U.S. Department of Homeland Security

United States Coast Guard

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16710/46CFR28
G-PCV Policy Letter 06-03
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From: M. B. Karr, CAPT
COMDT (G-PCV)

To: Distribution

Subj: EXEMPTION LETTERS FOR EXISTING FISH PROCESSING VESSELS

Ref: (a) Implementation of the Commercial Fishing Industry Vessel Regulations, COMDTINST 16711.13B
(b) MVI Policy ltr 14/90 dtd 20 Jun 1990

1. Purpose. This letter provides guidance to Districts, Sectors, and Marine Safety Units concerning exemptions authorized by, Title 46 Code of Federal Regulations, §28.60, for certain existing fish processing vessels.

2. Directives affected. None.

3. Applicability.

a. District Commanders and Officers in Charge, Marine Inspection (OCMI), shall ensure these guidelines are considered prior to granting exemptions under the authority of 46 CFR 28.60 to existing fish processing vessels. It is the intent of this letter to provide program guidance for issuance of exemption letters to existing fish processing vessels for which exemption applications are received by July 15, 2006. This guidance is intended to provide sufficient flexibility to accommodate vessel differences and support local judgment.

b. This Policy Letter is not applicable to a vessel currently examined and classed under 46 CFR Part 28, Subpart F, or to vessels subject to inspection under a subchapter other than Subchapter C of Chapter 1, Title 46 of the U.S. Code, or to vessels for which exemption applications have not been received by July 15, 2006. Such vessels are subject to the requirements of 46 CFR Part 28, Subpart F.

4. Background.

a. The Commercial Fishing Industry Vessel Safety Act (PL. 100-424) and the implementing regulations of 46 CFR Part 28, Subpart F, "Fish processing vessels," make a significant distinction between the minimum safety requirements for fishing vessels and fish processing vessels. A fishing vessel is defined in 46 U.S.C. 2101 as a "vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish." A fish processing vessel is defined in 46 U.S.C. 2101 as "a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling."

b. Through investigations of the sinking with loss of life of the F/V ARCTIC ROSE in 2001 and the F/V GALAXY in 2002, the Coast Guard has become aware that a large number of vessels that commercially engage in fishing (and would thus otherwise meet the definition of

a fishing vessel) undertake fish and fish product preparation other than gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling (and would thus meet the definition of a fish processing vessel). These vessels comprise what is known as the Head and Gut Fleet. The fleet is comprised of approximately 23 freezer trawlers and 40 freezer longliners with an average complement of over 25 persons and which operate in the Bering Sea/Aleutian Islands and the Gulf of Alaska.

c. 46 U.S.C. 2101 defines "fish processing vessel" as provided above. Reference (b) states that the Coast Guard will apply a strict interpretation of this definition. Reference (b) specifies that "[a]ny fishing vessel that prepares its or another vessel's catch in a manner that exceeds gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling is considered a fish processing vessel." Applying a strict interpretation serves safety and carries out Congressional intent. Enclosure (1) contains a list of operations identified by the National Marine Fisheries Service Product Codes which, when undertaken on a commercial fishing industry vessel, qualify the vessel as a fish processing vessel. This list was developed for the Head and Gut Fleet and is not all inclusive. As industry practices change or if questions arise, the Commandant will evaluate the operation for a determination.

d. Fish processing vessels are required by 46 CFR 28.710 to be examined at least once in every two years for compliance with applicable regulations by the American Bureau of Shipping, or a similarly qualified organization, and by 46 CFR 28.720 to be classed by the American Bureau of Shipping, or a similarly qualified organization. Additionally, 46 CFR Subchapter E—Load Lines applies to fish processing vessels over 79 feet in length since they are not exempted as fishing vessels.

e. An exemption under 46 CFR 28.60 may be granted by the District Commander provided: 1) good cause exists for the exemption; and (2) the safety of the vessel and those on board will not be adversely affected.

f. The District Commander may exempt a vessel in the Head and Gut Fleet from the requirements of 46 CFR Part 28, including the examination and class requirements of Subpart F. OCMI's may grant Load Line Exemption Certificates for up to two years to coincide with the District Commander's exemption from 46 CFR 28.720. A copy of all exemptions granted should be forwarded to the Area Fishing Vessel Safety Coordinator and to Commandant (G-PCV-3).

