

lows: “A person violating section 4307(a)(1) of this title is liable to the United States Government for a civil penalty of not more than \$2,000, except that the maximum civil penalty may be not more than \$100,000 for a related series of violations. When a corporation violates section 4307(a)(1), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for the penalty, in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

“(1) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the defect or the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

“(2) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this clause and clause (1) of this subsection.”

1984—Subsec. (b)(1). Pub. L. 98-557, §8(b), inserted “defect or the” before “nonconformity”.

Subsec. (f)(1). Pub. L. 98-557, §8(c), inserted provisions relating to advice by the Secretary or manufacturer of the vessel, equipment or component respecting defects creating substantial risk of personal injury to the public.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judge” substituted for “United States magistrate” in subsec. (d) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8316(c), Jan. 1, 2021, 134 Stat. 4700, provided that: “The amendments made in subsections (a) and (b) [amending this section and section 4312 of this title] shall take effect 90 days after the date of the enactment of this section [Jan. 1, 2021], unless the Commandant [of the Coast Guard], prior to the date that is 90 days after the date of the enactment of this section, determines that the use requirement enacted in subsection (a) [see section 4312(b) of this title] would not promote recreational boating safety.”

§ 4312. Engine cut-off switches

(a) **INSTALLATION REQUIREMENT.**—A manufacturer, distributor, or dealer that installs propulsion machinery and associated starting controls on a covered recreational vessel shall equip such vessel with an engine cut-off switch and engine cut-off switch link that meet American Boat and Yacht Council Standard A-33, as in effect on the date of the enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115-282).

(b) **USE REQUIREMENT.**—

(1) **IN GENERAL.**—An individual operating a covered recreational vessel shall use an engine cut-off switch link while operating on plane or above displacement speed.

(2) **EXCEPTIONS.**—The requirement under paragraph (1) shall not apply if—

(A) the main helm of the covered vessel is installed within an enclosed cabin; or

(B) the vessel does not have an engine cut-off switch and is not required to have one under subsection (a).

(c) **EDUCATION ON CUT-OFF SWITCHES.**—The Commandant of the Coast Guard, through the National Boating Safety Advisory Committee established under section 15105, may initiate a boating safety program on the use and benefits of cut-off switches for recreational vessels.

(d) **AVAILABILITY OF STANDARD FOR INSPECTION.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this section, the Commandant shall transmit American Boat and Yacht Council Standard A-33, as in effect on the date of enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115-282), to—

(A) the Committee on Transportation and Infrastructure of the House of Representatives;

(B) the Committee on Commerce, Science, and Transportation of the Senate; and

(C) the Coast Guard Office of Design and Engineering Standards; and

(D) the National Archives and Records Administration.

(2) **AVAILABILITY.**—The standard submitted under paragraph (1) shall be kept on file and available for public inspection at such Coast Guard office and the National Archives and Records Administration.

(e) **DEFINITIONS.**—In this section:

(1) **COVERED RECREATIONAL VESSEL.**—The term “covered recreational vessel” means a recreational vessel that is—

(A) less than 26 feet overall in length; and

(B) capable of developing 115 pounds or more of static thrust.

(2) **DEALER.**—The term “dealer” means any person who is engaged in the sale and distribution of recreational vessels or associated equipment to purchasers whom the seller in good faith believes to be purchasing any such vessel or associated equipment for purposes other than resale.

(3) **DISTRIBUTOR.**—The term “distributor” means any person engaged in the sale and distribution of recreational vessels and associated equipment for the purposes of resale.

(4) **MANUFACTURER.**—The term “equipment manufacturer” means any person engaged in the manufacture, construction, or assembly of recreational vessels or associated equipment, or the importation of recreational vessels into the United States for subsequent sale.

(5) **PROPULSION MACHINERY.**—The term “propulsion machinery” means a self-contained propulsion system, and includes, but is not limited to, inboard engines, outboard motors, and sterndrive engines.

(6) **STATIC THRUST.**—The term “static thrust” means the forward or backwards thrust developed by propulsion machinery while stationary.

