

This document shows sections of U.S. Code and Laws as amended by the sections of the Coast Guard Authorization Act of 2010 that refer to fishing or fishing vessels, and includes tracked changes.

[Section 604 of the Act is Fishing Vessel Safety and its amendments to the United States Code are contained in pages 29-55 of this document.](#)

# 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC12113]

[Page 158-160]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part H--Identification of Vessels

##### CHAPTER 121--DOCUMENTATION OF VESSELS

###### SUBCHAPTER II--ENDORSEMENTS AND SPECIAL DOCUMENTATION

### Sec. 12113. Fishery endorsement

- (a) Requirements.--A fishery endorsement may be issued for a vessel that--
  - (1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);
  - (2) was built in the United States;
  - (3) if rebuilt, was rebuilt in the United States;
  - (4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and
  - (5) otherwise qualifies under the laws of the United States to engage in the fisheries.
  
- (b) Authorized Activity.--
  - (1) In general.--Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.
  - (2) Use by prohibited persons.--A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.
  
- (c) Ownership Requirements for Entities.--
  - (1) In general.--A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.
  - (2) Determining 75 percent interest.--In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms ``control'' or ``controlled''--
    - (A) include the right to--
      - (i) direct the business of the entity;
      - (ii) limit the actions of or replace the chief executive

## 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

- officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or
- (iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but
- (B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.
- (3) Exceptions.--This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.
- (d) Requirements Based on Length, Tonnage, or Horsepower.--
- (1) Application.--This subsection applies to a vessel that--
- (A) is greater than 165 feet in registered length;
- (B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or
- (C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.
- (2) Requirements.--A vessel subject to this subsection is not eligible for a fishery endorsement unless--
- (A) (i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997; and
- (ii) the vessel is not placed under foreign registry after October 21, 1998; and
- ~~(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or~~
- (B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105-277, div. C, title II) (16 U.S.C. 1851 note) \1\ to allow the vessel to be used in fisheries under the council's authority-i
- \1\ See References in Text note below.

## 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

- (C) the the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 H. R. 3619-56 Stat. 2681-627) and is eligible for a fishery endorsement under this section; or
    - (D) the vessel is a fish tender vessel that is not engaged in the harvesting or processing of fish.''
- (e) Vessels Measuring 100 Feet or Greater.--
  - (1) In general.--The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.
  - (2) Regulations.--Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.
  - (3) Transfer of ownership.--Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to--
    - (A) leases, charters, mortgages, financing, and similar arrangements;
    - (B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and
    - (C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.
- (f) Vessels Measuring Less Than 100 Feet.--The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.
- (g) Vessels Purchased Through Fishing Capacity Reduction Program.--A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act \1\ (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.
- (h) Revocation of Endorsements.--The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.
- (i) Regulations.--Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit

## 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

(Pub. L. 109-304, Sec. 5, Oct. 6, 2006, 120 Stat. 1495.)

### Historical and Revision Notes

Revised Section (Statutes at Large)	Source (U.S. Code)	Source
12113 (a)	46:12108 (a).	
12113 (b) (1)	46:12108 (b).	
12113 (b) (2)	46:12102 (c) (3).	
12113 (c) (1)	46:12102 (c) (1).	
12113 (c) (2)	46:12102 (c) (2).	
12113 (c) (3)	46:12102 (c) (4).	
12113 (d)	46:12102 (c) (5).	
12113 (e)	46:12102 note.	
Pub. L. 105-277, div. C, title II, Sec. 203(c), Oct. 21, 1998, 112 Stat. 2681-619.		
12113 (f)	46:12102 note.	
Pub. L. 105-277, div. C, title II, Sec. 203(d), Oct. 21, 1998, 112 Stat. 2681- 619.		
12113 (g)	46:12108 (d).	
12113 (h)	46:12102 note.	
Pub. L. 105-277, div. C, title II, Sec. 203(e), Oct. 21, 1998, 112 Stat. 2681-619.		
12113 (i)	46:12102 note.	
Pub. L. 105-277, div. C, title II, Sec.203(b), Oct. 21, 1998, 112 Stat. 2681-619.		

In subsection (b) (1), the word ``only'' is omitted because section 12102(a), as revised by the bill, contains a general requirement for appropriate documentation to engage in any trade.

In subsection (c) (1), the word ``entity'' is substituted for ``corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity'' to eliminate unnecessary words.

In subsection (e) (3), the words ``After October 1, 2001'' are omitted as obsolete.

In subsection (i), the first two sentences of section 203(b) of Public Law 105-277 are omitted as obsolete.

### References in Text

The American Fisheries Act (Public Law 105-277, div. C, title II) (16 U.S.C. 1851 note), referred to in subsec. (d) (2) (B), probably should

## 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

be a reference to the Magnuson-Stevens Fishery Conservation and Management Act (see note below). Subsec. (d)(2)(B) of this section was derived from former section 12102(c)(5)(B) of this title in the general amendment of this chapter by Pub. L. 109-304, Sec. 5, Oct. 6, 2006, 120 Stat. 1491. As part of that amendment, the reference to the American Fisheries Act was substituted for a reference to ``such Act'' which had been preceded by references to both of the above named Acts. See the Historical and Revision Notes above and section 2 of Pub. L. 109-304, set out as a Legislative Purpose and Construction note preceding section 101 of this title.

The Magnuson-Stevens Fishery Conservation Management Act, referred to in subsec. (g), probably means the Magnuson-Stevens Fishery Conservation and Management Act, Pub. L. 94-265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (Sec. 1801 et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 16 and Tables.

### Prior Provisions

A prior section 12113, Pub. L. 98-89, Aug. 26, 1983, 97 Stat. 588, originally derived from section 65a of former

Title 46, Shipping, related to ports of documentation, prior to being repealed by Pub. L. 100-710, title I, Secs. 106(b)(5), 107(a), Nov. 23, 1988, 102 Stat. 4752, effective Jan. 1, 1989.

### Inapplicability of Subsection (d) to Certain Menhaden Fisheries

Pub. L. 106-31, title III, Sec. 3027(c), May 21, 1999, 113 Stat. 102, provided that: ``The limitation on registered length contained in section 12102(c)(6) [now section 12113(d)] of title 46, United States Code, shall not apply to a vessel used solely in any menhaden fishery which is located in the Gulf of Mexico or along the Atlantic coast south of the area under the authority of the New England Fishery Management Council for so long as such vessel is used in such fishery.''

### Exception to Build Requirement for Prior Vessels

Pub. L. 100-239, Sec. 4, Jan. 11, 1988, 101 Stat. 1779, as amended by Pub. L. 101-225, title III, Sec. 310, Dec. 12, 1989, 103 Stat. 1926, provided that:

- ``(a) Notwithstanding the requirements of section 12108(a)(2) and (3) [now section 12113(a)(2) and (3)] of title 46, United States Code, a fishery license may be issued to a vessel that before July 28, 1987--
  - ``(1) (A) was documented under chapter 121 of that title; and
  - ``(B) was operated as a fish processing or fish tender vessel in the navigable waters of the United States or the exclusive economic zone;
  - ``(2) was a fish tender or fish processing vessel contracted to be purchased by a citizen of the United States, if the purchase is shown by contract or similarly reliable evidence acceptable to

## 46 USC 12113 with changes from CG Auth Act Sec. 602 in color

- the Secretary to have been made for the purpose of using the vessel as a fish tender or fish processing vessel in the fisheries;
- ``(3) was documented under chapter 121 of that title and--
    - ``(A) was rebuilt in a foreign country; or
    - ``(B) is subsequently rebuilt in the United States for use as a fish processing vessel; or
  - ``(4) was built in the United States and--
    - ``(A) is rebuilt in a foreign country under a contract entered into before 6 months after the date of enactment of this Act [Jan. 11, 1988], and was purchased or contracted to be purchased before July 28, 1987 with the intent that the vessel be used in the fisheries, if that intent is evidenced by--
      - ``(i) the contract itself; or
      - ``(ii) a ruling letter by the Coast Guard before July 29, 1987 under 46 C.F.R. Sec. 67.21-1 or Sec. 67.27-3 pursuant to a ruling request evidencing that intent; or
    - ``(B) is purchased for use as a fish processing vessel under a contract entered into after July 27, 1987, if--
      - ``(i) a contract to rebuild the vessel for use as a fish processing vessel was entered into before September 1, 1987; and
      - ``(ii) that vessel is part of a specific business plan involving the conversion in foreign shipyards of a series of three vessels and rebuilding work on at least one of the vessels had begun before July 28, 1987.
  - ``(b) A vessel rebuilt under subsection (a) (3) (B) or (4) of this section must be redelivered to the owner before July 28, 1990. However, the Secretary may, on proof of circumstances beyond the control of the owner of a vessel affected by this section, extend the period for rebuilding in a foreign country permitted by this section.
  - ``(c) (1) Any fishery license or registry issued to a vessel built in a foreign country under this section shall be endorsed to restrict the vessel from catching, taking, or harvesting.
  - ``(2) Before being issued a fishery license, any vessel described in subsection (a) (2) of this section must be documented under an application for documentation acceptable to the Secretary filed before July 28, 1987, except that an alternative vessel of no greater tonnage than the vessel in the application may be substituted, if that substitution is made by the original applicant.''

### Definitions

Pub. L. 100-239, Sec. 6(d), Jan. 11, 1988, 101 Stat. 1782, provided that: ``The terms in this Act [see Tables for classification] have the same meaning as in subtitle II [now also sections 114 and 115] of title 46, United States Code (as amended by this Act).''

BLANK PAGE

# American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

## TITLE II – FISHERIES<sup>1</sup>

**SEC. 201. Short Title.** This title may be cited as the “American Fisheries Act”.

**SEC. 202. Standard for Fishery Endorsements.**

(a) **Standard.**

Section 1202(c) of title 46, United States Code, is amended to read as follows--

“(c)(1) A vessel owned by a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or any other entity is not eligible for a fishery endorsement under section 12108 of this title unless at least 75 per centum of the interest in such entity, at each tier of ownership of such entity and in the aggregate, is owned and controlled by citizens of the United States.