5. Guidance.

a. The distinction between fishing vessels and fish processing vessels is significant because of the differing safety requirements. Since fish processing vessels typically involve more individuals on board, more complicated working environments in terms of machinery arrangements and vessel configurations, and higher fire loading, due to packaging and refrigerants, regulations require additional safety considerations. These safety considerations are primarily focused on the vessel design, construction, maintenance, stability, and watertight integrity. Any alternative to the provisions of 46 CFR Part 28, Subpart F must consider these areas recognizing that the operating environment (which often involves

relatively large numbers of crew working below deck in harsh sea conditions) makes the seaworthiness of the vessel itself the primary method of protecting the crew.

b. Each vessel in the Head and Gut fleet is unique and should be considered on a case-by-case basis rather than considering a class exemption for the entire fleet. By considering vessels individually rather than as a fleet there is better control on each vessel and additional flexibility to accommodate individual vessel differences.

c. In requesting an exemption under 46 CFR 28.60, the vessel owner has the burden of showing good cause and adequate levels of safety. The District Commander should consider whether the vessel's seaworthiness is comparable to that of vessels examined and classed under Subpart F. A request by an owner for exemption of any regulation under 46 CFR Part 28 should be accompanied by documentation articulating why good cause exists. It should further explain why the owner is not pursuing examination and classification under Subpart F, and demonstrating how the owner proposes to provide a level of safety equivalent to that required by American Bureau of Shipping (ABS) classification and a Load Line Certificate.

d. This guidance document applies only to exemption requests received from owners by July 15, 2006. Subject to local discretion, it is anticipated that preliminary examinations will be completed by May 1, 2007. Full compliance with all requirements and issuance of exemption letters and Load Line Exemption Certificates should be completed by January 1, 2008. Vessels in this fleet from which exemption requests have not been received by July 15, 2006, may be deemed fishing vessels for compliance or enforcement purposes. In these cases any processing other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling may be investigated for potential violation of 46 CFR Part 28, Subpart F.

e. The Coast Guard does not intend to enforce 46 CFR Part 28, Subpart F, with respect to vessels from whom an exemption request is received by July 15, 2006. Requests for consideration under this policy letter should identify the operations on board. Exemption letters should specify those operations permitted and applicable conditions. The table below, extracted from enclosure (1), includes examples of processing undertaken by the Head and Gut Fleet.

Processing Operations (codes) accepted for Head and Gut Fleet		
10	Headed & Gutted, Tail Removed	Head removed usually in front of collar bones, viscera & tail removed

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11	Kirimi (Steak)	Head removed either in front or behind the collar bone, viscera removed, & tail removed by cuts perpendicular to the spine, resulting in a steak.
14	Roe	Eggs, either loose or in sacs, or skeins (Ancillary only)
15	Pectoral Girdle	Collar bone & associated bones, cartilage & flesh
16	Heads	Heads only, regardless where severed from body (Ancillary only)
17	Cheeks	Muscles on side of head (Ancillary only)
18	Chins	Lower jaw (mandible), muscles, & flesh (Ancillary only).
34	Milt	In sacs, or testes (Ancillary only)
35	Stomachs	Includes all internal organs (Ancillary only)

f. Areas to be considered in evaluating exemptions for existing fish processing vessels in this fleet should include, but are not limited to:

(1) Initial and periodic attendance by a Coast Guard marine inspector. (Note: throughout this process, the District Commander and OCMI may rely upon the work of an independent marine surveyor to the extent, in his/her judgment, appropriate.)

(2) Exemptions should be for a limited duration not to exceed a maximum of two years. This allows for changes in regulations, condition surveys, review of operating records, and inspection of vessel changes. An exemption is not a right and continued vigilance by the owner is ensured with limited duration exemptions. Biennial reapplication may be undertaken by the vessel owner to include an evaluation of the past year's safety performance. Biennial renewals of exemptions after this evaluation are at the discretion of the District Commander.

(3) Stability.

(A) The owner should demonstrate an up-to-date lightweight determination by a naval architect, either an inclining experiment or detailed deadweight survey within the preceding 5 years.

(B) Due to weight growth of vessels, revised lightweight determinations should be accomplished every 5 years.

(C) Stability calculations must be appropriate for expected operations and show compliance with current stability requirements in 46 CFR Part 28, Subpart E. Copies of stability information, calculations, and guidance for operating personnel should be provided.

