U.S. Department of Transportation

News:

Office of the Assistant Secretary for Public Affairs
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USCG 07-90
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COAST GUARD PROPOSES RULES FOR COMMERCIAL FISHING INDUSTRY VESSELS

The U.S. Coast Guard asked for public comments today on a proposal to establish a comprehensive set of safety, design and operational regulations for commercial fishing vessels. All uninspected vessels used in commercial fishing would be affected with the exception of sport fishing vessels.

Commercial fishing is one of the most dangerous occupations in the United States, according to Department of Labor data. Its occupational death rate is nearly seven times the U.S. industry average. Each year, an average 84 fishermen die and 250 vessels are lost. The Coast Guard annually investigates around 1,100 marine accidents and conducts about 3,000 offshore searches involving fishing vessels. Currently, uninspected fishing vessels only have to meet minimal safety requirements.

The Commercial Fishing Industry Vessel Safety Act of 1988 required the Coast Guard to adopt comprehensive safety regulations dealing with radio communication, navigation, lifesaving, firefighting, electrical and marine equipment. In addition, the law required a stability assessment for new vessels and the compilation of casualty statistics.

The proposed requirements would vary depending upon the size of the vessel, its area of operation, the number of persons on board and the date the vessel was built or converted.

The Coast Guard based this proposal on the recommendations from the Commercial Fishing Industry Vessel Advisory Committee and nearly 200 comments received in response to an Advance Notice of Proposed Rulemaking published Dec. 29, 1988. In spite of the large number of comments, the Coast Guard is concerned about the lack of detailed comments on stability. Comments from designers and naval architects experienced in fishing vessel stability are especially requested.

The complete text of the proposal will be published in the April 19 issue of the Federal Register. Written comments should be mailed before Aug. 17 to Commandant (G-LRA-2), U.S. Coast Guard Headquarters, Washington, DC 20593-0001. The Coast Guard will hold a public hearing on the proposal on a date to be announced. For more information call (202) 267-2997.

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federal register

Thursday
April 19, 1990

Part II

Department of Transportation

Coast Guard

46 CFR Parts 25 and 28

Emergency Position Indicating Radio Beacons for Uninspected Fishing, Fish Processing, Fish Tending and Commercial Vessels and Commercial Fishing Industry Vessel Regulations; Rule and Proposed Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD-87-016]

RIN 2115-AC69

Emergency Position Indicating Radio Beacons for Uninspected Fishing, Fish Processing, and Fish Tending Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule: suspension of compliance date for a limited category of fishing vessels.

SUMMARY: For a limited category of fishing vessels, the Coast Guard is suspending the compliance date of its final rule that requires Category 1 406 MHz emergency position indicating radio beacons (EPIRBs) to be carried on uninspected fishing, fish processing and fish tender vessels operating on the high seas. This suspension is for those fishing vessels without galleys and berthing facilities. The Coast Guard is considering a less expensive alternative means of compliance for those vessels. This suspension will allow owners of these vessels to avoid the expense of purchasing Category 1 406 MHz EPIRBs at least until further Coast Guard consideration of the alternative is complete.

EFFECTIVE DATE: April 19, 1990.

ADDRESSES: Between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, comments and the Final Rule are available for inspection and coping at the Marine Safety Council, U.S. Coast Guard, room 3314, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Stanford W. Deno, Survival Systems Branch, room 1404, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: A Final Rule was published in the **Federal Register** on August 17, 1988 (53 FR 31004), effective October 3, 1988. This rule required owners of fishing vessels, fish processing vessels and fish tender vessels operating on the high seas to ensure that the vessels do not operate unless they have on board a Category 1 406 MHz satellite EPIRB. As originally published, owners had until August 17, 1989, to bring their vessels into compliance with the rule. On April 13, 1989, a Final Rule was published in the **Federal Register** (54 FR 14811) extending the compliance date until May 17, 1990.

Public Law 100-540, known as the "EPIRB's on Uninspected Vessels Requirements Act" (102 Stat. 2719, October 28, 1988), amended section 4102 of title 46 of the United States Code by revising paragraph (e) to require uninspected vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline to carry the number and type of emergency position indicating radio beacons (EPIRBs) prescribed by regulation.