“(2) The Secretary shall apply section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)) in determining under this subsection whether at least 75 per centum of the interest in a corporation, partnership, association, trust, joint venture, limited liability company, limited liability partnership, or another entity is owned and controlled by citizens of the United States. For the purposes of this subsection and of applying the restrictions on controlling interest in section 2(c) of such Act, the terms “control” or “controlled”—

“(A) shall include—

“(i) the right to direct the business of the entity which owns the vessel;

“(ii) the right to limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity which owns the vessel; or

“(iii) the right to direct the transfer, operation or manning of a vessel with a fishery endorsement; and

“(B) shall not include the right to simply participate in the activities under subparagraph (A), or the use by a mortgagee under paragraph (4) of loan covenants approved by the Secretary.

“(3) A fishery endorsement for a vessel that is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement and used as fishing vessel shall be invalid immediately upon such use.

“(4) (A) An individual or entity that is otherwise eligible to own a vessel with a fishery endorsement shall be ineligible by reason of an instrument or evidence of indebtedness, secured by a mortgage of the vessel to a trustee eligible to own a vessel with a fishery endorsement that is issued, assigned, transferred or held in trust for a person not eligible to own a vessel with a fishery endorsement, unless the Secretary determines that the issuance, assignment, transfer, or trust arrangement does not result in an impermissible transfer of control of the vessel and that the trustee—

“(i) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

“(ii) is authorized under those laws to exercise corporate trust powers;

“(iii) is subject to supervision or examination by an official of the United States Government or a State;

“(iv) has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

“(v) meets any other requirements prescribed by the Secretary.

“(B) A vessel with a fishery endorsement may be operated by a trustee only with the approval of the Secretary.

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- “(C) A right under a mortgage of a vessel with a fishery endorsement may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322(a)(4) of this title only with the approval of the Secretary.
- “(D) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this paragraph is voidable by the Secretary.
- “(5) The requirements of this subsection shall not apply to a vessel when it is engaged in fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(1)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone of the United States or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the federal law that was in effect on October 1, 1998. A fishery endorsement issued by the Secretary pursuant to this paragraph shall be valid for engaging only in fisheries in the exclusive economic zone under the authority of such Council, in such tuna fishing in the Pacific Ocean, or pursuant to such Treaty.
- “(6) A vessel greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of more than 3,000 shaft horsepower is not eligible for a fishery endorsement under section 1208 of this title unless—
- “(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;
- “(ii) the vessel is not placed under foreign registry after the date of the enactment of the American Fisheries Act; and
- (iii) in the event of the invalidation of the fishery endorsement after the date of the enactment of the American Fisheries Act, application is made for a new fishery endorsement within fifteen (15) business days of such invalidation; or
- “(B) the owner of such vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after the date of the enactment of the American Fisheries Act, and the Secretary of Commerce has approved, conservation and management measures in accordance with such Act to allow such vessel to be used in fisheries under such council’s authority.”

### (b) Preferred Mortgage.

Section 31322(a) of title 46, United States Code, is amended--

- (1) by striking “and” at the end of paragraph (2);
- (2) by striking the period at the end of paragraph (3)(B) and inserting in lieu thereof a semicolon and “and”; and
- (3) by inserting at the end the following paragraph:

“(4) with respect to a vessel with a fishery endorsement that is 100 feet or greater in registered length, has as the mortgagee—

“(A) a person eligible to own a vessel with a fishery endorsement under section 12102(c) of this title;

“(B) a state or federally chartered financial institution that satisfies the controlling interest criteria of section 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(b)); or

“(C) a person that complies with the provisions of section 12102(c)(4) of this title.”

## SEC. 203. ENFORCEMENT OF STANDARD.

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

**(a) Effective Date.**

The amendments made by section 202 shall take effect on October 1, 2001.

**(b) Regulations.**

Final regulations to implement this subtitle shall be published in the Federal Register by April 1, 2000. Letter rulings and other interim interpretations about the effect of this subtitle and amendments made by this subtitle on specific vessels may not be issued prior to the publication of such final regulations. The regulations to implement this subtitle shall prohibit impermissible transfers of ownership or control, specify any transactions which require prior approval of an implementing agency, identify transactions which do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of such industry, and to the opportunity to form fishery cooperatives.

**(c) Vessels Measuring 100 Feet and Greater.**

- (1) The Administrator of the Maritime Administration shall administer section 12102(c) of the title 46, United States Code, as amended by this subtitle, with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with Administrator of the Maritime Administration on an annual basis to demonstrate compliance with such section. Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement under this paragraph shall be written in a manner to allow the owner of each such vessel to satisfy any annual renewal requirements for a certificate of documentation for such vessel and to comply with this subsection and section 12101(c) of title 46, United States Code, as amended by this Act, and shall not be required to be notarized.
- (2) After October 1, 2001, transfers of ownership and control of vessels subject to section 12102(c) of title 46, United States Code, as amended by this Act, which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of such section, with particular attention given to leases, charters, mortgages, financing, and similar arrangements, to the control of persons not eligible to own a vessel with a fishery endorsement under section 12102(c) of title 46, United States Code, as amended by this Act, over the management, sales, financing, or other operations of an entity, and to contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

**(d) Vessels Measuring Less Than 100 Feet.**

The Secretary of Transportation shall establish such requirements as are reasonable and necessary to demonstrate compliance with section 12102(c) of title 46, United States Code, as amended by this Act, with respect to vessel measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate such vessels.

**(e) Endorsement Revoked.**

The Secretary of Transportation shall revoke the fishery endorsement of any vessel subject to section 12102(c) of title 46, United States Code, as amended by this Act, whose owner does not comply with such section.

**(f) Penalty.**

Section 12122 of title 46, United States Code, is amended by inserting at the end the following new subsection:

- “(c) In addition to penalties under subsections (a) and (b), the owner of a documented vessel for which a fishery endorsement has been issued is liable to the United States Government for a

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

civil penalty of up to \$100,000 for each day in which such vessel was engaged in fishing (as such term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) within the exclusive economic zone of the United States, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation with respect to the eligibility of the vessel under section 12102(c) of this title in applying for or applying to renew such fishery endorsement.”

~~(g) **Certain Vessels.** The vessels EXCELLENCE (United States official number 967502, GOLDEN ALASKA (United States official number 651041), OCEAN PHOENIX (United States official number 296779), NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act) shall be exempt from section 12102(c), as amended by this Act, until such time after October 1, 2001 as more than 50 percent of the interest owned and controlled in the vessel changes, provided that the vessel maintains eligibility for a fishery endorsement under the federal law that was in effect the day before the date of the enactment of this Act, and unless, in the case of the NORTHERN TRAVELER or the NORTHERN VOYAGER (or such replacement), the vessel is used in any fishery under the authority of a regional fishery management council other than the New England Fishery Management Council or Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 301(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1) (A) and (B)), or in the case of the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX, the vessel is used to harvest any fish.~~

### **Subtitle II – Bering Sea Pollock Fishery**

#### **SEC. 205. DEFINITIONS.**

As used in this subtitle—

- (1) the term “Bering Sea and Aleutian Islands Management Area” has the same meaning as the meaning given for such term in part 679.2 of title 50, Code of Federal Regulations, as in effect on October 1, 1998.
- (2) the term “catcher/processor” means a vessel that is used for harvesting fish and that does not process pollock onboard;
- (3) the term “catcher vessel” means a vessel that is used for harvesting fish and that does not process pollock onboard;
- (4) the term “directed pollock fishery” means the fishery for directed fishing allowances allocated under paragraphs (1), (2), and (3) of section 206(b);
- (5) the term “harvest” means to commercially engage in the catching, taking, or harvesting of fish or any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish;
- (6) the term “inshore component” means the following categories that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area:
  - (A) shoreside processors, including those eligible under section 208(f); and
  - (B) vessels less than 125 feet in length overall that process less than 126 metric tons per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod;

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (7) the term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);
- (8) the term “mothership” means a vessel that receives and processes fish from other vessels in the exclusive economic zone of the United States and is not used for, or equipped to be used for, harvesting fish;
- (9) the term “North Pacific Council” means the North Pacific Fishery Management Council established under section 302(a)(1)(G) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)(1)(G));
- (10) the term “offshore component” means all vessels not included in the definition of “inshore component” that process groundfish harvested in the Bering Sea and Aleutian Islands Management Area.
- (11) the term “Secretary” means the Secretary of Commerce, and
- (12) the term “shoreside processor” means any person or vessel that receives unprocessed fish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving fish for personal consumption or bait.

### SEC. 206. ALLOCATIONS.

- (a) **Pollock Community Development Quota.** Effective January 1, 1999, 10 percent of the total allowable catch of pollock in the Bering Sea and Aleutian Islands Management Area shall be allocated as a direct fishing allowance to the western Alaska community development quota program established under section 505(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)).
- (b) **Inshore/Offshore.**  
Effective January 1, 1999, the remainder of the pollock total allowable catch in a Bering Sea and Aleutian Islands Management Area, after the subtraction of the allocation under subsection (a) and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species (including under the western Alaska community development quota program) shall be allocated as directed fishing allowances as follows—
  - (1) 50 percent to catcher vessels harvesting pollock for processing by the inshore component;
  - (2) 40 percent to catcher/processors and catcher vessels harvesting pollock for processing by catcher/processors in the offshore component; and
  - (3) 10 percent to catcher vessels harvesting pollock for processing by motherships in the offshore component.

