



16710/02-13

## MARINE SAFETY INFORMATION BULLETIN 02-13

March 08, 2012

### Mandatory Commercial Fishing Vessel Dockside Exams

- Ref:
- (a) Coast Guard and Maritime Transportation Act of 2012, Section 305
  - (b) Coast Guard Authorization Act of 2010, Section 604
  - (c) Title 46 United States Code (USC), Chapter 45
  - (d) Title 46 Code of Federal Regulations (CFR) Part 28
  - (e) CG-CVC3 Letter Dated January 16, 2013

This bulletin provides an update to the information for new federal requirements affecting commercial fishing vessels operating within the Western Alaska Captain of the Port Zone. Ref (b) mandated that on October 16, 2012, all commercial fishing, fish tender and fish processing vessels that operate or transit more than 3 nautical miles from the baseline of the territorial sea demonstrate full compliance with existing commercial fishing vessel regulations found in 46 CFR Part 28 via a mandatory dockside safety examination.

That statutory biennial examination requirement for these vessels has changed. The *Coast Guard and Maritime Transportation Act of 2012*, which was signed into law by the President on December 20, 2012, modified the law to require that dockside safety examinations must be completed at least once every 5 years (instead of 2 years), and that the first dockside exam of a vessel must be completed no later than October 15, 2015. Please note, however, that depending on the type and area of vessel operations, other examination requirements may still apply (such as for meeting observer requirements, District-granted equipment exemptions, post-SAR boarding and safety checks, post-voyage termination compliance checks, etc.).

This requirement will still apply to all commercial fishing vessels regardless of size or fishery. The territorial sea baseline is defined in 33 CFR § 2.20 (generally the low water mark) and is depicted with the 3 nautical mile line on nautical charts published by the National Oceanic and Atmospheric Administration (NOAA).

### Background

According to the National Institute for Occupational Safety and Health (NIOSH), commercial fishing continues to rank as one of the most dangerous occupations in the U.S. The annual fatality rate for fishermen in Alaska is 26 times greater than the rate for all U.S. workers. A review of fatalities in the fishing industry from 2000-2010 indicated that more than half of all fatalities (51%) occurred after a vessel disaster. Historically, commercial fishing vessel safety standards have been lower than standards for other domestic commercial vessels, and lower than international standards for fishing vessels. The Commercial Fishing Industry Vessel Safety Act of 1998 promulgated a basic set of regulations and voluntary programs to enhance safety aboard fishing vessels. Although data shows that fatalities have decreased since the act of 1998;

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casualties are still occurring at alarming and unacceptable levels. Many of the casualties and fatalities are entirely preventable. The establishment of mandatory exams by Ref (a) is intended to substantially reduce vessel loss and fatality rates by verifying compliance with established safety standards. The utilization of the 3 nautical mile line from the baseline is a risk-based approach to provide specific oversight to vessels engaged in more hazardous fisheries and operating areas and to simplify applicability requirements for vessel operators.

### **Compliance Options**

The most straightforward method to demonstrate compliance with the new examination requirement is to have a current Commercial Fishing Vessel Safety (CFVS) decal. Additional acceptable proof of compliance includes having a Form CG-5587 signed by a Coast Guard examiner, or possessing a signed letter of compliance from an accepted or similarly qualified third party organization.

Third party examinations by an accepted or similarly qualified organization as defined in 46 CFR § 28.73 and 28.76 are encouraged; however each vessel operator must verify with the organization or surveyor that they have been designated by the Coast Guard appropriately or the exam is considered invalid and will not be documented properly in the Coast Guard database.

The exam will verify compliance with existing regulations within 46 CFR Part 28. There are currently no new equipment requirements at this time or changes to references for equipment carriage requirements (i.e. boundary lines). If you have had a voluntary dockside exam in the past, you should notice no change in the actual exam itself.

### **Phase-in**

On October 15, 2015 it is mandatory for all commercial fishing vessels operating beyond the 3 nautical mile limit to come into compliance and I strongly encourage all vessel owners and operators to request and complete a safety examination as soon as possible. My staff will attempt to support all requests for exams; however it will be in your best interest to review your vessel's equipment to ensure your vessel meets all requirements prior to the examination, as it may be difficult for my examiners to return to clear deficiencies prior to a desired operating date. A checklist generator that can be customized to your vessel is available at the following link:

<http://www.uscg.mil/d13/cfvs/>

As always, my examiners will be available to answer any questions you might have to ensure your vessel is ready for the next available dockside examination.

### **Enforcement**

Commercial fishing vessels found to be operating beyond the 3 nautical mile limit without a valid CFVS decal or other acceptable means of demonstrating compliance may result in enforcement action that can include civil penalties, termination of the vessel's voyage if boarded at-sea, or other operational controls such as a Captain of the Port Order. Additionally, commercial fishing vessels known to be operating in waters beyond 3 nautical miles, which refuse a mandatory dockside examination, may be targeted for a boarding at sea.

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### **Additional Information**

Commercial fishing vessels that do not operate outside the 3 nautical mile limit are not required to complete a dockside safety examination, but it is highly encouraged and we will continue to provide voluntary dockside examinations for the vessel operators that request one. Vessels operating inside the 3 nautical mile limit are still required to comply with the regulations in 46 CFR § 28 as applicable.

Operators intending to build a new fishing vessel which will operate outside the 3 nautical mile limit should be aware of the new build requirements. Such vessels less than 50 feet in length must be built in a manner that provides a level of safety equivalent to the minimum safety standards under 33 CFR § 181 and 183 for recreational boats. Such vessels 50 feet and greater in length must be certified as meeting all survey and classification requirements, and vessels 79 feet and greater in length must comply with load line requirements.

Further information regarding Commercial Fishing Industry Vessel Safety may be found at: <http://www.fishsafe.info/>

Please contact BMC Michael Jones at (907) 271-1954 with any questions or concerns.

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