(D) Stability guidance provided to operating personnel should be appropriate and easily understood.

(E) Since watertight integrity has been shown to be the cause of many fishing vessel casualties, stability guidance should also address maintaining watertight integrity of bulkheads, doors, hatches, valves, sea chests, shell penetrations, and removal of water introduced in the movement or processing of catch. At a minimum, a listing of closures, their locations, and remote means of closure should be included.

(F) Indicators or alarms should be fitted on all doors on the main deck in the after one-third of the vessel's length that have the potential of contributing to downflooding. Additionally, such doors should be marked, "Opening authorized for transit only – keep closed at sea."

(G) Maximum drafts in various conditions and methods of determining the maximum and intermediate drafts should be provided. Stability guidance should include expected departure conditions to be checked and a method for operating personnel to determine adequacy of loading prior to departure.

(4) Dry dock examinations.

(A) A Coast Guard dry dock examination and internal structural examination should be conducted for initial exemption. Compliance with the requirements of 46 CFR 61.20-5 through 61.20-23 is considered appropriate for fish processing vessels. Where guidance is needed, requirements for inspected vessels should be used and is considered equivalent to the requirements for classification by the ABS and maintenance of a Load Line Certificate.

(B) Unscheduled dry dock examinations should be attended by a Coast Guard marine inspector. Any request for exemption should include the owner's intent to provide the Coast Guard with timely notification of any out of water or underwater examinations.

(5) Hull watertight integrity. Hull and main support member thickness gauging should be conducted for initial consideration of exemption and at each alternate scheduled dry dock thereafter, at the discretion of the cognizant OCMI. In general, wastage should not exceed more than 25% of the original thickness. If the original thickness cannot be determined, the owner shall present calculations comparing existing scantlings to the *Rules for Classing and Building Steel Ships*, ABS. Hull thickness gauging should include at a minimum:

(A) Three transverse sections in the midship 0.5 L;

(B) Internals within the fore and aft peak tanks if so fitted;

(C) Wind and water strakes, port and starboard sides for the entire length of the vessel;

(D) Exposed main deck plating and superstructure plating at the discretion of the marine inspector;

(E) Sea chests; and

(F) Any area at the discretion of the attending marine inspector.

(6) Machinery systems.

(A) Machinery Maintenance. The material, design, construction, workmanship and arrangement of main propulsion and electrical generation machinery and of each auxiliary, directly connected to the engines and supplied as such, should be maintained in accordance with a preventive maintenance standard accepted by the Coast Guard.

(B) Fuel Systems.

(i) All hoses carrying flammable or combustible liquids, i.e., fuel oil, lube oil, or hydraulic oil systems, etc., located in the engine room should comply with Society of Automotive Engineers Std 1942 - Hose and Hose Assemblies for Marine Applications, see 46 CFR 56.60-25 for additional requirements. This excludes the use of push lock fittings and hoses.

(ii) Fuel level gauges used on metal tanks should comply with 46 CFR 58.50-10(a)(6). Gauge glasses, if fitted to diesel fuel tanks, should be of heat resistant materials, adequately protected from mechanical damage, and provided at the tank connections with devices that will automatically close in the event of rupture of the gauge or gauge lines.

(C) Guards and exposed hazards. Each exhaust pipe within 15 feet of flammable or combustible piping should be insulated or otherwise guarded to prevent ignition from leaks at piping joints.

(D) Examination of records and tests. At each annual renewal inspection, the marine inspector should have access to any and all records pertaining to maintenance and operation of the vessel's machinery. The owner's proposal should include consent for the attending marine inspector to conduct any tests and inspections of the main propulsion and electrical generation machinery, and of each auxiliary and its associated equipment, as necessary to determine the condition and reliability of the equipment. In general, the examination should not be more thorough than that required for a mid-term examination of an inspected vessel vice an inspection for certification.

(7) Fire Safety Hazard Survey. At each annual renewal inspection, the marine inspector and a vessel representative should conduct a fire safety hazard survey of the vessel with special emphasis on engine spaces and quarters to identify and remedy any fire safety hazards which may exist. An agreed upon list of hazards should be developed in discussions between the owner and the cognizant OCMI prior to the initial inspection.