(Added Pub. L. 115-282, title V, §503(a), Dec. 4, 2018, 132 Stat. 4270; amended Pub. L. 116-283, div. G, title LVXXXIII [LXXXIII], §8316(a), title LVXXXV [LXXXV], §8507(a)(2), Jan. 1, 2021, 134 Stat. 4699, 4752.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of the Frank LoBiondo Coast Guard Authorization Act of 2018, referred to in subsecs. (a) and (d)(1), is the date of enactment of Pub. L. 115-282, which was approved Dec. 4, 2018.

The date of the enactment of this section, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 115-282, which was approved Dec. 4, 2018.

AMENDMENTS

2021—Pub. L. 116-283, § 8507(a)(2), substituted “Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115-282)” for “Coast Guard Authorization Act of 2017” in two places.

Subsecs. (b) to (e). Pub. L. 116-283, § 8316(a), added subsec. (b) and redesignated former subsecs. (b) to (d) as (c) to (e), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Amendment by Pub. L. 116-283 effective 90 days after Jan. 1, 2021, unless the Commandant of the Coast Guard, prior to the date that is 90 days after Jan. 1, 2021, determines that the use requirement enacted in section 8316(a) of Pub. L. 116-283 (amending this section) would not promote recreational boating safety. See section 8316(c) of Pub. L. 116-283, set out as a note under section 4311 of this title.

EFFECTIVE DATE

Pub. L. 115-282, title V, § 503(c), Dec. 4, 2018, 132 Stat. 4271, provided that: “Section 4312 of title 46, United States Code, as amended [probably should be “enacted”] by this section, shall take effect one year after the date of the enactment of this Act [Dec. 4, 2018].”

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

Sec.	
4501.	Application.
4502.	Safety standards.
4503.	Fishing, fish tender, and fish processing vessel certification.
[4503a.]	Repealed.]
4504.	Prohibited acts.
4505.	Termination of unsafe operations.
4506.	Exemptions.
4507.	Penalties.
[4508.]	Repealed.]

Editorial Notes

AMENDMENTS

2022—Pub. L. 117-263, div. K, title CXV, § 11509(c), Dec. 23, 2022, 136 Stat. 4137, struck out item 4503a “Alternate safety compliance program”.

2018—Pub. L. 115-282, title V, § 508(d), title VI, § 601(c)(1), Dec. 4, 2018, 132 Stat. 4273, 4289, added item for 4503a and struck out item 4508 “Commercial Fishing Safety Advisory Committee”.

2010—Pub. L. 111-281, title VI, § 604(c)(4), (e)(2), Oct. 15, 2010, 124 Stat. 2965, 2966, substituted “Fishing, fish tender, and fish processing vessel certification” for “Fish processing vessel certification” in item 4503 and “Commercial Fishing Safety Advisory Committee” for “Commercial Fishing Industry Vessel Safety Advisory Committee” in item 4508.

2002—Pub. L. 107-295, title III, § 331(b), Nov. 25, 2002, 116 Stat. 2105, inserted “Safety” before “Advisory Committee” in item 4508.

1988—Pub. L. 100-424, § 2(a), Sept. 9, 1988, 102 Stat. 1585, in chapter heading substituted “UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS” for “FISH PROCESSING VESSELS”, substituted “Safety stand-

ards” for “Regulations” in item 4502, “Fish processing vessel certification” for “Equivalency” in item 4503, “Prohibited acts” for “Penalties” in item 4504, and added items 4505 to 4508.

§ 4501. Application

(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

(Added Pub. L. 98-364, title IV, § 402(7)(C), July 17, 1984, 98 Stat. 446; amended Pub. L. 100-424, § 2(a), Sept. 9, 1988, 102 Stat. 1585.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100-424 amended section generally, in subsec. (a) substituting provisions which related to uninspected fish processing vessel entered into service after Dec. 31, 1987, having more than 16 individuals on board primarily employed in preparation of fish on navigable waters of United States or owned in United States and operating on high seas, for provisions which related to uninspected fishing vessel, fish processing vessel, or fish tender vessel, and in subsec. (b) substituting “carriage of bulk” for “carriage of liquid bulk”.

Statutory Notes and Related Subsidiaries

FOREIGN BUILT VESSELS, EQUIVALENT COMPLIANCE UNTIL JULY 28, 1990

Pub. L. 100-424, § 7, Sept. 9, 1988, 102 Stat. 1592, provided that: “Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

- “(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and
- “(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.”

§ 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) 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; and

(7) a placard as required by regulations prescribed under section 10603(b) of this title.