### SEC. 207. BUYOUT.

- (a) **Federal Loan.** Under the authority of sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) and notwithstanding the requirements of section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a), the Secretary shall, subject to the availability of appropriations for the cost of the direct loan, provide up to \$75,000,000 through a direct loan obligation for the payments required under subsection (d).
- (b) **Inshore Fee System.** Notwithstanding the requirements of section 304(d) or 312 of the Magnuson-Stevens Act (16 U.S.C. 1854(d) and 1861(a)), the Secretary shall establish a fee for the repayment of such loan obligations which—
  - (1) shall be six-tenths (0.6) of one cent for each pound round-weight of all pollock harvested from the directed fishing allowance under section 206(b)(1); and
  - (2) shall begin with such pollock harvested on or after January 1, 2000, and continue without interruption until such loan obligation is fully repaid; and

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (3) shall be collected in accordance with section 312(d)(2)(C) of the Magnuson-Stevens Act (16 U.S.C. 1861a(d)(2)(C) and in accordance with such other conditions as the Secretary establishes.
- (c) **Federal Appropriation.** Under the authority of section 312(c)(1)(B) of the Magnuson-Stevens Act (16 U.S.C. 1861a(c)(1)(B)), there are authorized to be appropriated \$20,000,000 for the payments required under subsection (d).
- (d) **Payments.** Subject to the availability of appropriations for the cost of the direct loan under subsection (a) and funds under subsection (c), the Secretary shall pay by not later than December 31, 1998—
- (1) up to \$90,000,000 to the owner or owners of the catcher/processors listed in paragraphs (1) through (9) of section 209, in such manner as the owners, with the concurrence of the Secretary, agree, except that—
- (A) the portion of such payment with respect to the catcher/processor listed in paragraph (1) of section 209 shall be made only after the owner submits a written certification acceptable to the Secretary that neither the owner nor a purchaser from the owner intends to use such catcher/processor outside the exclusive economic zone of the United States to harvest any stock of fish (as such term is defined in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802)) that occurs within the exclusive economic zone of the United States; and
- (B) the portion of such payment with respect to the catcher/processors listed in paragraphs (2) through (9) of section 209 shall be made only after the owner or owners of such catcher/processors will be scrapped by December 31, 2000 and will not, before that date, be used to harvest or process any fish; and
- (2) (A) if a contract has been filed under section 210(a) by the catcher/processors listed in section 208(e), \$5,000,000 to the owner or owners of the catcher/processors listed in paragraphs (10) through (14) of such section in such manner as the owner or owners, with the concurrence of the Secretary, agree; or
- (B) if such a contract has not been filed by such date, \$5,000,000 to the owners or the catcher vessels eligible under section 208(b) and the catcher/processors eligible under paragraphs (1) through (20) of section 208(e), divided based on the amount of the harvest of pollock in the directed pollock fishery by each such vessel in 1997 in such manner as the Secretary deems appropriate, except that any such payments shall be reduced by any obligation to the federal government that has not been satisfied by such owner or owners of any such vessels.
- (e) **Penalty.** If the catcher/processor under paragraph (1) of section 209 is used outside the exclusive economic zone of the United States to harvest any stock of fish that occurs within the exclusive economic zone of the United States while the owner who received the payment under subsection (d)(1)(A) has an ownership interest in such vessel, or if the catcher/processors listed in paragraph (2) through (9) of section 209 are determined by the Secretary not to have been scrapped by December 31, 2000 or to have been used in a manner inconsistent with subsection (d)(1)(B), the Secretary may suspend any or all of the federal permits which allow any vessels owned in whole or in part by the owner or owners who received payments under subsection (d)(1) to harvest or process fish within the exclusive economic zone of the United States until such time as the obligations of such owner or owners under subsection (d)(1) have been fulfilled to the satisfaction of the Secretary.
- (f) **Program Defined; Maturity.** For the purposes of section 1111 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f), the fishing capacity reduction program in this subtitle shall be within the meaning of the term “program” as defined and used in such section. Notwithstanding section 1111(b)(4) of such Act (46 U.S.C. App. 1279f and 1279g).
- (g) **Fishery Capacity Reduction Regulations.** The Secretary of Commerce shall by not later than October 15, 1998 publish proposed regulations to implement subsections (b), (c), (d) and (e) of

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

section 312 of the Magnuson-Stevens Act (16 U.S.C. 1861a) and sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g).

### SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.

- (a) **Catcher Vessels Onshore.** Effective January 1, 2000, only catcher vessels which are—
- (1) determined by the Secretary—
    - (A) to have delivered at least 250 metric tons of pollock; or
    - (B) to be less than 60 feet in length overall and to have delivered at least 40 metric tons of pollock, for processing by the inshore component in the directed pollock fishery in any one of the years 1996 or 1997, between January 1, 1998 and September 1, 1998;
  - (2) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
  - (3) not listed in subsection (b), shall be eligible to harvest the directed fishing allowance under section 206(b)(1) pursuant to a federal fishing permit.
- (b) **Catcher Vessels to Catcher/Processors.** Effective January 1, 1999, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:
- (1) AMERICAN CHALLENGER (United States official number 633219);
  - (2) FORUM STAR (United States official number 925863);
  - (3) MUIR MILACH (United States official number 611524);
  - (4) NEAHKAHNIE (United States official number 599534);
  - (5) OCEAN HARVESTER (United States official number 549892);
  - (6) SEA STORM (United States official number 628959);
  - (7) TRACY ANNE (United States official number 904859); and
  - (8) any catcher vessel—
    - (A) determined by the Secretary to have delivered at least 250 metric tons and at least 75 percent of the pollock it harvested in the directed pollock fishery in 1997 to catcher/processors for processing by the offshore component; and
    - (B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary.
- (c) **Catchers Vessels to Motherships.** Effective January 1, 2000, only the following catcher vessels shall be eligible to harvest the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit.
- (1) ALEUTIAN CHALLENGER (United States official number 603820);
  - (2) ALYESKA (United States official number 560237);
  - (3) AMBER DAWN (United States official number 529425);
  - (4) AMERICAN BEAUTY (United States official number 613847);
  - (5) CALIFORNIA HORIZON (United States official number 590758);
  - (6) MAR-GUN (United States official number 525608)
  - (7) MARGARET LYN (United States official number 615563);
  - (8) MARK I (United States official number 509552);
  - (9) MISTY DAWN (United States official number 926647);
  - (10) NORDIC FURY (United States official number 542651);
  - (11) OCEAN LEADER (United States official number 561518);
  - (12) OCEANIC (United States official number 602279);
  - (13) PACIFIC ALLIANCE (United States official number 612084);
  - (14) PACIFIC CHALLENGER (United States official number 618937);
  - (15) PACIFIC FURY (United States official number 561934);

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (16) PAPADO II (United States official number 536161);
- (17) TRAVELER (United States official number 929356);
- (18) VESTERAALEN (United States official number 611642);
- (19) WESTERN DAWN (United States official number 524423);
- (20) any vessel—
  - (A) determined by the Secretary to have delivered at least 250 metric tons of pollock for processing by motherships in the offshore component of the directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998 and September 1, 1998;
  - (B) eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary; and
  - (C) not listed in subsection (b).
- (d) **Motherships.** Effective January 1, 2000, only the following motherships shall be eligible to process the directed fishing allowance under section 206(b)(3) pursuant to a federal fishing permit:
  - (1) EXCELLENCE (United States official number 967502);
  - (2) GOLDEN ALASKA (United States official number 651042);
  - (3) OCEAN PHOENIX (United States official number 296779).
- (e) **Catcher/Processors.** Effective January 1, 1999, only the following catcher/processers shall be eligible to harvest the directed fishing allowance under section 206(b)(2) pursuant to a federal fishing permit:
  - (1) AMERICAN DYNASTY (United States official number 951307);
  - (2) KATIE ANN (United States official number 518441);
  - (3) AMERICAN TRIUMPH (United States official number 646737);
  - (4) NORTHERN EAGLE (United States official number 506694);
  - (5) NORTHERN HAWK (United States official number 643771);
  - (6) NORTHERN JAEGER (United States official number 521069);
  - (7) OCEAN ROVER (United States official number 552100);
  - (8) ALASKA OCEAN (United States official number 637856);
  - (9) ENDURANCE (United States official number 592206);
  - (10) AMERICAN ENTERPRISES (United States official number 594803);
  - (11) ISLAND ENTERPRISE (United States official number 610290);
  - (12) KODIAK ENTERPRISE (United States official number 579450);
  - (13) SEATTLE ENTERPRISE (United States official number 904767);
  - (14) US ENTERPRISE (United States official number 921112);
  - (15) ARCTIC STORM (United States official number 903511);
  - (16) ARCTIC FJORD (United States official number 940866);
  - (17) NORTHERN GLACIER (United States official number 663457);
  - (18) PACIFIC GLACIER (United States official number 933627);
  - (19) HIGHLAND LIGHT (United States official number 577044);
  - (20) STARBOUND (United States official number 944658); and
  - (21) any catcher/processor not listed in this subsection and determined by the Secretary to have harvested more than 2,000 metric tons of the pollock in the 1997 directed pollock fishery and determined to be eligible to harvest pollock in the directed pollock fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary, except that catcher/processers eligible under this paragraph shall be prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned for the directed pollock fishery under section 206(b)(2).

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

Notwithstanding section 213(a), failure to satisfy the requirements of section 4(a) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Public Law 100-239; 46 U.S.C. 12108 note) shall not make a catcher/processor listed under this subsection ineligible for a fishery endorsement.

### (f) **Shoreside Processors.**

- (1) Effective January 1, 2000 and except as provided in paragraph (2), the catcher vessels eligible under subsection (a) may deliver pollock harvested from the directed fishing allowance under section 206(b)(1) only to—
  - (A) shoreside processors (including vessels in a single geographic location in Alaska State waters) determined by the Secretary to have processed more than 2,000 metric tons round-weight of pollock in the inshore component of the directed pollock fishery during each of 1996 and 1997; and
  - (B) shoreside processors determined by the Secretary to have processed pollock in the inshore component of the directed pollock fishery in 1996 and 1997, but to have processed less than 2,000 metric tons round-weight of such pollock in each year, except that effective January 1, 2000, each such shoreside processor may not process more than 2,000 metric tons round-weight from such directed fishing allowance in any year;
- (2) Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

~~(g) **Replacement Vessels.** In the event of the actual total loss or constructive total loss of a vessel eligible under subsections (a), (b), (c), (d), or (e), the owner of such vessel may replace such vessel with a vessel which shall be eligible in the same manner under that subsection as the eligible vessel, provided—~~

- ~~(1) such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;~~
- ~~(2) the replacement vessel was built in the United States and if ever rebuilt, was rebuilt in the United States;~~
- ~~(3) the fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;~~
- ~~(4) if the eligible vessel is greater than 165 feet in registered length, of more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;~~
- ~~(5) if the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel; and~~
- ~~(6) the replacement vessel otherwise qualifies under federal law for a fishery endorsement, including under section 12102(c) of title 46, United States Code, as amended by this Act.~~

### (g) **VESSEL REBUILDING AND REPLACEMENT.**—

#### (1) IN GENERAL.—

(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- Act of 2010 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.
- (B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.
- (C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel or its owner, as necessary to permit such rebuilt or replacement vessel to operate in the same manner as the vessel prior to the rebuilding or the vessel it replaced, respectively.
- (2) RECOMMENDATIONS OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.—The North Pacific Fishery Management Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.
- (3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—
- (A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), or (e) and that qualifies to be documented with a fishery endorsement pursuant to section 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 213(g) before the replacement vessel is documented with H. R. 3619—57a fishery endorsement under section 12113 of title 46, United States Code.
- (B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.
- (4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—
- (A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any Regional Fishery Management Council (other than the North Pacific Fishery Management Council) established under section 302(a) of the Magnuson-Stevens Act.
- (B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—
- (i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or
  - (ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.
- (5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall hereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010.