(8) Lifesaving equipment. Each embarkation station should be fitted with a Coast Guard or SOLAS approved embarkation ladder if the freeboard at the embarkation station exceeds five feet in any condition of loading. All liferafts should be mounted and arranged so as to be manually launched by a single person. The requirements of 46 CFR 28.310 should be applied.

(9) _Firefighting extinguishing systems. The requirements of 46 CFR Part 76 should be applied.

(10) Firefighting equipment.

(A) Independent fire pump/bible pump

(i) Each vessel should be equipped with one or more self priming, independently powered (independent of the ship's auxiliary power system) portable fire/dewatering pumps. Each pump should be provided with suction hose and strainers adequate to reach water sources for either service and must be capable of picking up suction for the highest lift. Correspondingly, discharges hose should be readily available for each service.

(ii) Testing: When connected to a National Standard Fire Hose (1.5 inches diameter lined commercial fire hose), and fitted with a nozzle made of corrosion resistant material capable of providing a solid stream and a spray pattern, the pump should be capable of producing an effective 40 foot hose stream from two half inch nozzles.

(B) Each vessel should be equipped with a minimum of two (2) traditional bunker style fireman's outfits as described in 46 CFR 96.35. At the discretion of the OCMI, this number may be increased. Each outfit should consist of one self-contained breathing apparatus (SCBA), attached lifeline, flashlight, rigid helmet, boots, gloves, protective clothing with reflective tape and one fire axe. At least two spare air bottles should be provided for each SCBA. Each SCBA must be approved by Mine Safety Health Administration (MSHA) and National Institutes of Occupational Safety and Health (NIOSH) having a minimum 30 minute air supply and a full face mask; 46 CFR 96.30 should apply.

(C) Each vessel should have posted a current and up-to-date Fire and Safety Plan.

(11) Processor space dewatering. Dedicated factory processing space high water alarms should be installed near each corner of the factory space to sense water accumulation. The sensors should be positioned to sense water more than 6 inches deep. Time delays (up to 5 sec.) may be included in alarm circuits to prevent false signals due

to surge or splash conditions. A visual alarm should sound at the factory deck. An audio alarm should sound in the pilot house and machinery space.

(12) Emergency preparedness. Given the importance of crew preparedness:

(A) Each vessel that operates with less than 16 individuals on board should have a minimum of two (2) certified Fishing Vessel Drill Conductors on board.

(B) Each vessel that operates with 16 – 25 people individuals on board should have a minimum of three (3) certified Fishing Vessel Drill Conductors on board.

(C) Each vessel that operates with 26 - 35 individuals on board should have a minimum of four (4) certified Fishing Vessel Drill Conductors on board.

(D) Each vessel that operates with more than 35 individuals on board should have a minimum of five (5) certified Fishing Vessel Drill Conductors on board.

(E) Every effort should be made, including, but not limited to the use of North Pacific Fishing Vessel Owners Association and Alaska Marine Safety Education Association Spanish & Vietnamese language safety videos, to ensure that all non-English speaking crew members and fish processing personnel are familiar with their emergency responsibilities and duties.

(F) All emergency drills and training should be logged by the master of the vessel. Emergency drills and training records should be maintained on board the vessel and at the vessel's home office for three years.

(G) Sailing Short. At the outset of a voyage a vessel should "possess" the complement of certificated drill conductors as stipulated in this section. In certain unusual circumstances, when vacancies occur at or after the time the crew is required to be aboard, the vessel may sail short handed. This is provided that the vacancy was without the consent, fault, or collusion of the master, owner, or any other person interested in the vessel, the master has made a conscientious effort to find a qualified replacement, and the master is satisfied that the vessel is safe to make the intended voyage. Desertion, arrest, failure to join, hospitalization, etc., are considered to be unusual circumstances and may be grounds for sailing short if the master considers the remaining complement sufficient. However, at each port or place called at during the voyage (including the port of departure), the master is expected to obtain qualified replacements if they are available. The master need not obtain permission to sail short handed, but is expected to report the situation in writing within 12 hours of arrival at the port of destination. The master's decision to sail short handed is subject to the OCMI's review and appropriate administrative action should be taken, if warranted.

(13) Emergency Communications.