In a Proposed Rule published elsewhere in this edition of the **Federal Register** (CGD 87-016a, Emergency Position Indicating Radio Beacons for Uninspected Vessels) the Coast Guard is proposing an alternative requirement for those small open vessels that do not have galleys and berthing facilities. Under that proposal, such vessels would be permitted to carry an FCC Type Accepted Category 2, manually activated 406 MHz EPIRB in lieu of the Category 1, float free EPIRB. This alternative would provide this limited category of vessels a less costly requirement that would be more practical to the fishermen using these open boats. That same proposal has also been cross-referenced in the Notice of Proposed Rulemaking on Commercial Fishing Industry Vessel Regulations, (CGD 88-079) also published in today's **Federal Register**. For these reasons, the Coast Guard is suspending the compliance date for this rule as it applies to fishing vessels that do not have galleys and berthing facilities. Therefore, such vessels operating on the high seas need not be equipped with a Category 1 406 MHz EPIRB by May 17, 1990.

Regulatory Evaluation

The original regulations were considered to be non-major under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A final regulatory evaluation has been prepared and placed in the docket. It may be inspected or copied at the Office of the Marine Safety Council (see "**ADDRESSES**", above). Since this limited suspension of the compliance date has minimal economic impact, and will not affect the conclusions of the final evaluation, no further evaluation is considered necessary.

Regulatory Flexibility Act

Since this limited suspenion of the compliance date has no negative economic impact, the Coast Guard certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

It has been determined that this rulemaking is categorically excluded from detailed environmental evaluation. The Categorical Exclusion Determination for the original rulemaking is available in the docket for examination.

Paperwork Reduction

No paperwork is required by this regulation.

Federalism Statement

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment.

Regulatory Information Number

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

In consideration of the foregoing subchapter C of chapter I of title 46, Code of Federal Regulations, is amended as follows:

PART 25—[AMENDED]

1. The authority citation to part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b), 46 U.S.C. 3306, 4104, and 4302; 49 CFR 1.46.

2. In § 25.26-1, by revising the introductory text of paragraph (a), and by adding a new paragraph (c) to read as follows:

§ 25.26-1 Uninspected fishing, fish processing, and fish tender vessels.

(a) Except as provided in paragraph (c) of this section, after May 17, 1990, the owner of an uninspected vessel that is a fishing vessel, a fish processing vessel, or a fish tender vessel shall ensure that the vessel does not operate on the high

seas, as defined in 33 CFR 2.05-1(a), unless it has on board—

* * * * *

(c) This section does not apply to—

(1) A skiff or workboad if—

(i) Its "mother ship" carries an EPIRB as required by paragraph (a) of this section; and

(ii) When not in use, the skiff or work boat is carried aboard the mother ship; or

(2) A fishing vessel if it—

(i) Does not have berthing facilities; and

(ii) Does not have a galley.

Dated: April 6, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 25

[CGD 87-016a]

RIN 2115-AC69

Emergency Position Indicating Radio Beacons for Uninspected Vessels

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the uninspected vessel regulations by requiring emergency position indicating radio beacons (EPIRBs) to be carried on uninspected commercial vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline. The EPIRB's on Uninspected Vessels Requirements Act amended the shipping laws of the United States by requiring those vessels to have the number and type of EPIRBs prescribed by regulation. By implementing the law, the regulations will ensure rapid and effective search and rescue during emergency situations. Some other minor revisions to the regulations for uninspected vessels are proposed as well.

DATES: Comments must be submitted on or before June 18, 1990.

ADDRESSES: Comments should be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3600) (CGD 87-016a), U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001. Between the hours of 8 a.m. and 3 p.m. Monday through Friday, except holidays, comments may be delivered to, and are available for inspection and copying at, the Marine Safety Council, U.S. Coast Guard, Room 3600, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Stanford W. Deno, Survival Systems Branch, room 1404, U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001, (202) 267-1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Public Law 100-540, known as the "EPIRB's on Uninspected Vessel Requirements Act" (102 Stat. 2719, October 28, 1988), amended section 4102 of title 46 of the United States Code by revising paragraph (e) to require uninspected vessels operating on the high seas and on the Great Lakes beyond three miles from the coastline to carry the number and type of emergency position indicating radio beacons (EPIRBs) prescribed by regulation. The rules discussed in this notice would implement that law.