(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.

- (h) **Eligibility During Implementation.** In the event the Secretary is unable to make a final determination about the eligibility of a vessel under subsection (b)(8) or subsection (3)(21) before January 1, 1999, or a vessel or shoreside processor under subsection (a), subsection (c)(21), or subsection (f) before January 1, 2000, such vessel or shoreside processor, upon the filing of an application for eligibility, shall be eligible to participate in the directed pollock fishery pending final determination by the Secretary with respect to such vessel or shoreside processor.
- (i) **Eligibility Not a Right.** Eligibility under this subsection shall not be construed—
- (1) to confer any right of compensation, monetary or otherwise, to the owner of any catcher vessel, catcher/processor, mothership, or shoreside processor, if such eligibility is revoked or limited in any way, including through the revocation or limitation of a fishery endorsement or any federal permit or license;
  - (2) to create any right, title, or interest in or to any fish in any fishery, or
  - (3) to waive any provision of law otherwise applicable to such catcher vessel, catcher/processor, mothership, or shoreside processor.

## **SEC. 209. LIST OF INELIGIBLE VESSELS.**

Effective December 31, 1998, the following vessels shall be permanently ineligible for fishery endorsements, and any claims (including relating to catch history) associated with any such vessels that could qualify any owners of such vessels for any present or future limited access system permit in any fishery within the exclusive economic zone of the United States (including a vessel moratorium permit or license limitation program permit in fisheries under the authority of the North Pacific Council) are hereby extinguished:

- (1) AMERICAN EMPRESS (United States official number 942347);
- (2) PACIFIC SCOUT (United States official number 934772);
- (3) PACIFIC EXPLORER (United States official number 942592);
- (4) PACIFIC NAVIGATOR (United States official number 592204);
- (5) VICTORIA ANN (United States official number 592207);
- (6) ELIZABETH ANN (United States official number 534621);
- (7) CHRISTINA ANN (United States official number 653045);
- (8) REBECCA ANN (United States official number 592205);
- (9) BROWNS POINT (United States official number 587440);

## **SEC. 210. FISHERY COOPERATIVE LIMITATIONS.**

- (a) **Public Notice.**

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (1) Any contract implementing a fishery cooperative under section 1 of the Act of June 25, 1934 (15 U.S.C. 521) in the directed pollock fishery and any material modifications to any such contract shall be filed not less than 30 days prior to the start of fishing under the contract with the North Pacific Council and with the Secretary, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a) or any other provision of law, but taking into account the interest of parties to any such contract in protecting the confidentiality of proprietary information, the North Pacific Council and Secretary shall—
  - (A) make available to the public such information about the contract, contract modifications, or fishery cooperative the North Pacific Council and Secretary deem appropriate, which at a minimum shall include a list of the parties to the contract, a list of the vessels involved, and the amount of pollock and other fish to be harvested by each party to such contract; and
  - (B) make available to the public in such manner as the North Pacific Council and Secretary deem appropriate information about the harvest by vessels under a fishery cooperative of all species (including bycatch) in the directed pollock fishery on a vessel-by-vessel basis.
- (b) **Catcher Vessels Onshore—**
  - (1) *Catcher Vessel Cooperatives.* Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—
    - (A) is signed by the owners of 80 percent or more of the qualified catcher vessels that delivered pollock for processing by a shoreside processor in the directed pollock fishery in the year prior to the year in which the fishery cooperative will be in effect; and
    - (B) specifies, except as provided in paragraph (6), that such catcher vessels will deliver pollock in the directed pollock fishery only to such shoreside processor during the year in which the fishery cooperative will be in effect and that such shoreside processor has agreed to process such pollock, the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph(2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.
  - (2) *Voluntary Participation.* Any contract implementing a fishery cooperative under paragraph (1) must allow the owners of other qualified catcher vessels to enter into such contract after it is filed and before the calendar year in which fishing will begin under the same terms and conditions as the owners of the qualified catcher vessels who entered into such contract upon filing.
  - (3) *Qualified Catcher Vessel.* For the purposes of this subsection, a catcher vessel shall be considered a “qualified catcher vessel” if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (4) *Consideration of Certain Vessels.* Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.
- (5) *Open Access.* A catcher vessel eligible under section 208(a) the catch history of history which has not been attributed to a fishery cooperative under paragraph (1) may be used to deliver pollock harvested by such vessel from the directed fishing allowance under section 206(b)(1) (other than pollock reserved under paragraph (1) for a fishery cooperative) to any of the shoreside processors eligible under section 208(a) the catch history of which has been attributed to a fishery cooperative under paragraph (1) during any calendar year may not harvest any pollock apportioned under section 206(b)(1) in such calendar year other than the pollock reserved under paragraph (1) for such fishery cooperative.
- (6) *Transfer of Cooperative Harvest.* A contract implementing a fishery cooperative under paragraph (1) may, notwithstanding the other provisions of this subsection, provide for up to 10 percent of the pollock harvested under such cooperative to be processed by a shoreside processor eligible under section 208(f) other than the shoreside processor to which pollock will be delivered under paragraph (1).

### (7) FISHERY COOPERATIVE EXIT PROVISIONS.—

(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher H. R. 3619—58 vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

- (i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010; and “(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—

Nothing in this paragraph shall be construed—

- (i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

the Magnuson-Stevens Act; or “(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.”.

- (c) **Catcher Vessels to Catcher/Processors.** Effective January 1, 1999, not less than 8.5 percent of the directed fishing allowance under section 206(b)(2) shall be available for harvest only by the catcher vessels eligible under section 208(b). The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of section 208(e). The owners of such catcher vessels may participate in a fishery cooperative that will be in effect during 1999 only if the contract implementing such cooperative establishes penalties to prevent such vessels from exceeding in 1999 the traditional levels harvested by such vessels in all other fisheries in the exclusive economic zone of the United States.
- (d) **Catcher Vessels to Motherships—**
- (1) *Processing.* Effective January 1, 2000, the authority in section 1 of the Act of June 25, 1934 (46 STAT. 1213 and 1214; 15 U.S.C. 521 et seq.) shall extend to processing by motherships eligible under section 208(d) solely for the purposes of forming or participating in a fishery cooperative in the directed pollock fishery upon the filing of a contract to implement a fishery cooperative under subsection (a) which has been entered into by the owners of 80 percent or more of the catcher vessels eligible under section 208(c) for the duration of such contract, provided that such owners agree to the terms of the fishery cooperative involving processing by the motherships.
  - (2) *Voluntary Participation.* Any contract implementing a fishery cooperative described in paragraph (1) must allow the owners of any other catcher vessels eligible under section 208(c) to enter such contract after it is filed and before the calendar year in which the fishing will begin under the same terms and conditions as the owners of the catcher vessels who entered into such contract upon filing.
- (e) **Excessive Shares.**
- (1) *Harvesting.* No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.
  - (2) *Processing.* Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under section 208(b)) and shall be reduced if their percentage decreases, until their percentages is below such share. In recommending the excessive processing share, the Northern Pacific Council shall consider the need of catcher vessels in the directed Pollock fishery to have competitive buyers for the pollock harvested by such vessels.
  - (3) *Review by Maritime Administration.* At the request of the North Pacific Council or the Secretary, any individual or entity believed by such Council or the Secretary to have exceeded the percentage in either paragraph (1) or (2) shall submit such information to the

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

Administrator of the Maritime Administration as the Administrator deems appropriate to allow the Administrator to determine whether such individual or entity has exceeded either such percentage. The Administrator shall make a finding as soon as practicable upon such request and shall submit such finding to the North Pacific Council and the Secretary. For the purposes of this subsection, any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity.

- (f) **Landing Tax Jurisdiction.** Any contract filed under subsection (a) shall include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid shall result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 et seq.).
- (g) **Penalties.** The violation of any of the requirements of this subtitle or any regulation or permit issued pursuant to this subtitle shall be considered the commission of an act prohibited by section 307 of the Magnuson-Stevens Act (16 U.S.C. 1857), and sections 308, 309, 310, and 311 of such Act (16 U.S.C. 1858, 1859, 1860, and 1861) shall apply to any such violation in the same manner as to the commission of an act prohibited by section 307 of such Act (16 U.S.C. 1857). In addition to the civil penalties and permit sanctions applicable to prohibited acts under section 308 of such Act (16 U.S.C. 1858), any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated a requirement of this section shall be subject to the forfeiture to the Secretary of Commerce of any fish harvested or processed during the commission of such act.

### **SEC. 211. PROTECTIONS FOR OTHER FISHERIES; CONSERVATION MEASURES.**

(a) **General.**

- (b) The North Pacific Council shall recommend for approval by the Secretary such conservation and management measures as it determines necessary to protect other fisheries under its jurisdiction and the participants in those fisheries, including processors, from adverse impacts caused by this Act or fishery cooperatives in the directed pollock fishery.

