

**National Commercial Fishing Safety Advisory Committee
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ARTICLE I AUTHORITY

The National Commercial Fishing Safety Advisory Committee (“Committee”) was established on December 4, 2018, by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of Fiscal Year 2018* (Pub. L. No. 115-282, 132 Stat. 4192), and amended by §8335 of the *William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year of 2021* (Pub. L. No. 116-283, 134 Stat 4706), and is codified in 46 U.S.C. § 15102. The Committee must operate under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) and 46 U.S.C. § 15109.

ARTICLE II PURPOSE

The Committee shall—

- 1) advise the Secretary of Homeland Security via the Commandant of the United States Coast Guard on matters relating to safe operation of commercial fishing industry vessels including the matters of--
 - (A) navigation safety;
 - (B) safety equipment and procedures;
 - (C) marine insurance;
 - (D) vessel design, construction, maintenance, and operation;
 - (E) personnel qualifications and training;
- 2) review regulations proposed under Chapter 45, Title 46 of the United States Code (during preparation of the regulations); and
- 3) review marine casualties and investigations of vessels to improve safety and reduce vessel casualties.

The Committee will review proposed Chapter 45, Title 46 regulations during preparation of the regulations. To improve safety and reduce vessel casualties, the Committee shall also review marine casualties and investigations of vessels covered by Chapter 45, Title 46. All of the Committee involvement in the review of rulemaking projects will be limited by the Administrative Procedure Act and related agency policies regarding rulemaking.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

- Section 1. Composition. The Committee shall consist of 18 members who are appointed by and who serve at the pleasure of the Secretary of Homeland Security. Each member has particular expertise, knowledge, and experience in matters relating to the function of the Committee. Following procedures in 46 U.S.C. §§ 15102 and 15109, the Secretary will appoint persons to the following membership:
- (A) 10 members shall represent the commercial fishing industry and-
 - (i) as a group, shall together reflect a regional and representational balance; and
 - (ii) as individuals each shall have experience –

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- (I) in the operation in which chapter 45 of title 46 United States Code applies; or
 - (II) as a crew member or processing line worker on a fish processing vessel.
- (B) 1 member shall represent naval architects and marine engineers.
- (C) 1 member shall represent manufacturers of equipment for vessels to which chapter 45 of title 46 United States Code applies.
- (D) 1 member shall represent education and training professionals related to fishing vessels, fish processing vessels and fish tender vessel safety and personnel qualifications.
- (E) 1 member shall represent underwriters that insure vessels to which chapter 45 of title 46 United States Code applies.
- (F) 1 member shall represent owners of vessels to which chapter 45 of title 46 United States Code applies.
- (G) 3 members shall represent the general public and to the extent possible, shall include-
- (i) an independent expert or consultant in maritime safety,
 - (ii) a marine surveyor who provides services to vessels to which chapter 45 of title 46 United States Code applies; and
 - (iii) a person familiar with issues affecting fishing communities and the families of fishermen.

Except for the members in (G), members serve as representatives of their respective interests, associations, or organizations and are not Special Government Employees as defined in 18 U.S.C. § 202(a).

Members in (G) serve as Special Government Employees as defined in 18 U.S.C. § 202(a). Special Government Employees are subject to the Federal conflict of interest laws and Government-wide standard of conduct regulations and are required to file a New Entrant Confidential Financial Disclosure Report annually and complete ethics training.

In order for the Department, to fully leverage broad-ranging experience and education, the National Commercial Safety Advisory Committee must be diverse with regard to professional and technical expertise. The Department is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people.

Section 2. Appointment. In accordance with 46 U.S.C. § 15109(f)(2)(B), the Secretary shall not seek, consider, or otherwise use information concerning political affiliation of a nominee in making an appointment to the Committee. Following publication of a timely notice in the Federal Register soliciting nominations for membership on the Committee, members of the Committee are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the United States Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or to vote.

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Section 3. Terms of Office. The term of each Committee member will expire on December 31 of the third full year after the effective date of his or her appointment. Each member serves at the pleasure of the Secretary, but the Secretary must have just cause to remove a member before the end of the member's term. Members of the Committee may not serve more than three terms. The Secretary may reappoint a member of the Committee for any term, other than the first term of the member, without soliciting, receiving, or considering nominations for such appointment. When the term of a member ends and a successor has not been appointed, he or she may continue to serve as a member for up to one additional year, until a successor is appointed. In the event the Committee terminates, all appointments to the Committee will terminate.

