

Captain Matt Edwards
Commandant (CG-CVC-3)
Attn: Fishing Vessel Safety
U.S. Coast Guard, Stop 7501
2703 Martin Luther King Jr Ave., SE
Washington, DC 20593-7501
(202) 372-1251

March 28, 2018

RE: Regulatory Reform Task #01-17 Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

Captain Edwards,

The Commercial Fishing Vessel Safety Advisory Committee met on March 15, 2018 to discuss Regulatory Reform Task #01-17 Input to Support Regulatory Reform of Coast Guard Regulations—Executive Orders 13771 and 13783.

The Commercial Fishing Vessel Safety Advisory Committee identified and approved the following items to be included in the comments submitted by the committee (I note that the items are ordered on a priority basis from 1 to 11, with issue 1 being the most important to committee members):

1. Regulation, Policy or Guidance: Notice of Proposed Rulemaking #USCG-2012-0025
 - a. **Specific Citation:** 46 CFR Part 28.201(b)
 - b. **Requested Action:** Repeal
 - c. **Reason for Action:** Classing of fishing vessel is cost prohibitive & will not produce sufficient safety benefits needed in the fishing industry. Further, classification requirements in this section are not current with US Code.
 - d. **Specific Language to be adopted:** Repeal proposed regulation 46 CFR 28.201 (b)
 - e. **Cost, burden or data statement:** The proposed class requirement is preventing the construction of new fishing vessels due to excessive costs (between 15%-30%). Requirement is eliminating shipbuilding jobs. Further, classing does not address the most pressing safety needs w/in the fishing fleets
 - f. **Impacts to Safety:** High costs associated w/construction of classed vessels is forcing owners to continue operating older, less efficient vessels
 - g. **Reference:** CFSAC 1, CFSAC 1.5, See also GAO Report 18-16 dated December 2017 on Commercial Fishing Vessels
 - h. **Notes from FVSAC Sub-Committee:** To support this regulatory change, the sub-committee recommends that 46 USC 4503 (c) (2)(A) be amended as

follows: delete "79'" and replace with "(a length to be determined by Congress)".

2. Regulation, Policy or Guidance: Regulation
 - a. **Specific Citation:** 46 CFR Part 69 (Tonnage)
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** Regulatory tonnage should not be allowed for new vessels. Concurrent with this action, upward adjustments of tonnage thresholds in numerous legislative / regulatory thresholds would be necessary (manning, inspection, pollution prevention, MARPOL, navigation safety)
 - d. **Specific Language to be adopted:** This action would modify various vessel documentation, manning, vessel inspection, pollution prevention, and other regulations.
 - e. **Cost, burden or data statement:** Current US Tonnage measurement system is costing millions of dollars in superficial design & construction costs for fishing vessels.
 - f. **Impacts to Safety:** The existing regulatory tonnage system, and resulting design features / adjustments can compromise safety.
 - g. **Reference:** CFSAC 2, CFSAC 2.5 (attached)
 - h. **Notes from FVSAC Sub-Committee:** This would require multiple changes to various statutes & changes to international treaty.
3. Regulation, Policy or Guidance: Regulation
 - a. **Specific Citation:** 46 CFR 28 Subpart E
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** Existing stability regulations for fishing vessels > 79' have not been updated since 1990. Numerous inconsistencies, poorly worded sections, require clarifications & revision.
 - d. **Specific Language to be adopted:** Changes would be made to numerous sections of 46 CFR 28 Sub-Part E and USCG Marine Safety Center (MSC) Procedure Number H2-20 dated June 2013.
 - e. **Cost, burden or data statement:** Current stability requirements are poorly written, which creates confusion and potentially adds thousands of \$\$\$ in additional costs to the industry.
 - f. **Impacts to Safety:** There are no increased safety risks anticipated through these revisions to 46 CFR 28 Sub Part E & MSC Proc # H2-20
 - g. **Reference:** CFSAC 3 (attached)
4. Regulation, Policy or Guidance: Regulation
 - a. **Specific Citation:** 46 CFR Part 28.270 (a)
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** Current regulation is ambiguous and as written is subject to multiple interpretations during enforcement, creating inefficiencies, uncertainty & burdens on the industry
 - d. **Specific Language to be adopted:** Change 46 CFR 28.270 (a) to read as follows: "Each required drill and the required instruction be performed

before vessels engage in fishing activities and within periods of no more than 30 days in duration while engaged in fishing activities."