(b) **Catcher/Processor Restrictions.**

- (1) *General.* The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superseded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.
- (2) *Bering Sea Fishing.* The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate—
- (A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;
- (B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995,

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997.
- (C) fishing for Atak mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands mackerel fishery—
- (i) 11.5 percent in the central area; and
  - (ii) 20 percent in the western area.
- (3) *Bering Sea Processing*. The catcher/processors eligible under paragraphs (10 through (20) of section 208(e) are hereby prohibited from—
- (A) processing any of the directed fishing allowances under paragraphs (1) or (3) of section 206(b); and
  - (B) processing any species of crab harvested in the Bering Sea and Aleutian Islands Management Area.
- (4) *Gulf of Alaska*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from—
- (A) harvesting any fish in the Gulf of Alaska.
  - (B) processing any groundfish harvested from the portion of the exclusive economic zone off Alaska known as area 630 under the fishery management plan for Gulf of Alaska groundfish; or
  - (C) processing any pollock in the Gulf of Alaska (other than as bycatch in non-pollock groundfish fisheries) or processing, in the aggregate, a total of more than 10 percent of the cod harvested from areas 610, 620, and 640 of the Gulf of Alaska under the fishery management plan for Gulf of Alaska groundfish.
- (5) *Fisheries Other than North Pacific*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) and motherships eligible under section 208(d) are hereby prohibited from harvesting fish in any fishery under the authority of any regional fishery management council established under section 302(a) of the Magnuson-Stevens Act (16 U.S.C. 1852(a)) other than the North Pacific Council, except for the Pacific whiting fishery, and from processing fish in any fishery under the authority of any such regional fishery management council other than North Pacific Council, except in the Pacific whiting fishery, unless the catcher/processor or mothership is authorized to harvest or process fish under a fishery management plan recommended by the regional fishery management council of jurisdiction and approved by the Secretary.
- (6) *Observers and Scales*. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) shall—
- (A) have two observers onboard at all times while groundfish is being harvested, processed, or received from another vessel in any fishery under the authority of the North Pacific Council; and
  - (B) weight its catch on a scale onboard approved by the National Marine Fisheries Services while harvesting groundfish in fisheries under the authority of the North Pacific Council This paragraph shall take effect on January 1, 1999 for catcher/processors eligible under paragraphs (1) through (2) of section 208(e) that will harvest pollock allocated under section 206(a) in 1999, and shall take effect on January 1, 2000 for all other catcher/processors eligible under such paragraphs of section 208(e).
- (c) **Catcher Vessel and Shoreside Processor Restrictions.**
- (1) *Required Council Recommendations*. By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to—

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

- (A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fisheries; and
  - (B) protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of this Act or fishery cooperatives in the directed pollock fishery. If the North Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the North Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation restrict or change the authority in section 210(b) to the extent the Secretary deems appropriate, including by preventing fishery cooperatives from being formed pursuant to such section and by providing greater flexibility with respect to the shoreside processor or shoreside processors to which catcher vessel in a fishery cooperative under section 210(b) may deliver pollock.
- (2) *Bering Sea Crab and Groundfish.*
- (A) Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, and 1997. For the purposes of this subparagraph the term “facilities” means any processing plant, catcher/processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.
  - (B) Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from harvesting an excessive share of crab or of groundfish in fisheries in the Bering Sea and Aleutian Islands Management Area.
  - (C) The catcher vessels eligible under section 208(b) are hereby prohibited from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997 and is eligible to harvest such crab in such directed fishery under the license limitation program recommended by the North Pacific Council and approved by the Secretary. The north Pacific Council is directed to recommend measures for approval by the Secretary to eliminate latent licenses under such program, and nothing in this subparagraph shall preclude the Council from recommending measures more restrictive than under this paragraph.
- (3) *Fisheries Other than North Pacific.*
- (A) By not later than July 1, 2000, the Pacific Fishery Management Council established under section 302(a)(1)(F) of the Magnuson-Stevens Act (16 U.S.C. 1852 (a)(1)(F)) shall recommend for approval by the Secretary conservation and management measures to protect fisheries under its jurisdiction and the participants in those fisheries from adverse impacts caused by this Act or by any fishery cooperatives in the directed pollock fishery.

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

(B) If the Pacific Council does not recommend such conservation and management measures by such date, or if the Secretary determines that such conservation and management measures recommended by the Pacific Council are not adequate to fulfill the purposes of this paragraph, the Secretary may by regulation implement adequate measures including, but not limited to, restrictions on vessels which harvest pollock under a fishery cooperative which will prevent such vessels from harvesting Pacific groundfish, and restrictions on the number of processors eligible to process Pacific groundfish.

(d) **Bycatch Information.**

Notwithstanding section 402 of the Magnuson-Stevens Act (16 U.S.C. 1881a), the North Pacific Council may recommend and the Secretary may approve, under such terms and conditions as the North Pacific Council and Secretary deem appropriate, the public disclosure of any information from the groundfish fisheries under the authority of such Council that would be beneficial in the implementation of section 301(a)(9) or section 303(a)(11) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(9) and 1853(a)(11)).

(c) **Community Development Loan Program.**

Under the authority of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.), and subject to the availability of appropriations, the Secretary is authorized to provide direct loan obligations to communities eligible to participate in the western Alaska community development quota program established under section 304(i) of the Magnuson-Stevens Act (16 U.S.C. 1855(i)) for the purposes of purchasing all or part of an ownership interest in vessels and shoreside processors eligible under subsections (a), (b), (c), (d), (e), or (f) of section 208. Notwithstanding the eligibility criteria in section 208(a) and 208(c), the LISA MARIE (United States official number 1038717) shall be eligible under such sections in the same manner as other vessels eligible under such sections.

### **SEC. 212. RESTRICTION ON FEDERATION LOANS.**

Section 302(b) of the Fisheries Financing Act (46 U.S.C. 1274 note) is amended—

- (1) by inserting “(1)” before “Until October 1, 2001”; and
- (2) by inserting at the end the following new paragraph: “(2) No loans may be provided or guaranteed by the Federal Government for the construction or rebuilding of a vessel intended for use as a fishing vessel (as defined in section 2101 of title 46, United States Code), if such vessel will be greater than 165 feet in registered length, of more than 750 gross registered tons, or have an engine or engines capable of producing a total of more than 3,000 shaft horsepower, after such construction or rebuilding is completed. This prohibition shall not apply to vessels to be used in the menhaden fishery or in tuna purse seine fisheries outside the exclusive economic zone of the United States or the area of the South Pacific Regional fisheries Treaty.”

### **SEC. 213. DURATION.**

(a) **General.**

Except as otherwise provided in this title, the provisions of this title shall take effect upon the date of the enactment of this Act. Section 206, 208, and 210 shall remain in effect until December 31, 2004, and shall be repealed on such date, except that the North Pacific Council may recommend and the Secretary may approve conservation and management measures as part of a fishery management plan under the Magnuson-Stevens Act to give effect to the measures in such sections thereafter.

(b) **Existing Authority.**

Except for the measures required by this subtitle, nothing in this subtitle shall be construed to limit the authority of the North Pacific Council or the Secretary under the Magnuson-Stevens Act.

## American Fisheries Act w/ changes from CG Auth Act Sec. 602 in color

### (c) **Changes to Fishery Cooperative Limitations and Pollock CDQ Allocation.**

The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act—

- (1) that supersede the provisions of this subtitle, except for section 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitable to the extent practicable among and within the sectors in the directed pollock fishery;
- (2) that supersede the allocation in section 206(a) for any of the years 2002, 2003, and 2004, upon finding by such Council that the western Alaska community development quota program for pollock has been adversely affected by the amendments in this subtitle; or
- (3) that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

### (d) **Report to Congress.**

Not later than October 1, 2000, the North Pacific Council shall submit a report to the Secretary and to Congress on the implementation and effects of this Act, including the effects on fishery conservation and management, on bycatch levels, on fishing communities, on business and employment practices of participants in any fishery cooperatives, on the western Alaska community development quota program, on any fisheries outside of the authority of the North Pacific Council, and such other matters as the North Pacific Council deems appropriate.

### (e) **Report on Fillet Production.**

Not later than June 1, 2000, the General Accounting Office shall submit a report to the North Pacific Council, the Secretary, and the Congress on whether this Act has negatively affected the market for fillets and fillet blocks, including through the reduction in supply of such fillets and fillet blocks. If the report determines that such market has been negatively affected, the North Pacific Council shall recommend measures for the Secretary's approval to mitigate any negative effects.

### (f) **Severability.**

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

### (g) **International Agreements.**

In the event that any provision of section 12102(c) or section 31322(a) of title 46, United States Code, as amended by this Act, is determined to be inconsistent with an existing international agreement relating to foreign investment to which the United States is a party with respect to the owner or mortgagee on October 1, 2001 of a vessel with a fishery endorsement, such provision shall not apply to that owner or mortgagee with respect to such vessel to the extent of any inconsistency. The provisions of section 12102(c) section 31322(a) of title 46, United States Code, as amended by this Act, shall apply to all subsequent owners and mortgagees of such vessel, and shall apply, notwithstanding the preceding sentence, to the owner on October 1, 2001 of such vessel if any ownership interest in that owner is transferred or otherwise acquired by a foreign individual or entity after such date.

**BLANK PAGE**

# 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC4502]

[Page 76-77]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part B--Inspection and Regulation of Vessels

##### CHAPTER 45--UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

###### Sec. 4502. Safety standards

- (a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with--
- (1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;
  - (2) at least one readily accessible life preserver or other lifesaving device for each individual on board;
  - (3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;
  - (4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;
  - (5) visual distress signals;
  - (6) ~~a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;~~
  - ~~(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States or beyond 3 nautical miles from the coastline of the Great Lakes; and other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that risk of serious injury exists that can be eliminated or mitigated by that equipment; and"~~
  - ~~(8)~~ (7) a placard as required by regulations prescribed under section 10603(b) of this title.
- (b) (1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for ~~documented~~ vessels to which this chapter applies that--
- (A) operate beyond the Boundary Line 3 nautical miles from the baseline from which the territorial sea of the

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

- United States is measured or beyond 3 nautical miles from the the coastline of the Great lakes.;
- (B) operate with more than 16 individuals on board; or
  - (C) in the case of a fish tender vessel, engage in the Aleutian trade.
- (2) The equipment to be required is as follows:
- (A) alerting and locating equipment, including emergency position indicating radio beacons;
  - (B) lifeboats or liferaftsa survival craft that ensures that no part of an individual is immersed in water sufficient to accommodate all individuals on board;
  - (C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;
  - (D) marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;
  - (E) navigation equipment, including compasses, ~~radar reflectors, nautical charts, and anchors,~~nautical charts, and publications;
  - (F) first aid equipment, ~~including medicine chests and~~ medical supplies sufficient for the size and area of operation of the vessel; and
  - (G) ~~other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.~~ground tackle sufficient for the vessel.
- (c) (1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that--
- (A) (i) were built after December 31, 1988, or undergo a major conversion completed after that date; and
  - (ii) operate with more than 16 individuals on board; or
  - (B) in the case of a fish tender vessel, engage in the Aleutian trade.
- (2) The standards shall be minimum safety standards, including standards relating to--
- (A) navigation equipment, including radars and fathometers;
  - (B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;
  - (C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;
  - (D) use and installation of insulation material;
  - (E) storage methods for flammable or combustible material; and
  - (F) fuel, ventilation, and electrical systems.
- (d) (1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies--
- (A) that was built after December 31, 1989; or
  - (B) the physical characteristics of which are substantially

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

altered after December 31, 1989, in a manner that affects the vessel's operating stability.

