

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant
United States Coast Guard

2100 Second Street, S.W. STOP 7581
Washington, DC 20593-7581
Staff Symbol: CG-5433
Phone: (202) 372-1249
Fax: (202) 372-1917

16700

FEB 15 2012

From: E. P. CHRISTENSEN, CAPT
COMDT (CG-543)

CG-543 Policy Letter
No. 12-01

To: Distribution

Subj: ALTERNATE COMPLIANCE AND SAFETY AGREEMENT (ACSA) PROGRAM

Ref: (a) Implementation of the Commercial Fishing Industry Vessel Regulations,
COMDTINST 16711.13B
(b) MVI Policy Letter 14/90 dated June 20, 1990
(c) Guidance for the Alternate Compliance and Safety Agreement Program (ACSA),
Rev. 6 Oct 2010

1. PURPOSE. This letter provides updated guidance to Districts, Sectors, and Marine Safety Units regarding vessels enrolled or enrolling in the Alternate Compliance and Safety Agreement (ACSA) Program. It applies specifically to vessels exempted from classification or load line requirements under the authority of Title 46 United States Code (USC), Section 4506 or Section 5108. It does not address the alternate safety compliance program mandated in 46 USC 4503.

2. DIRECTIVES AFFECTED. G-PCV Policy Letter 06-03 is superseded and cancelled by this policy letter.

3. BACKGROUND. Prior to 2006, most of the vessels comprising the Bering Sea/Aleutian Island (BSAI) and Gulf of Alaska (GOA) cod freezer longliner and non-pollock freezer trawler fleets were not being regulated as "fish processing vessels" but instead by the less comprehensive standards for "fishing vessels" in Title 46 Code of Federal Regulation (CFR), Part 28.

46 USC 2101(11b) defines "fish processing vessel" as a "vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing or brine chilling." Reference (b) affirms that a strict interpretation of this definition applies even on vessels which also engage in normal fishing operations.

Formal Coast Guard investigations into the loss of F/V ARCTIC ROSE in 2001 and the loss of F/V GALAXY in 2002 revealed that nearly all the vessels in the cod freezer longliner and non-pollock freezer trawler fleet were actually operating as fish processing vessels. Therefore, much of this fleet was not in compliance with the applicable examination and classification requirements in 46 CFR 28, Subpart F, or load line requirements in 46 CFR Subchapter E.

(Note: Not all existing fish processing vessels are required to meet classification and load line

requirements. Date of vessel construction or conversion to fish processing vessel affects applicability as specified in 46 USC, Sections 4503 and 5102.)

Vessels in the ACSA fleet had been in service for an average of 31 years and lacked class plan review and approval of vessel systems and machinery components. If the requirements applicable to processing vessels were strictly enforced throughout the fleet, most of these vessels could not be accepted for classification. Therefore, these vessels would likely have reduced the scope of their operation to that of fishing vessel only, which would have done little to improve safety. In order to avoid that scenario, the Alternate Compliance and Safety Agreement (ACSA) Program was developed by Coast Guard Districts 13 and 17 to provide an alternate safety regime whereby these vessels might qualify for an exemption from classification and load line requirements.

Coast Guard Headquarters issued G-PCV Policy Letter 06-03 in July 2006 to provide guidance on granting exemptions for existing fish processing vessels on a case-by-case basis. The ACSA Program, based and managed in Coast Guard Districts 13 and 17, followed the guidance in that policy letter and developed a more extensive and detailed guidance document.

4. DISCUSSION. The exemption authority set forth in 46 CFR 28.60 is based on 46 USC 4506 and states that the District Commander may grant exemptions, provided 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. Therefore, the District Commander may exempt a fish processing vessel from classification requirements found in 46 CFR 28.720.

Load line requirements are established in 46 USC, Chapter 51. Because the cod freezer longliner and non- pollock freezer trawler vessels engage in catching fish, they meet the definition of “fishing vessel” under the International Convention on Load Lines, 1966, and are not subject to international load line requirements. In accordance with 46 USC 5108(a)(1), a vessel entitled to an exemption under an international agreement may also be granted an exemption under U.S. law. Therefore, these vessels may be exempted from domestic voyage load line requirements, pursuant to 46 CFR 42.03-30. The ACSA Program allows for the District Commander to grant this exemption and an exemption for classification in a single letter of exemption.