Section 4. Certification of Non-Lobbyist Status. Registered lobbyists are not eligible to serve on federal advisory committees in an individual capacity. *See "Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions"*, 79 Fed. Reg. 47482 (August 13, 2014). Special Government Employee members of the National Commercial Fishing Safety Advisory Committee may not be federally registered lobbyists. If at any time after appointment, a National Commercial Fishing Safety Advisory Committee Special Government Employee member registers as a federal lobbyist with the Secretary of the U.S. Senate or with the Clerk of the House of Representatives, they must immediately inform the Designated Federal Officer. Members who register as a lobbyist after the appointment or reappointment to the National Commercial Fishing Safety Advisory Committee will be replaced.

The Designated Federal Officer will assure that Special Government Employee candidates for appointment are not federally registered lobbyists, required by 2 U.S.C. § 1603 to register with the Secretary of the Senate and Clerk of the House of Representatives.

Section 5. Security Clearances. The Secretary of Homeland Security may require an individual to have passed an appropriate security background examination before appointment to the Committee

Section 6. Members' Responsibilities. Because the membership of the Committee is constructed to balance as many aspects and viewpoints of the commercial fishing community as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at Committee meetings. The Commandant of the United States Coast Guard may recommend to the Secretary of Homeland Security that any member who is unable to fulfill their responsibility be replaced on the Committee.

Members of the Committee may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings without a valid reason that is acceptable to the DFO, or not participating in the Committee's work;

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- b. Members in their individual capacity registering as a lobbyist after appointment;
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of the Committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of the Committee, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of the Committee are advisors to the agency and have no authority to speak for the Committee, the Coast Guard or for the Department outside the Committee structure.
- d. Members may not testify before Congress in their capacity as a member of the Committee. If requested to testify before Congress, members of the Committee:
 - 1. Cannot represent or speak for the Committee, Department of Homeland Security, the Coast Guard, any other agency, or the Administration in their testimony;
 - 2. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
 - 3. May state they are a member of the Committee; and,
 - 4. May speak to their personal observations as to their service on the Committee.
- e. If speaking outside the Committee structure at other forums or meetings, the restrictions in § 7d. also apply.

Section 8. Observers.

Any Federal agency with matters under that agency's administrative jurisdiction related to the function of the Committee may designate a representative to attend any Committee meeting, and that representative may participate as an observer at meetings at which such matters are discussed.

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ARTICLE IV OFFICIALS

Officials shall, at all times, preside over meetings to promote and ensure the most orderly and expeditious proceedings of official business. The primary duty of Officials is to promote consistency with the requirements of the Committee Charter and the Committee Bylaws.

Section 1. Chair and Vice Chair. The Committee will elect a Chair and Vice Chair from the Committee's members each calendar year. The Chair shall conduct each meeting in general accordance with *Robert's Rules of Order*, provide an opportunity for participation by each member and by public attendees, ensure adherence to the agenda, maintain order, and prepare any recommendation submitted to the Coast Guard. As is appropriate to achieve Committee initiatives, the Chair may seek expertise from the fishing industry, marine safety experts, the shipbuilding industry, and others as the Committee determines appropriate. The Vice Chair will act as Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. The term of office of the Chair and Vice Chair may be up to three years if elected annually, and a member may not serve more than two consecutive terms as Chair or Vice Chair.

Section 2. Designated Federal Officer. The DFO serves as the Department's agent for all matters related to the Committee and is appointed by the Director of Inspections and Compliance. In accordance with the provisions of the *Federal Advisory Committee Act*, the DFO must:

- a. Approve or call meetings of the committee and its subcommittees;
- b. Approve agendas for committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the committee when directed to do so by the Director of Inspections and Compliance.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes of all meetings of the Committee's deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the committee, including those items generated by subcommittees and working groups;
- g. Reviewing and regularly updating information on committee activities in the Shared Management System (*Federal Advisory Committee Act* database);

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- h. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and.
- i. Preparing and handling all reports, including the annual report as required by the *Federal Advisory Committee Act*.