- e. **Cost, burden or data statement:** There is no additional cost to industry or the Coast Guard. Industry burden will be reduced w/ clearer regulations and the USCG will issue fewer unwarranted enforcement actions.
 - f. **Impacts to Safety:** There are no increased safety risks anticipated through this revision of 46 CFR 28 Part 270 (a)
 - g. **Reference:** CFSAC 4 (attached)
5. Regulation, Policy or Guidance: Notice of Proposed Rule Making # USCG-2012-0025
- a. **Specific Citation:** Collection of Information
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** This modification will allow the marine industry to leverage technological advances, reducing F/V operator time and effort to comply with operational readiness regulations for primary lifesaving and firefighting equipment.
 - d. **Specific Language to be adopted:** none
 - e. **Cost, burden or data statement:** Vessel operators will be burdened if they do not have access to manufacturer's recommendations for servicing & care of CG required equipment. Implementing this modification will reduce record keeping and administrative burdens for vessel operators.
 - f. **Impacts to Safety:** Over time risks to health or safety would likely decrease as the benefits of having all manufacturer's inspection and maintenance guidance is realized.
 - g. **Reference:** CFSAC 5 (attached)
6. Regulation, Policy or Guidance: Notice of Proposed Rule Making # USCG-2012-0025
- a. **Specific Citation:** Notice of Proposed Rule Making # USCG-2012-0025
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** CG Auth Act of 2010 eliminated the distinction between documented and undocumented fishing vessels for purposes of fishing vessel safety regulations found in 46 CFR Part 28. Congressional intent was that state registered fishing vessels meet the same safety requirements.
 - d. **Specific Language to be adopted:** The proposed action would modify NPRM USCG- 2012-0025 to expand implementation of vessel parity to fully include regulations which would affect undocumented fishing vessels.
 - e. **Cost, burden or data statement:** Proposed regulation as written continues to apply an outdated, less stringent (and less costly) safety standard to state registered vessels. This puts federally documented fishing vessels of a similar size and operation at an unfair financial disadvantage.
 - f. **Impacts to Safety:** This change will reduce vessel losses and improve accident survivability with state numbered (undocumented) fishing vessels
 - g. **Reference:** CFSAC 6

7. Regulation, Policy or Guidance: Notice of Proposed Rule Making # USCG-2012-0025
 - a. **Specific Citation:** 46 CFR Part 28.201 (a)
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** Increasing the frequency of dockside exams is a long term preventative strategy designed to reduce fatalities, vessel losses & serious injury while ensuring the safe operation of commercial fishing industry vessels to the net benefit of the nation. A five year interval for these examinations is not supported by the industry.
 - d. **Specific Language to be adopted:** The proposed modification would change the language in 46 CFR 28.201 (a) to read "at least once every two years."
 - e. **Cost, burden or data statement:** Over 90% of fishing vessel safety exams are conducted free of charge by the USCG. The remaining 10% of exams are performed by 3rd party examiners, usually free of charge in conjunction w/ other survey requirements (for insurance or classification).
 - f. **Impacts to Safety:** A two year exam cycle will maintain or greatly improve existing levels of safety.
 - g. **Reference:** CFSAC 7 (attached)
8. Regulation, Policy or Guidance: Regulation
 - a. **Specific Citation:** 46 CFR Part 28.140 (b)
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** The effectiveness of annual servicing of life rafts has not been demonstrated. In many regions of the country, servicing costs are very high & lack of nearby servicing facilities results in additional shipping costs to cover annual servicing requirements.
 - d. **Specific Language to be adopted:** Change the language in Table 46 CFR 28.140 (b) to read "to be serviced once every 24 months."
 - e. **Cost, burden or data statement:** Cost data varies around the country, however, it is anticipated that this action would reduce servicing costs by 30% over the life of the raft.
 - f. **Impacts to Safety:** There is no evidence to suggest that less frequent, but still regular servicing will negatively impact safety. Existing USCG and international regulations allow for servicing intervals up to 17 months.
 - g. **Reference:** CFSAC 8, (attached) CFSAC 8.5 (attached) See also USCG Study on Life Raft Servicing dated Sep 2017
9. Regulation, Policy or Guidance: Guidance
 - a. **Specific Citation:** NVIC 7-93
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** NVIC 7-93 is outdated and creates confusion when applied in the field for compliance & enforcement purposes. The course outline of a 100GT or higher license does not address the emergency drill requirement found in 46 CFR Part 28.270
 - d. **Specific Language to be adopted:** Delete the following in NVIC 7-93: Para 3(a) after "activities" & Para 3(b) delete ", who - more"