- (2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.
- (e) In prescribing regulations under this chapter, the Secretary--
  - (1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and
  - (2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.
- (f) To ensure compliance with the requirements of this chapter, ~~at least once every 2 years~~ the Secretary ~~shall examine--~~
  - (1) ~~a fish processing vessel; and~~ shall require the individual in charge of a vessel described in subsection (b) to keep a record of equipment maintenance, and required instruction and drills; and
  - (2) ~~a fish tender vessel engaged in the Aleutian trade.~~ shall examine at dockside a vessel described in subsection (b) at least once every 2 years and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter.
- (g) (1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.
  - (2) The training program shall--
    - (A) be based on professional knowledge and skill obtained through sea service and hands-on training including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;
    - (B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;
    - (C) recognize and give credit for recent past experience in fishing vessel operation; and
    - (D) provide for issuance of a certificate to an individual that has successfully completed the program.
  - (3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph(2) (D) must complete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.
  - (4) The Secretary shall establish a publicly accessible electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.
- (h) A vessel to which this chapter applies shall be constructed in a manner that provides a level of safety equivalent to the

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

- minimum safety standards the Secretary may establish for recreational vessels under section 4302, if-
- (1) subsection (b) of this section applies to the vessel;
  - (2) the vessel is less than 50 feet overall in length; and
  - (3) the vessel is built after January 1, 2010.
- (i) (1) The Secretary shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training-
- (A) to conduct fishing vessel safety training for vessel operators and crewmembers that-
    - (i) in the case of vessel operators, meets the requirements of subsection (g); and
    - (ii) in the case of crewmembers, meets the requirements of subsection (g) (2) (A), such requirements of subsection (g) (2) (B) as are appropriate for crewmembers, and the requirements of subsections (g) (2) (D), (g) (3), and 15 (g) (4); and
  - (B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.
- (2) The Secretary shall award grants under this subsection on a competitive basis.
  - (3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent. ``
  - (4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2010 through 2014 for grants under this subsection.
- (j) (1) The Secretary shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.
- (2) The Secretary shall award grants under this subsection on a competitive basis.
  - (3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.
  - (4) There is authorized to be appropriated \$3,000,000 for each fiscal years 2010 through 2014 for activities under this subsection.

(Added Pub. L. 98-364, title IV, Sec. 402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, Sec. 33(a), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100-424, Sec. 2(a), Sept. 9, 1988, 102 Stat. 1585; Pub. L. 101-595, title VI, Sec. 602(c), Nov. 16, 1990, 104 Stat. 2990; Pub. L. 104-324, title III, Sec. 307, Oct. 19, 1996, 110 Stat. 3918; Pub. L. 105-383, title III, Sec. 301(b)(5), Nov. 13, 1998, 112 Stat. 3417.)

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

### Amendments

1998--Subsec. (a) (7). Pub. L. 105-383 substituted ``beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States'' for ``on the high seas''.

1996--Subsec. (a) (7). Pub. L. 104-324 inserted ``or beyond 3 nautical miles from the coastline of the Great Lakes'' after ``high seas''.

1990--Subsec. (b). Pub. L. 101-595, Sec. 602(c) (1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ``In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of--

- ``(1) alerting and locating equipment, including emergency position indicating radio beacons;
- ``(2) lifeboats or liferafts sufficient to accommodate all individuals on board;
- ``(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;
- ``(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;
- ``(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;
- ``(6) first aid equipment, including medicine chests; and
- ``(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.'

Subsec. (c). Pub. L. 101-595, Sec. 602(c) (1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ``In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to--

- ``(1) navigation equipment, including radars and fathometers;
- ``(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;
- ``(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;
- ``(4) use and installation of insulation material;
- ``(5) storage methods for flammable or combustible material; and
- ``(6) fuel, ventilation, and electrical systems.'

Subsec. (f). Pub. L. 101-595, Sec. 602(c) (2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ``The Secretary shall examine a fish processing vessel at least once every two years to ensure that the vessel complies with the requirements of

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

this chapter.'

1988--Pub. L. 100-424 amended section generally, substituting ``Safety standards'' for ``Regulations'' in section catchline, adding subsecs. (a) and (b), redesignating former subsec. (a) as (c) and establishing list of standards as minimum safety standards, in addition to requirements of subsecs. (a) and (b), for vessels built after Dec. 31, 1988, or that undergo major conversion completed after that date, that operate with more than 16 individuals on board, adding subsec. (d), redesignating former subsec. (b) as (e) and striking out provisions which required Secretary to consult with representatives of private sector, experienced in operation of these vessels, to ensure practicability of regulations, and adding subsec. (f).

1984--Subsec. (b) (3). Pub. L. 98-557 substituted ``this chapter'' for ``the exemption''.

### Effective Date of 1990 Amendment

Pub. L. 101-595, title VI, Sec. 602(f), Nov. 16, 1990, 104 Stat. 2992, provided that: ``This section [amending this section and sections 2102, 3302, 5102, 8104, and 8702 of this title, and enacting provisions set out as a note under section 7306 of this title] is effective on the date of enactment of this section [Nov. 16, 1990] except as follows:

- ``(1) The requirements imposed by section 3302(c)(4)(B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.
- ``(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel--
  - ``(A) (i) before September 8, 1990, operated in that trade; or
    - ``(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and
  - ``(B) does not undergo a major conversion.
- ``(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel--
  - ``(A) (i) before September 8, 1990, operated in that trade; or
    - ``(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;
  - ``(B) does not undergo a major conversion; and
  - ``(C) did not have a load line assigned at any time before the date of enactment of this Act.
- ``(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.'

## 46 USC 4502 with changes from CG Auth Act Sec. 604 in color

### Studies Regarding Safety of Fishing Vessels

Pub. L. 100-424, Sec. 5(a), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of Transportation, utilizing National Academy of Engineering and in consultation with National Transportation Safety Board, Commercial Fishing Industry Vessel Advisory Committee, and fishing industry, to conduct a study of safety problems on fishing industry vessels, and to make recommendations regarding whether a vessel inspection program could be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on nature and scope of that inspection, and further provided for submission of the study and recommendations to Congress before Jan. 1, 1990.

Pub. L. 100-424, Sec. 5(b), Sept. 9, 1988, 102 Stat. 1591, directed Secretary of department in which Coast Guard is operating, in consultation with Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of this title, and with representatives of persons operating fish processing vessels to conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by Secretary, and to make recommendations regarding what hull and machinery requirements could apply to such vessels to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea, and further provided for submission of such study and recommendations to Congress before July 28, 1991.

### Territorial Sea of United States

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

---

A service of the U.S. Government Printing Office.

**BLANK PAGE**

# 46 USC 4506 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC4506]

[Page 78]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part B--Inspection and Regulation of Vessels

##### CHAPTER 45--UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

###### Sec. 4506. Exemptions

- (a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that--
- (1) good cause exists for granting an exemption; and
  - (2) the safety of the vessel and those on board will not be adversely affected.

~~(b) A vessel to which this chapter applies is exempt from section 4502(b)(2)(B) of this title if it--~~

- ~~(1) is less than 36 feet in length; and~~
- ~~(2) is operating--~~

~~(A) in internal waters of the United States; or~~

~~(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.~~

(Added Pub. L. 100-424, Sec. 2(a), Sept. 9, 1988, 102 Stat. 1587; amended Pub. L. 102-587, title V, Sec. 5222, Nov. 4, 1992, 106 Stat. 5081; Pub. L. 105-383, title III, Sec. 301(b)(6), Nov. 13, 1998, 112 Stat. 3417.)

#### Amendments

1998--Subsec. (b)(2). Pub. L. 105-383 added par. (2) and struck out former par. (2) which read as follows: ``is not operating on the high seas.''

1992--Subsec. (b). Pub. L. 102-587 substituted ``4502(b)(2)(B)'' for ``4502(b)(2)''.

#### Territorial Sea of United States

For extension of territorial sea of United States, see Proc. No. 5928, set out as a note under section 1331 of Title 43, Public Lands.

BLANK PAGE

# 46 USC 4508 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part B--Inspection and Regulation of Vessels

##### CHAPTER 45--UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

#### Sec. 4508. Commercial Fishing ~~Industry Vessel~~ Safety Advisory Committee

(a) The Secretary shall establish a Commercial Fishing ~~Industry Vessel~~ Safety Advisory Committee. The Committee--

- (1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;
- (2) may review proposed regulations under this chapter;
- (3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and
- (4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

(b) (1) The Committee shall consist of ~~seventeen~~eighteen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

- (A) ~~ten members from the commercial fishing industry who who shall represent the commercial fishing industry and who--~~
  - (i) reflect a regional and representational balance; and
  - (ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on ~~an uninspected~~a fish processing vessel;
- (B) three members ~~from who shall represent~~ the general public, including, whenever possible, ~~---~~
  - ~~(i) an independent expert or consultant in maritime safety; and~~(i) an independent expert or consultant in maritime safety;
  - ~~(ii) a marine surveyor who provides services to vessels to which this chapter applies; and~~(ii) a marine surveyor who provides services to vessels to which this chapter applies; and
  - ~~(iii) a person familiar with issues affecting fishing communities and families of fishermen; a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;~~(iii) a person familiar with issues affecting fishing communities and families of fishermen;
- (C) one member ~~representing each of each of whom shall represent--~~
  - (i) naval architects ~~or and~~ marine ~~surveyors~~engineers;

## 46 USC 4508 with changes from CG Auth Act Sec. 604 in color

- (ii) manufacturers of equipment for vessels to which this chapter applies;
  - (iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; ~~-~~  
and
  - (iv) underwriters that insure vessels to which this chapter applies; ~~and~~
  - (v) owners of vessels to which this chapter applies.
- 
- (2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.
  - (3) (A) A member of the Committee shall serve a term of three years.  
(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.
  - (4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.
  - (5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).
  - (c) (1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.  
(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.
  - (d) (1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive--
    - (A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

## 46 USC 4508 with changes from CG Auth Act Sec. 604 in color

- (B) travel or transportation expenses under section 5703 of title 5.
- (2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.
  - (3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.
  - (4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.
- (e) (1) The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on September 30, ~~2010~~2020.
- (2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.