Section 3. Alternate Designated Federal Officer. An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO and performs the functions of the DFO as required by the *Federal Advisory Committee Act* in the DFO's absence. An Alternate Designated Federal Officer is appointed by the Chief, Commercial Vessel Compliance.

ARTICLE V MEETING PROCEDURES

Section 1. Meeting Schedule and Call of Meetings. The Committee shall meet at least twice each year, but may meet more frequently as needs may require. Meetings are held at the call of the Secretary or a majority of the members of the Committee, subject to the approval of the DFO. The DFO must attend all committee, subcommittee, and/or work group meetings. The DFO shall approve or call committee, subcommittee, and working group meetings. The DFO will determine the location of meetings and meeting dates. Meetings may be held in person, virtual, or a hybrid of in person and virtual depending on the needs of the Committee to allow maximum flexibility.

Section 2. Agenda. Prior to each meeting, a call for agenda items will be sent to the Committee Chairman. The Chairman will communicate the call for agenda items to the Committee members and request their input. Committee input will be communicated through the Chairman to the DFO. The DFO will consider Committee input, and will approve the decided on Committee meeting agenda.

The DFO approves the agenda for all Committee and subcommittee meetings, distributes the agenda to members prior to the meeting, and publishes the agenda in the *Federal Register* as part of a notice of meeting.

Section 3. Quorum. A quorum for the Committee is the presence of ten of the appointed Committee members. A quorum of the Committee is required to vote on issues being addressed and send any written recommendations to the Secretary of Homeland Security. If a quorum does not exist, the meeting may continue but no action may be taken by the Committee or the meeting may be cancelled at the discretion of the Designated Federal Officer.

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Section 4. Tasks.

- a. Authority to assign tasks. The DFO retains sole authority for assigning all task statements to the Committee for consideration. The DFO may receive suggestions from Committee members, the public, or the Agency in the formation of a Task Statement. It is the responsibility of the DFO to determine if the task is in accordance with the duties of the Committee as specified in the Committee's approved charter. If, after review, the DFO determines the assigned task is in accordance with the duties of the Committee, the DFO may place the presentation of the assigned task on the agenda for the next meeting. The DFO shall ensure a copy of the assigned task is posted at <https://www.dco.uscg.mil/FishSafe> in advance of the Committee meeting to ensure the public has an opportunity to view the assigned Task Statement.

Once a new Task Statement is presented to the Committee, the Committee shall select a member (or members) to serve as the Chair of the Subcommittee to whom the task will be assigned. The Chair of the subcommittee shall be responsible for organizing the subcommittee, preparing minutes of meeting from the subcommittee meetings, and for presenting the subcommittee's recommendations to the Committee.

- b. Selection of Subcommittee Chair. Once a new Task Statement has been presented to the Committee, the Chairman will select a member (or members) to serve as the chair(s) of the subcommittee to whom the task will be assigned. Subcommittees and working groups may be composed of Committee members, observers, or the general public, but only Committee members may Chair subcommittees and working groups. The Chair of the subcommittee is responsible for organizing the subcommittee, preparing minutes from the subcommittee meetings, and for presenting the subcommittee's recommendations to the Committee.

Section 5. Voting Procedures. Items for a vote are brought before the Committee through a motion, which must be seconded. Upon receiving a second, the Chairman will allow time for discussion. Once the discussion is completed, the issue will be subject to a voice vote, either "yea", "nay" or "abstain". Should the results of the voice vote be unclear to the DFO, a roll call vote will be undertaken. All recommendations submitted to the agency must be voted on and will be in the form of a resolution recorded in the minutes of the meeting. Only Committee members present at the meeting may vote on an item under consideration. No proxy votes will be allowed.

Section 6. Minutes. The DFO will prepare the minutes of each meeting and distribute copies to each Committee member. A full transcript of the meeting can serve as an alternative option. Minutes of open meetings will be available on a publicly available website not later than two weeks after the date on which a meeting

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concludes. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the *Freedom of Information Act* (5 U.S.C. § 552).