The ACSA Program has facilitated major improvements in safety conditions throughout the cod freezer longliner and non- pollock freezer trawler fleet. The Program has continually been refined as examinations and casualty investigations have identified safety issues. As the ACSA Program evolved, a comprehensive ACSA Guide, reference (c), was developed, and is maintained by Coast Guard District 13. This guidance document is updated annually as needed.

The guidance provided and the criteria for “processing” vessels to be eligible for an exemption from the applicable examination and class requirements outlined in the G-PCV Policy Letter 06-03 has been incorporated into the current ACSA Guidance document. This is a living document that facilitates periodic revisions and updating without necessarily requiring this policy letter to be amended at the same time.

5. ACTION.

Headquarters

Headquarters will review the ACSA Guide and work with Districts to ensure that the ACSA Program is consistent with Commandant policies and regulatory changes.

District

The District Commander may continue to issue a letter of exemption, valid for up to two years, to allow a vessel enrolled in the ACSA program to operate as a fish processing vessel. A letter of exemption shall only be granted where it is determined 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. Prior to being granted an exemption by the District Commander, the Officer in Charge Marine Inspection will submit a memo to the District Commander verifying that the vessel owner has requested an exemption, has completed all required examinations for enrollment into the ACSA program, and that all activities related to the ACSA program are properly documented. Signed exemption letters shall be scanned and entered into the vessel's documents folder in MISLE.

Specific examination requirements for the ACSA Program shall be contained in the ACSA Guide. Sectors, District Commanders and ACSA Program coordinators shall ensure that the ACSA Guide is updated as necessary to establish any new requirements that are needed to provide for a continued and an appropriate level of safety.

The ACSA Guide shall also include a list of fish products based on operations which are considered processing. The operations and product codes listed by the NOAA National Marine Fisheries Service will also be used in this determination. Per reference (b), if industry practices change or if questions arise regarding what operations qualify a vessel as a fish processing vessel, the Officer in Charge, Marine Inspection will evaluate the operation and forward a recommendation to the Commandant (CG-543), via the District Commander, for a final determination.

Sector

Sectors shall assume day-to-day management of the ACSA vessel fleet by scheduling and conducting examinations, documenting ACSA activities, and providing the District with examination results and recommendations as described in the previous section. Development of Standard Operating Procedures to manage ACSA administrative activities, consistent with this policy letter, is authorized.

If it is determined that a vessel is operating as a "fish processing vessel" as defined in 46 USC 2101(11b) and it is not in compliance with applicable classification, examination, or load line requirements, enforcement action shall be taken unless the vessel has a valid exemption.

Vessel Owner/Operator

A commercial fishing industry vessel that is not enrolled in the ACSA Program, and which produces one or more of the products identified as "Beyond Minimal Processing" in the ACSA Guide, must meet any applicable classification and load line requirements.

Vessel owners requesting an exemption may not produce those products until such time as the exemption has been granted (if granted at all) and the vessel is in full compliance with the conditions of the exemption.

The exemption process is initiated when an owner or operator of a vessel which produces one or more of the products identified as "Beyond Minimal Processing" in the ACSA Guide applies to the District Commander for an exemption letter or a renewal of the exemption letter under the ACSA Program. The owner of a vessel not currently enrolled in the ACSA Program may apply for an exemption from classification and load line requirements in accordance with 46 CFR 28.60 and 46 USC 5108 (a)(1). Exemptions are not automatic. In requesting an exemption, the vessel owner has the burden of showing good cause and that the vessel can meet adequate levels of safety.

A vessel's acceptance into the ACSA Program is at the discretion of the District Commander, and a vessel's status in the Program is contingent upon compliance with Program requirements which are detailed in the ACSA Guide.

6. DISCLAIMER.

This document is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.

#