(Added Pub. L. 100-424, Sec. 2(a), Sept. 9, 1988, 102 Stat. 1588; amended Pub. L. 101-225, title I, Sec. 106, Dec. 12, 1989, 103 Stat. 1910; Pub. L. 102-241, Sec. 25, Dec. 19, 1991, 105 Stat. 2217; Pub. L. 104-324, title III, Sec. 304(b), Oct. 19, 1996, 110 Stat. 3917; Pub. L. 107-295, title III, Sec. 331(a), Nov. 25, 2002, 116 Stat. 2105; Pub. L. 108-293, title IV, Sec. 418(a), Aug. 9, 2004, 118 Stat. 1049; Pub. L. 109-241, title IX, Sec. 901(g), July 11, 2006, 120 Stat. 564.)

### References in Text

The Federal Advisory Committee Act, referred to in subsecs. (b) (5) and (e) (1), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

### Amendments

2006--Subsec. (e) (1). Pub. L. 109-241 amended directory language of Pub. L. 108-293, Sec. 418(a). See 2004 Amendment note below.

2004--Subsec. (e) (1). Pub. L. 108-293, Sec. 418(a), as amended by Pub. L. 109-241, substituted ``on September 30, 2010'' for ``on September 30, 2005''.

2002--Pub. L. 107-295, Sec. 331(a) (1), inserted ``Safety'' after ``Vessel'' in section catchline.

Subsec. (a). Pub. L. 107-295, Sec. 331(a) (2), inserted ``Safety'' after ``Vessel'' in introductory provisions.

Subsec. (e) (1). Pub. L. 107-295, Sec. 331(a) (4), substituted ``on September 30, 2005'' for ``on September 30, 2000''.

Pub. L. 107-295, Sec. 331(a) (3), which directed the substitution of ``(5 App. U.S.C.)'' for ``(5 App. U.S.C. 1 et seq.)'', was executed by making substitution for ``(5 U.S.C. App. 1 et seq.)'', to reflect the probable intent of Congress.

1996--Subsec. (e) (1). Pub. L. 104-324 substituted ``2000'' for ``1994''.

## 46 USC 4508 with changes from CG Auth Act Sec. 604 in color

1991--Subsec. (e) (1). Pub. L. 102-241 substituted ``1994'' for ``1992''.

1989--Subsec. (b) (2). Pub. L. 101-225 inserted provision that Secretary not seek or use information concerning political affiliation in making appointments.

### Effective Date of 2006 Amendment

Pub. L. 109-241, title IX, Sec. 901(g), July 11, 2006, 120 Stat. 564, provided that the amendment made by section 901(g) is effective Aug. 9, 2004.

### References in Other Laws to GS-16, 17, or 18 Pay Rates

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, Sec. 101(c) (1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

### Initial Appointments to Commercial Fishing Industry Advisory Committee

Pub. L. 100-424, Sec. 2(b), Sept. 9, 1988, 102 Stat. 1589, provided that:

- ``(1) Terms of initial appointments.--Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)--
- ``(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee; and
- ``(B) terms may be adjusted to coincide with the Government's fiscal year.
- ``(2) Completion of initial appointments.--The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act [Sept. 9, 1988].''

---

A service of the U.S. Government Printing Office.

BLANK PAGE

# 46 USC 5102 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC5102]

[Page 82-84]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part C--Load Lines of Vessels

#### CHAPTER 51--LOAD LINES

#### Sec. 5102. Application

- (a) Except as provided in subsection (b) of this section, this chapter applies to the following:
  - (1) a vessel of the United States.
  - (2) a vessel on the navigable waters of the United States.
  - (3) a vessel--
    - (A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and
    - (B) not registered in a foreign country.
  - (4) a public vessel of the United States.
  - (5) a vessel otherwise subject to the jurisdiction of the United States.
- (b) This chapter does not apply to the following:
  - (1) a vessel of war.
  - (2) a recreational vessel when operated only for pleasure.
  - (3) a fishing vessel, unless the vessel is built after July 1, 2012.
  - (4) a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that--
    - (A) (i) was constructed as a fish processing vessel before August 16, 1974; or
    - (ii) was converted for use as a fish processing vessel before January 1, 1983; and
    - (B) is not on a foreign voyage.
  - (5) a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that--
    - (A) (i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or
    - (ii) was converted for use as a fish tender vessel before January 1, 1983; and
    - (B) (i) is not on a foreign voyage; or

## 46 USC 5102 with changes from CG Auth Act Sec. 604 in color

- (ii) is not engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).
- (6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.
- (7) a vessel of less than 24 meters (79 feet) overall in length.
- (8) a public vessel of the United States on a domestic voyage.
- (9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is party.
- (10) an existing vessel of not more than 150 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that is on a domestic voyage.
- (11) a small passenger vessel on a domestic voyage.
- (12) a vessel of the working fleet of the Panama Canal commission not on a foreign voyage.
- (c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter under subsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.
- (d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States.

(Pub. L. 99-509, title V, Sec. 5101(2), Oct. 21, 1986, 100 Stat. 1914; Pub. L. 101-595, title VI, Sec. 602(d), Nov. 16, 1990, 104 Stat. 2991; Pub. L. 104-324, title VII, Sec. 719, Oct. 19, 1996, 110 Stat. 3938; Pub. L. 107-295, title IV, Sec. 436(a), Nov. 25, 2002, 116 Stat. 2129.)

### Historical and Revision Notes

Revised section 5102

Source: Section (U.S. Code) 46 App. U.S.C. 86b, 86c, 88.

The delineation of the vessels that will be subject to load line requirements is made in section 5102 as follows: subsection (a) is an all-inclusive list of vessels subject to load line requirements, followed by subsection (b) which specifically exempts those vessels to which the requirements do not apply.

Section 5102(a) lists five categories of vessels which are subject to load line requirements. They are as follows:

Clause (1) regarding ``a vessel of the United States'' includes all vessels documented under Chapter 121 of title 46 or numbered under Chapter 123 of title 46.

Clause (2) regarding ``a vessel on the navigable waters of the United States'' includes all domestic or foreign vessels found in or on the

## 46 USC 5102 with changes from CG Auth Act Sec. 604 in color

navigable waters of the United States.

Clause (3) regarding ``a vessel owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State, and not registered in a foreign country'' includes all vessels owned by citizens of the United States (as defined in 5107(7)) [sic] and not registered under the laws of a foreign country, wherever the vessels may be located.

Clause (4) regarding ``a public vessel of the United States'' includes all United States public vessels.

Clause (5) regarding ``a vessel otherwise subject to the jurisdiction of the United States'' includes foreign vessels that are subject to United States jurisdiction as a result of bilateral agreements, licenses, customary international law or other means, including those using deepwater port or outer continental shelf or EEZ facilities located in areas subject to the jurisdiction of the United States.

Section 5102(b) lists the specific exemptions from load line requirements. The specific exemptions may be grouped as follows:

- (a) Vessel type (ships of war, pleasure vessels, fishing vessels, small passenger vessels on domestic voyages);
- (b) Area of operation (rivers, harbors, bays, sounds, etc.);
- (c) Minimum size (length); and
- (d) Treaty exclusions.

Clause (1) exempts vessels of war from load line requirements.

Clause (2) exempts recreational vessels operated only for pleasure from load line requirements.

Clause (3) exempts fishing vessels from load line requirements.

Clauses (4) and (5) exempt certain existing fish processing and fish tender vessels not on a foreign voyage from load line requirements. The exception is limited to those vessels not on international voyages to ensure compliance with United States obligations under the International Load Line Convention.

Clause (6) exempts from load line requirements all U.S. vessels operating on domestic voyages within the Boundary Line, as defined in section 2101 of this title, except vessels operating on the Great Lakes.

Clause (7) exempts all vessels that are less than 24 meters (79 feet) in length from load line requirements whether on international or domestic voyages.

Clause (8) exempts from load line requirements those public vessels that are on domestic voyages.

Clause (9) exempts from load line requirements those vessels which have been excluded from the requirements ``by specific action of a treaty of the United States.'' The only current treaty which excludes vessels from load line requirements is the Convention Between the United States of America and the Dominion of Canada Concerning Load Lines (49 Stat. 2685), which entered into force on August 11, 1934.

Clause (10) exempts from load line requirements existing U.S. vessels that are under 150 gross tons while engaged on a domestic voyage. This is a grandfather provision, continuing the existing exemption for these vessels. Vessels built after January 1, 1986 must be marked with a load line, however, if they are over 79 feet

## 46 USC 5102 with changes from CG Auth Act Sec. 604 in color

long and do not qualify for any other exemption.

Clause (11) exempts small passenger vessels engaged on domestic voyages from load line requirements. Small passenger vessels are inspected under Subchapter T of Title 46 of the Code of Federal Regulations. Under Subchapter T, the Coast Guard regulates these vessels with regard to safety; the requirements are based on the number of passengers, length, and gross tonnage of the vessel. Safety-related requirements in Subchapter T regulations include hull structure and watertightness, stability, weathertight integrity, and safe movement of persons on deck, the principal safety features covered by load line regulations. This specific exemption from load line requirements for small passenger vessels is consistent with existing law and does not alter in any way the Coast Guard's authority to regulate small passenger vessels under Subchapter T.

Clause (12) exempts vessels of the working voyages from the requirement to have load lines.