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the Committee;
- d. Copies of reports or other documents received, issued, or approved by the Committee; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. Open Meetings. Unless otherwise determined in advance, all meetings of the Committee will be open and announced to the public in a notice published in the Federal Register at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to the Committee at any time. All materials provided to the Committee will be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record. Requests by the public to speak or provide information at Committee meetings will be made in accordance with instructions provided in the notice of meeting published in the *Federal Register* at least 15 days in advance of the meeting.

Section 8. Closed Meetings. All or parts of meetings of the Committee may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the Commandant of the U.S. Coast Guard issues a written determination that there is justification for closure under the Government in the Sunshine Act (5 U.S.C. § 552b(c)). Where the DFO has determined in advance that discussions during a Committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the *Federal Register*. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chair will order such discussion to cease and will schedule it for a future meeting of the Committee that will be approved for closure. No meeting or portion of a meeting may be closed

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without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings can only be attended by the DFO, Committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions. “Housekeeping” sessions where logistical and support matters are discussed shall not be closed to the public and will include the DFO and necessary agency staff members.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

The Office of Commercial Vessel Compliance is responsible for providing financial and administrative support to the Committee. All expenditures for Committee activities must be approved in advance by the DFO. Committee members may be reimbursed for travel and per diem expenses related to Committee activities, and all such expenses must be approved in advance by the DFO.

ARTICLE VII ADMINISTRATION

The Office of Commercial Vessel Compliance, Fishing Vessel Safety Division will provide clerical and administrative support for the Committee.

ARTICLE VIII SUBCOMMITTEES

Establishment. The Chairman may establish and disestablish subcommittees for any purpose consistent with the Committee’s Charter subject to the approval of the Designated Federal Officer.

Restriction on activities. Subcommittees may not work independently of the chartered Committee and must report their deliberations, recommendations, and advice to the Committee for the full deliberation and discussion by the Committee. Subcommittees have no authority to make decisions on behalf of the Committee or the Agency and may only report directly to the Committee.

Membership. Subcommittee members are selected based on their willingness to serve and expertise on the subject matter to be considered, and do not have to be members of the Committee. The Chair will select member in good standing of the Committee to serve as the Chair of the subcommittee and one or more additional Committee members to serve as additional members. A subcommittee or working group member’s term expires when the member’s appointment to the Committee expires or when the Chair in consultation with the DFO, determines that the subcommittee or working group’s work has been completed and dissolves the subcommittee.

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ARTICLE IX RECORDKEEPING

The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee are maintained by the Designated Federal Officer and will be handled in accordance with General Records Schedule 6.2 and Commandant Instruction 5212.12B, "Records and Information Management Program Roles and Responsibilities" (https://cg.portal.uscg.mil/sites/externaldata/Directives/CI_5212_12B.pdf). These records will be available for public inspection and copying, in accordance with the *Freedom of Information Act* (5 U.S.C. § 552). Applications for appointments are maintained by the Designated Federal Officer and handled in accordance with applicable laws and regulations pertaining to the *Federal Advisory Committee Act* and protection of personal identifying information and the *Privacy Act*.

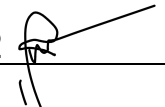
ARTICLE X RECOMMENDATIONS AND REPORTING

The Committee will submit in writing to the Secretary of Homeland Security its advice, reports, and recommendations, in a form and at a frequency determined appropriate by the Committee. Reports and recommendations from the Committee and its subcommittees, work groups or task forces will be reviewed and discussed during Committee meetings, voted on for acceptance by the Committee, and if accepted, forwarded to the DFO for further consideration. The written recommendations accepted by the Committee will be made available to the public not later than 60 days after the date on which they are made. The public will be able to submit comments on the Committee recommendations via the regulations.gov website.

The DFO will track recommendations and report back to the Committee at future meetings on the status or actions taken regarding the recommendations. A written report with a response to the recommendations of the Committee, including explanation of actions taken regarding the recommendations, will be made available to the public not later than 30 days after the date of the response.

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The Designated Federal Officer may amend these bylaws, provided such amendments are consistent with statute and charter, at any time and the amendments will become effective immediately upon approval.

Joseph D. Myers 6/27/2022 

Joseph D. Myers
Alternate Designated Federal Officer

Date approved: _____