- e. **Cost, burden or data statement:** There is no data that can be provided to illustrate the impact, cost, or burden of this modification. Overall impact would be positive in that fishermen would be receiving training that is more relevant to their needs.
 - f. **Impacts to Safety:** There are no increased risks to health or safety risks anticipated through this revision to NVIC 7-93
 - g. **Reference:** CFSAC 9 (attached)
10. Regulation, Policy or Guidance: Notice of Proposed Rule Making # USCG-2012-0025
- a. **Specific Citation:** 46 CFR Part 28.200 (b)
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** Regulations should ensure the master or individual in charge of a vessel keep a record of the inspection and maintenance for each item of lifesaving equipment carried on board a vessel, drills conducted and instruction given, meeting the requirements of 46 CFR Part 28.
 - d. **Specific Language to be adopted:** Required record of equip maintenance should include the date & time of the equip inspection or maintenance, the person's name performing the equip inspection or maintenance, the inspection & maintenance procedure(s) performed, the equipment's operational readiness status, any further maintenance or repair required to make the equipment operationally ready, & the date, time & person performing any further or follow-up maintenance or repair. Regulations should ensure the master or individual in charge of a vessel must keep a record of the drills and instruction required by 46 CFR Part 28. The required record of the drills and instruction should include:
 - i. the date and time of the drill or instruction,
 - ii. the person's name giving the instruction, leading a discussion concerning the contingencies listed in 46 CFR §28.270 paragraph (a), or conducting the drill,
 - iii. the names of those receiving the instruction, watching video and participating in discussion or participating in the drill, and (d) the topic(s) of the instruction, the topic of the video watched and discussion, or a description of the drill scenario.
 - a. **Cost, burden or data statement:** N/A
 - b. **Impacts to Safety:** Risks to health and safety would likely decrease with adequate logging requirements.
 - c. **Reference:** CFSAC 10 (attached)
11. Regulation, Policy or Guidance: Regulation
- a. **Specific Citation:** 46 CFR 28 Part 160
 - b. **Requested Action:** Modify
 - c. **Reason for Action:** The fire extinguisher classification change to 46 CFR Part 28.160 has excluded many fire extinguishers that are appropriate from meeting USCG carriage requirements. The liquefied gas type and carbon dioxide type portable fire extinguishers appropriate for pilothouses and

engine rooms where sensitive and critical electronic equipment is used have been excluded from meeting carriage requirements with the change to the classifications.

- d. **Specific Language to be adopted:** A complete analysis should be completed to compare all fire extinguishers of varying agent type and size that were approved and appropriate under the old marine classification system, 46 CFR 28.160, to the fire extinguishers available under the revised classification system.
- e. **Cost, burden or data statement:** Vessels are either inappropriately protected using the new classifications or having to purchase extinguishers to comply with carriage requirements and additional extinguishers to appropriately protect the vessel.
- f. **Impacts to Safety:** The new extinguishers classifications and requirements could result in vessels being inappropriately protected.
- g. **Reference:** CFSAC 11 (attached)

Sincerely,

Erling E Jacobsen, Chairman
Commercial Fishing Safety Advisory Committee