Section 5102(c) authorizes the Secretary to assign load lines for any vessel exempted from load line requirements by subsection (b) upon the request of the owner. It also provides that any exempted vessel for which load lines are assigned will remain subject to the load line requirements until its load line certificate is surrendered and the load line marks are removed.

Section 5102(d) provides that this chapter shall not be construed as abrogating the provisions of other treaties and conventions to which the United States is a party, which are not in conflict with the International Convention on Load Lines.

### Amendments

2002--Subsec. (b) (5) (B) (ii). Pub. L. 107-295 inserted ``is not'' after ``(ii)''.

1996--Subsec. (b) (4). Pub. L. 104-324, Sec. 719(1), inserted ``as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ``5,000 gross tons'' in introductory provisions.

Subsec. (b) (5). Pub. L. 104-324, Sec. 719(2), inserted ``as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ``500 gross tons'' in introductory provisions.

Subsec. (b) (10). Pub. L. 104-324, Sec. 719(3), inserted ``as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title'' after ``150 gross tons''.

1990--Subsec. (b) (5) (B). Pub. L. 101-595 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ``is not on a foreign voyage.''

Effective Date of 1990 Amendment

## 46 USC 5102 with changes from CG Auth Act Sec. 604 in color

Amendment by Pub. L. 101-595 effective Nov. 16, 1990, with provision that before Jan. 1, 2003, a fish tender vessel is exempt from this chapter when engaged in Aleutian trade if the vessel either operated in that trade before Sept. 8, 1990, or was purchased before that date to be used in such trade and entered into service in that trade before June 1, 1992, did not undergo a major conversion, and did not have a load line assigned at any time before Nov. 16, 1990, see section 602(f) of Pub. L. 101-595, set out as a note under section 4502 of this title.

### Fish Tender Vessels in Aleutian Trade

Pub. L. 107-295, title IV, Sec. 436(b), (c), Nov. 25, 2002, 116 Stat. 2129, provided that:

``(b) Implementation.--Except as provided in subsection (c), a fish tender vessel that before January 1, 2003, transported cargo (not including fishery related products) in the Aleutian trade is subject to chapter 51 of title 46, United States Code (as amended by subsection (a) of this section [amending this section]).

``(c) Exception.--

``(1) In general.--Before December 31, 2006, the BOWFIN (United States official number 604231) is exempt from chapter 51 of title 46, United States Code (as amended by subsection (a) of this section) when engaged in the Aleutian trade, if the vessel does not undergo a major conversion.

``(2) Ensuring safety.--Before the date referred to in paragraph (1), a Coast Guard official who has reason to believe that the vessel referred to in paragraph (1) operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with section 3302 of title 46, United States Code, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

---

A service of the U.S. Government Printing Office.

**BLANK PAGE**

# 46 USC 5103 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC5103]

[Page 84]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part C--Load Lines of Vessels

#### CHAPTER 51--LOAD LINES

#### Sec. 5103. Load line requirements

- (a) A vessel may be operated only if the vessel has been assigned load lines.
- (b) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel shall mark and maintain the load lines permanently and conspicuously in the way prescribed by the Secretary.

(c) A fishing vessel built on or before July 1, 2012, that undergoes a substantial change to the dimension of or type of the vessel completed after the later of July 1, 2012, or the date the Secretary establishes standards for an alternate loadline program, shall comply with such an alternative loadline compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary."

(Pub. L. 99-509, title V, Sec. 5101(2), Oct. 21, 1986, 100 Stat. 1915.)

#### Historical and Revision Notes

Revised section 5103

Source: Section (U.S. Code) 46 App. U.S.C. 86c, 88b.

Section 5103(a) prohibits a vessel that is subject to load line requirements from operating, unless it has load lines assigned by the Secretary.

Section 5103(b) requires that load lines be permanently and conspicuously maintained in the manner prescribed by the Secretary.

---

A service of the U.S. Government Printing Office.

BLANK PAGE

# 46 USC 4503 with changes from CG Auth Act Sec. 604 in color

From the U.S. Code Online via GPO Access  
[www.gpoaccess.gov]  
[Laws in effect as of January 3, 2007]  
[CITE: 46USC4503]

[Page 77-78]

## TITLE 46--SHIPPING

### Subtitle II--Vessels and Seamen

#### Part B--Inspection and Regulation of Vessels

##### CHAPTER 45--UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

Sec. 4503. ~~Fish processing vessel certification~~Fishing, fish tender, and fish processing vessel certification

- (a) A ~~fish processing~~ vessel to which this section applies may not be operated unless the vessel--
- (1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and
  - (2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.
- (b) This section applies to a fish processing vessel to which this chapter applies that--
- (1) is built after July 27, 1990; or
  - (2) undergoes a major conversion completed after that date.
- (c) This section applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2012.
- (d) (1) After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if the vessel--
- (A) is at least 50 feet overall in length;
  - (B) is built before July 1, 2012; and
  - (C) is 25 years of age or older.
- (2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2012, that under goes a substantial change to the dimension of or type of vessel completed after the later of July 1, 2012, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an a ternative safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.
- (3) Alternative safety compliance programs may be developed

## 46 USC 4503 with changes from CG Auth Act Sec. 604 in color

for purposes of paragraph (1) for specific regions and fisheries.

(4) Notwithstanding paragraph (1), vessels owned by a person that owns more than 30 vessels subject to that paragraph are not required to meet the alternate safety compliance requirements of that paragraph until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned by that person to meet requirements of that paragraph by that date and the vessel owner is meeting that schedule.

(5) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2012, shall—  
(A) remain subject to the requirements of a classification society approved by the Secretary; and  
(B) have on board a certificate from that society.

(Added Pub. L. 98-364, title IV, Sec. 402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, Sec. 33(b), Oct. 30, 1984, 98 Stat. 2876;

Pub. L. 100-424, Sec. 2(a), Sept. 9, 1988, 102 Stat. 1587.)

### Amendments

1988--Pub. L. 100-424 amended section generally, substituting ``Fish processing vessel certification'' for ``Equivalency'' in section catchline, and provisions which require certification issued by American Bureau of Shipping or similar organization for fish processing vessel built after July 27, 1990, or undergoes major conversion completed after that date, for provisions which deemed compliance with this chapter if vessel has unexpired certificate of inspection issued by foreign country that is party to International Convention for Safety of Life at Sea to which United States is party. 1984--Pub. L. 98-557 substituted ``is deemed'' for ``shall be deemed''.

---

A service of the U.S. Government Printing Office.

Last updated: >December 23, 2008  
Page Name: <http://www.gpoaccess.gov/uscode/browse.html>

**BLANK PAGE**

From CG Auth Act Sec. 604

ALTERNATIVE SAFETY COMPLIANCE PROGRAM.—

No later than January 1, 2017, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d)(1) of the title 46, United States Code, as amended by this section.

**BLANK PAGE**

## Section 609 of CG Auth Act

### **Creates new Section 46 USC 3104:**

#### **46 USC 3104. Survival craft**

- (a) Except as provided in subsection (b), the Secretary may not approve a survival craft as a safety device for purposes of this part, unless the craft ensures that no part of an individual is immersed in water.
- (b) The Secretary may authorize a survival craft that does not provide protection described in subsection (a) to remain in service until not later than January 1, 2015, if—
  - (1) it was approved by the Secretary before January 1, 2010; and
  - (2) it is in serviceable condition.

**BLANK PAGE**

## SEC. 705 of CG Auth Bill

### **SEC. 705. PREVENTION OF SMALL OIL SPILLS.**

(a) **PREVENTION AND EDUCATION PROGRAM.**—The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of the Department in which the Coast Guard is operating and other appropriate agencies, shall establish an oil spill prevention and education program for small vessels. The program shall provide for assessment, outreach, and training and voluntary compliance activities to prevent and improve the effective response to oil spills from vessels and facilities not required to prepare a vessel response plan under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including recreational vessels, commercial fishing vessels, marinas, and aquaculture facilities. The Under Secretary may provide grants to sea grant colleges and institutes designated under section 207 of the National Sea Grant H. R. 3619—79

College Program Act (33 U.S.C. 1126) and to State agencies, tribal governments, and other appropriate entities to carry out—

- (1) regional assessments to quantify the source, incidence and volume of small oil spills, focusing initially on regions in the country where, in the past 10 years, the incidence of such spills is estimated to be the highest;
- (2) voluntary, incentive-based clean marina programs that encourage marina operators, recreational boaters, and small commercial vessel operators to engage in environmentally sound operating and maintenance procedures and best management practices to prevent or reduce pollution from oil spills and other sources;
- (3) cooperative oil spill prevention education programs that promote public understanding of the impacts of spilled oil and provide useful information and techniques to minimize pollution, including methods to remove oil and reduce oil contamination of bilge water, prevent accidental spills during maintenance and refueling and properly cleanup and dispose of oil and hazardous substances; and
- (4) support for programs, including outreach and education to address derelict vessels and the threat of such vessels sinking and discharging oil and other hazardous substances, including outreach and education to involve efforts to the owners of such vessels.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere to carry out this section, \$10,000,000 for each of fiscal years 2010 through 2014.

## SEC. 901 of CG Auth Bill

### **SEC. 901. WAIVERS.**

.....(1) IN GENERAL.—Section 12102 of title 46, United States Code, is amended by adding at the end the following:

“(d) AQUACULTURE WAIVER.—

“(1) PERMITTING OF NONQUALIFIED VESSELS TO PERFORM CERTAIN AQUACULTURE SUPPORT OPERATIONS.—Notwithstanding section 12113 and any other law, the Secretary of Transportation may issue a waiver allowing a documented vessel with a registry endorsement or a foreign flag vessel to be used in operations that treat aquaculture fish for or protect aquaculture fish from disease, parasitic infestation, or other threats to their health if the Secretary finds, after publishing a notice in the Federal Register, that a suitable vessel of the United States is not available that could perform those services.

“(2) PROHIBITION.—Vessels operating under a waiver issued under this subsection may not engage in any coastwise transportation.”.

(2) IMPLEMENTING AND INTERIM REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall, in accordance with section 553 of title 5, United States Code, and after public notice and comment, promulgate regulations necessary and appropriate to implement this subsection.

The Secretary may grant interim permits pending the issuance of such regulations upon receipt of applications containing the required information.