

The Coast Guard Authorization Act of 2010*

New requirements for commercial fishing industry vessels.



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. Additionally, 46 CFR part 28, subpart C must be amended to reflect the change.

Replacing Boundary Line with Three Nautical Miles

Title 46 U.S.C. §4502(b)(1)(A) is amended by replacing “Boundary Line” with “three nautical miles from the baseline from which the territorial sea of the United States is measured or three nautical miles from the coastline of the Great Lakes.” Various sections of 46 CFR part 28 must be amended to reflect this change. The boundary line location was confusing, whereas the three-mile line is a well-known demarcation shown on most charts.

Survival Craft

All fishing industry vessels operating beyond three 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 replacing “lifeboats or liferafts” with “a survival craft that ensures that no part of an individual is immersed in water.” This means that life floats and buoyant apparatus will no longer be accepted as survival craft on any commercial fishing vessel operating beyond three nautical miles; 46 CFR part 28 must be amended to reflect this change and there could be a phase-in period for this requirement.

Records

A new provision requires that the individual in charge of a vessel operating beyond three nautical miles 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.

Examinations and Certificates of Compliance

Dockside safety examinations at least once every two years are now mandatory for vessels operating beyond three nautical miles. A certificate of compliance will be issued to a vessel successfully completing the exam; 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 vessels operating inside three nautical miles.

Related to this, 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 on board, 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 condition is corrected. Title 46 U.S.C. §2117 is amended to change this requirement, and 46 CFR part 28 must be amended to implement it for fishing vessels.

Training for Operators

A new provision applicable to vessels operating beyond three 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. The training must include, among other things, seamanship, navigation, stability, fire fighting, damage control, safety and survival, and emergency drills. Credit can be considered for recent experience on fishing vessels. Refresher training is required every five years. A publicly accessible database listing individuals who completed the training will 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 46 U.S.C. §4302. This provision is set forth in a new 46 U.S.C. §4502(h). Implementing regulations must be developed. Note: "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 "registered length."

Loadlines

The act amends 46 U.S.C. §5102(b) making assignment of a loadline a requirement on fishing vessels 79 feet or greater in length that are built after July 1, 2012.

Further, in 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 dimension of or type of vessel completed after July 1, 2012, or a later date set by the Coast Guard, to comply with an alternate loadline compliance program developed in cooperation with the industry. It is anticipated that the Commercial Fishing Safety Advisory Committee will be engaged in helping to develop alternate compliance programs here, and related to vessel classing below. Regulations must be developed to implement these programs.

Classing of Vessels

The act amends 46 U.S.C. §4503 to make it 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 in overall length, built after July 1, 2012, and operates beyond three nautical miles. It also requires the vessel to remain "in class" and have the appropriate certificates on board.

A new paragraph (d) is added to 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 25 years of age or older;
- (2) an alternate safety compliance program for vessels built before July 1, 2012 that undergo a substantial change 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, vessels classed before July 1, 2012 are required to remain in classification and have a current certificate on board.

A new paragraph (e) is added to 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.

Title 46 U.S.C. §4508 is amended by renaming the Commercial Fishing Safety Advisory Committee and reauthorizing it until September 30, 2020. The committee is also expanded to 18 members and will continue to represent groups with expertise, knowledge, and experience regarding the commercial fishing industry.

*(P.L.111-281)

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