subject to (1) who enter into a compliance agreement with the Coast Guard can delay meeting the requirement of (1) until January 1, 2030.

The alternative safety compliance programs are to be developed in cooperation with the industry, and may be developed for specific regions and fisheries. Further, in this new paragraph (d), vessels classed before July 1, 2012 are required to remain in classification and have a current certificate onboard.

A new paragraph (e) is added Title 46 U.S.C. §4503 that requires the Coast Guard to prescribe the alternate safety compliance program for older vessels by January 1, 2017.

Other Provisions

Title 46 U.S.C. §4502 is amended by also adding requirements for the Coast Guard to establish a Fishing Safety Training Grants Program and a Fishing Safety Research Grant Program. The grants will be awarded on a competitive basis. The Federal share of the activities costs cannot exceed 75 percent. Regulations must be developed to implement these programs.

Title 46 U.S.C. §4508 is amended to rename the current “Commercial Fishing Industry Vessel Safety Advisory Committee” to the “Commercial Fishing Safety Advisory Committee” and reauthorizing it until September 30, 2020. The amendment also expands the committee to 18 members representing various groups and with particular expertise, knowledge, and experience regarding the commercial fishing industry.

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