(A) Each vessel is expected to have clear procedures, signed by the master and chief engineer explaining the conditions under which fixed extinguishing systems are to be used and responsibilities of all involved parties. These procedures should be included

in monthly drills. An independently powered emergency communication system between the navigating station and the fixed extinguishing system discharge controls should be fitted to allow immediate emergency communication in an emergency. Emergency handheld radios may be used, so long as the radios are stowed at the navigating station and at the main fixed extinguishing system controls.

(14) Global Maritime Distress Signal System (GMDSS). Each vessel should be equipped with GMDSS equipment and be manned with personnel trained and certified in its use. See Coast Guard Navigation and Vessel Inspection Circular 9-93 for guidance.

(15) Automatic Information System (AIS): Each vessel should be equipped with a properly installed and operational AIS system in accordance with 33 CFR 164.46.

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Encl (1): Operations Considered Fish Processing

Dist: ALL AREAS/DISTRICT (P) Officers
ALL Sectors/MSUs in CGD 13 and 17

Product Code 50 CFR 679 Table 1	Product Code Name	Description	Processing Determination
1	Whole / Food Fish		N/A
2	Whole Fish / Bait	Bait. Sold.	N/A
3	Bled Only	Throat, or isthmus, slit to allow blood to drain.	N/A
4	Gutted, Head On	Belly slit & viscera removed	N/A
5	Gutted, Head Off	Belly slit & viscera removed	N/A
6	Head & Gutted, with Roe	None	N/A
7	Headed & Gutted, Western Cut	Head removed just in front of the collar bone, & viscera removed.	N/A
8	Headed & Gutted, Eastern Cut	Head removed just behind the collar bone, & viscera & tail removed	N/A
10	Headed & Gutted, Tail Removed	Head removed usually in front of collar bones, viscera & tail removed	Processing
11	Kirimi (Steak)	Head removed either in front or behind the collar bone, viscera removed, & tail removed by cuts perpendicular to the spine, resulting in a steak.	Processing
12	Salted & Split	Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.	Processing
13	Wings	On skates, side fins are cut off next to body	N/A
14	Roe	Eggs, either loose or in sacs, or skeins (Ancillary only)	Processing
15	Pectoral Girdle	Collar bone & associated bones, cartilage & flesh	Processing
16	Heads	Heads only, regardless where severed from body (Ancillary only)	Processing
17	Cheeks	Muscles on side of head (Ancillary only)	Processing
18	Chins	Lower jaw (mandible), muscles, & flesh (Ancillary only).	Processing

Product Code 50 CFR 679 Table 1	Product Code Name	Description	Processing Determination
19	Belly Flaps	Flesh in region of pelvic & pectoral fins & behind head (Ancillary only)	Processing
20	Fillets with Skin & Ribs	Meat & skin with ribs attached, from side of body behind head & in front of tail.	Processing
21	Fillets with Skin, no Ribs	Meat & skin with ribs removed, from side of body behind head & in front of tail.	Processing
22	Fillets with Ribs, no Skin	Meat with ribs with skin removed from sides of body behind head & in front of tail.	Processing
23	Fillets, Skinless / Boneless	Meat with both skin & ribs removed, from sides of body behind head & in front of tail.	Processing
24	Fillets, Deep-Skin	Meat with skin, adjacent meat with silver lining, & ribs removed from sides of body behind head & in front of tail, resulting in thin fillets.	Processing
30	Surimi	Paste from fish flesh & additives	Processing
31	Minced	Ground flesh	Processing
32	Fish Meal	Meal from whole fish or fish parts; includes bone meal.	Processing
33	Fish Oil	Rendered from whole fish or fish parts. Record only oil destined for sale or burned for fuel onboard	Processing
34	Milt	In sacs, or testes (Ancillary only)	Processing
35	Stomachs	Includes all internal organs (Ancillary only)	Processing
36	Mantles, Octopus or Squid	Flesh after removal of viscera & arms	N/A
37	Butterfly, no Backbone	Head removed, belly slit, viscera & most of backbone removed; fillets attached.	Processing
39	Bones	(If meal, report as 32) (Ancillary only)	Processing
41	Whole Fish / Meal	Whole fish destined for meal (includes offsite production)	N/A

Product Code 50 CFR 679 Table 1	Product Code Name	Description	Processing Determination
42	Bled Fish destine for Fish Meal	(Includes offsite production)	N/A
97	Other Retained Product	If product is not listed on this table, enter code 97 & write a description with product recovery rate next to it in parenthesis.	TBD