

tives 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, § 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.”

STUDIES REGARDING SAFETY OF FISHING VESSELS

Pub. L. 100-424, § 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, § 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.

§ 4503. Fishing, fish tender, and fish processing vessel certification

(a) A vessel to which this subsection 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) Except as provided in subsection (d), subsection (a) 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)(1) Except as provided in paragraph (2), subsection (a) 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, 2013.

(2) Subsection (a) does not apply to a fishing vessel or fish tender vessel to which section 4502(b) of this title applies, if the vessel—

(A) is at least 50 feet overall in length, and not more than 79 feet overall in length as listed on the vessel's certificate of documentation or certificate of number; and

(B)(i) is built after the date of the enactment of the Coast Guard Authorization Act of 2016; and

(ii) complies with—

(I) the requirements described in subsection (e); or

(II) the alternative requirements established by the Secretary under subsection (f).

(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, 2013; and

(C) is 25 years of age or older.

(2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2013, that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an alternative 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 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.

(e) The requirements referred to in subsection (c)(2)(B)(ii)(I) are the following:

(1) The vessel is designed by an individual licensed by a State as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.

(2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.

(3) The vessel—

(A) completes a stability test performed by a qualified individual;

(B) has written stability and loading instructions from a qualified individual that are provided to the owner or operator; and

(C) has an assigned loading mark.

(4) The vessel is not substantially altered without the review and approval of an individual licensed by a State as a naval architect or marine engineer before the beginning of such substantial alteration.

(5) The vessel undergoes a condition survey at least twice in 5 years, not to exceed 3 years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.

(6) The vessel undergoes an out-of-water survey at least once every 5 years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.

(7) Once every 5 years and at the time of a substantial alteration to such vessel, compliance of the vessel with the requirements of paragraph (3) is reviewed and updated as necessary.

(8) For the life of the vessel, the owner of the vessel maintains records to demonstrate compliance with this subsection and makes such records readily available for inspection by an official authorized to enforce this chapter.

(f)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (e) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(2) If the report required under this subsection includes a determination that the safety re-

quirements under subsection (e) are not adequate or that additional safety measures are necessary, then the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(3) The alternative safety compliance program established under this subsection shall include requirements for—

(A) vessel construction;

(B) a vessel stability test;

(C) vessel stability and loading instructions;

(D) an assigned vessel loading mark;

(E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;

(F) an out-of-water vessel survey at least once every 5 years;

(G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and

(H) such other aspects of vessel safety as the Secretary considers appropriate.

(g) For the purposes of this section, the term “built” means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

(1) The vessel’s keel is laid.

(2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 98-557, §33(b), Oct. 30, 1984, 98 Stat. 2876; Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587; Pub. L. 111-281, title VI, §604(e)(1), Oct. 15, 2010, 124 Stat. 2966; Pub. L. 112-213, title III, §305(c), Dec. 20, 2012, 126 Stat. 1564; Pub. L. 114-120, title III, §318(a), Feb. 8, 2016, 130 Stat. 63; Pub. L. 114-328, div. C, title XXXV, §3503(a), (b)(2), Dec. 23, 2016, 130 Stat. 2775.)

REFERENCES IN TEXT

The date of the enactment of the Coast Guard Authorization Act of 2016, referred to in subssecs. (c)(2)(B)(i) and (f)(1), is the date of enactment of Pub. L. 114-120, which was approved Feb. 8, 2016.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-120, §318(a)(1), substituted “this subsection” for “this section” in introductory provisions.

Subsec. (b). Pub. L. 114-120, §318(a)(2), substituted “Except as provided in subsection (d), subsection (a)” for “This section” in introductory provisions.

Subsec. (c). Pub. L. 114-120, §318(a)(3), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), subsection (a)” for “This section”, and added par. (2).

Subsec. (c)(2)(B)(i). Pub. L. 114-328, §3503(a), substituted “Coast Guard Authorization Act of 2016” for “Coast Guard Authorization Act of 2015”.

Subsec. (e). Pub. L. 114-120, §318(a)(4), added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 114-120, §318(a)(4), added subsec. (f).

Subsec. (f)(1). Pub. L. 114-328, §3503(a), substituted “Coast Guard Authorization Act of 2016” for “Coast Guard Authorization Act of 2015”.

Subsec. (f)(2). Pub. L. 114-328, §3503(b)(2), substituted “, then” for “, that”.

Subsec. (g). Pub. L. 114-120, §318(a)(4), redesignated subsec. (e) as (g).

2012—Subsec. (c). Pub. L. 112-213, §305(c)(1), substituted “July 1, 2013,” for “July 1, 2012.”

Subsec. (d)(1)(B). Pub. L. 112-213, §305(c)(2)(A), substituted “July 1, 2013;” for “July 1, 2012;”.

Subsec. (d)(2). Pub. L. 112-213, §305(c)(2)(B), substituted “July 1, 2013,” for “July 1, 2012,” in two places and substituted “major conversion” for “substantial change to the dimension of or type of vessel”.

Subsec. (e). Pub. L. 112-213, §305(c)(3), added subsec. (e).

2010—Pub. L. 111-281, §604(e)(1)(A), substituted “Fishing, fish tender, and fish processing vessel certification” for “Fish processing vessel certification” in section catchline.

Subsec. (a). Pub. L. 111-281, §604(e)(1)(B), struck out “fish processing” before “vessel to which this section applies” in introductory provisions.

Subsecs. (c), (d). Pub. L. 111-281, §604(e)(1)(C), added subsecs. (c) and (d).

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”.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective as if included in the enactment of Pub. L. 114-120, see section 3503(e) of Pub. L. 114-328, set out as a note under section 60 of Title 14, Coast Guard.

ALTERNATIVE SAFETY COMPLIANCE PROGRAM

Pub. L. 111-281, title VI, §604(f), Oct. 15, 2010, 124 Stat. 2967, provided that: “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.”

§ 4504. Prohibited acts

A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

(Added Pub. L. 98-364, title IV, §402(7)(C), July 17, 1984, 98 Stat. 447; amended Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587.)

AMENDMENTS

1988—Pub. L. 100-424 amended section generally, substituting “Prohibited acts” for “Penalties” in section catchline, and provisions prohibiting operation of vessel in violation of this chapter, for provisions which imposed civil penalty not more than \$1,000 for operation of vessel in violation of chapter, and liability in rem for penalty.

§ 4505. Termination of unsafe operations

An official authorized to enforce this chapter—

(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes

creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1)¹ of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

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

§ 4506. Exemptions

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.

(Added Pub. L. 100-424, §2(a), Sept. 9, 1988, 102 Stat. 1587; amended Pub. L. 102-587, title V, §5222, Nov. 4, 1992, 106 Stat. 5081; Pub. L. 105-383, title III, §301(b)(6), Nov. 13, 1998, 112 Stat. 3417; Pub. L. 111-281, title VI, §604(b), Oct. 15, 2010, 124 Stat. 2964; Pub. L. 114-120, title III, §306(a)(5), Feb. 8, 2016, 130 Stat. 54.)

AMENDMENTS

2016—Pub. L. 114-120 struck out subsec. (a) designation before “The Secretary may”.

2010—Subsec. (b). Pub. L. 111-281 struck out subsec. (b) which read as follows: “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.”

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.

§ 4507. Penalties

(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than \$5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

¹ So in original. Probably should be section “4503(a)”.