Similar rules requiring the carriage of EPIRBs on uninspected fishing, fish processing, and fish tender vessels operating on the high seas were published in the **Federal Register** on August 17, 1988 (53 FR 31004). Those rules were published under the authority of section 16 of the "Coast Guard Authorization Act of 1986" (Pub. L. 99-640, 100 Stat. 3545). The "EPIRB's on Uninspected Vessel Requirements Act" expanded the requirement for the carriage of EPIRBs to all uninspected commercial vessels operating on the high seas, *and* on the Great Lakes beyond three miles from the coastline. Another Notice of Proposed Rulemaking (NPRM) in this edition of the **Federal Register** titled "Commercial Fishing Industry Vessel Regulations" (CGD 88-079) includes proposed EPIRB requirements for uninspected commercial fishing vessels, fish tender vessels, and fish processing vessels. The proposed requirements in this NPRM would apply to all other uninspected commercial vessels operating on the high seas or on the Great Lakes beyond three miles from the coastline.

Drafting Information

The principal persons involved in drafting these regulations are: LCDR Stanford W. Deno, Office of Marine Safety, Security and Environmental Protection, Mr. R.L. Markle, Office of Marine Safety, Security and Environmental Protection, and CDR G.A. Gallion, Project Counsel, Office of Chief Counsel.

Discussion

The proposed amendments to part 25 of 46 CFR subchapter C would apply only to uninspected *commercial* vessels such as tugboats, towboats, small freight vessels, fishing industry vessels, and vessels under 100 gross tons carrying 6 or less passengers for hire. Recreational boats are not affected, as long as they do not operate in commercial service. These proposed amendments apply to all uninspected commercial vessels that operate beyond three miles from the coastline of the Great Lakes. Fishing vessels on the high seas are already required to carry EPIRBs under 46 CFR 25.26. Additional rules affecting fishing vessels are discussed in the separate NPRM on Commercial Fishing Industry Vessel Regulations (CGD 88-079) in this edition of the **Federal Register**.

Uninspected vessels are generally small vessels which, when damaged, may sink suddenly without calling for help. When a distress call is made, it often does not include an accurate or complete identification of the vessel, description of the situation, or position. Uninspected vessels often do not have established routes or schedules. Therefore, the position of an uninspected vessel and whether or not it is overdue may be unknown to anyone ashore. These factors greatly reduce the chance of anyone being rescued following a uninspected vessel casualty. In contrast, when there is an EPIRB to provide prompt notification of the casualty and a homing beacon to guide rescuers to the scene, the chance of saving lives increases dramatically.

The Coast Guard agreed to seek legislative authority to require EPIRBs on uninspected vessels in a response to the April 24, 1980 recommendation resulting from the National Transportation Safety Board (NTSB) investigation of the 1978 loss of the F/V LOBSTA I. In the absence of legislative authority, an internal Coast Guard directive (COMDTINST 2370.2A) of October 28, 1981 instructed Coast Guard personnel to encourage all uninspected vessel operators to carry EPIRBs. Coast Guard and National Transportation Safety Board investigations of a number of uninspected vessel casualties have resulted in recommendations for EPIRBs on all uninspected vessels, in addition to uninspected fishing vessels. These casualties include the F/V BINKI which sank off Alaska in July 1987, the sailing vessel PRIDE OF BALTIMORE which sank north of Puerto Rico in May 1986, the tug M/V CELTIC which sank in Long Island Sound in November 1984, the F/V MARY LOU which sank off Alaska in January 1984, the F/V NOREEN ANN which sank off Alaska in May 1983, the F/V EQUINOX which sank in Alaskan waters in March 1983, and the F/V MARBLEHEAD which sank off Maryland in 1981. In addition, the sinkings of several other uninspected vessels have underscored the importance of an operating EPIRB. The M/V WEST I sank in the Pacific in June of 1986, and although the vessel had an EPIRB on board, it failed to function, and the crew spent over two weeks adrift in a liferaft. Seven were saved, but the master died the day before the survivors were rescued. The M/V PAM ALARIO was a tug that capsized and sank in December 1987. All on board were rescued after six days adrift, but for some reason, the EPIRB on the vessel did not deploy or did not operate. The tug WILLAMETTE PILOT III sank off California in March 1985, but its EPIRB ceased functioning after less than 7 hours of operation.

The proposed regulations would require the use of Federal