

Alaska Trollers Association

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Office of Information and Regulatory Affairs
ATTN: Desk Officer, U.S. Coast Guard
Office of Management and Budget
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RE: Proposed Rule 46 CFR Part 28, Docket #USCG-2012-0025

To Whom it may concern:

I am writing on behalf of the Alaska Trollers Association (ATA) regarding Proposed Rule 46 CFR Part 28, Docket #USCG-2012-0025 (May 21, 2016). ATA is aware that the regulatory process has been complicated by several congressional actions and appreciates USCG's attempts to clarify and refine the rules. Unfortunately, this rulemaking is still relatively confusing and provides a good indication that this process will take some time to fully sort through.

Our organization has significant concerns about current and impending safety rules, particularly as they relate to the small boat fleets. It is our hope that future rulemaking will include measures to help ameliorate some of those concerns. With that in mind, the following comments include feedback and requests that at times may seem out of sync with the rules covered by this federal register notice.

ATA represents commercial hook and line salmon fishermen who operate in both state and federal waters off the coast of Alaska from Dixon Entrance to Cape Suckling. Troll gear is deployed with either hand or power gurdies. Trollers typically utilize small boats ranging from 16 to 60 feet, with the average being about 40 feet. Crew size is often two, but many trollers fish alone for much of the year. The troll fleet is the largest salmon fleet in Alaska; there are roughly 1,800 permit holders and about 1,000 are active each year. With very few exceptions, trollers are the only commercial salmon fishermen that fish outside 3 miles. About 85% of all vessels in Alaska are less than 50 feet, with the vast majority measuring in at 30-49 feet.

Between 1998 and 2008, we lost four members of our fleet. Two fishermen and a vessel were lost at sea, most likely due to weather. Two other fishermen, on different boats, died of medical emergencies. Vessel capsizes in the troll fleet are known to be extremely rare. [The National Institute for Occupational Safety and Health \(NIOSH\)](#) research has shown that the second leading cause of death in the U.S. commercial fishing industry is a fall [overboard](#); most of those were not witnessed and no amount of costly safety equipment would have helped.

Data from the Center for Disease Control National Institutes for Occupational Safety and Health reveals that of the 34 fatalities on salmon fishing boats from 2000-2007, 30 occurred in fisheries that are conducted within 3 miles (4 were trollers who may have been fishing inside or outside 3 miles). These kinds of data cause trollers to question the value of the many statutes and regulations they are forced to contend with, and pay for, in the name of 'improved safety' simply because we fish outside 3 miles.

Given the relative safety of our 130 year old fishery, trollers are frustrated by the chronic layering of requirements that are unlikely to improve safety. They do, however, increase the financial and operational burdens of small business owners. When added to the existing regulations, these new rules are costly to the nation's fishing fleet in both time and expense.

When congress was considering Coast Guard Authorization Act of 2010 (CGAA), a Congressional Budget Office review suggested that the cost of compliance,

...would be substantial and, that the aggregate cost to private entities would exceed the annual threshold established in UMRA [Unfunded Mandates Reform Act of 1995] for private sector mandates.

Cumulative cost to industry and the USCG is an issue that must be addressed, along with the efficacy of these rules in relation to improved safety. As you will see below, there is at least one area where we do not agree with the analysis that has been done with regard to the cost of these regulations to industry.

§ 28.120 Survival Craft

The USCG has requested comment on whether or not they should grandfather certain non-conforming survival craft; our response is, yes. Many commercial fishing vessels are quite small and do not have the deck space to accommodate canister liferafts. In fact, simply carrying a liferaft on too small a boat could become a safety hazard. ATA has long supported provisions to allow high quality skiffs/inflatables to substitute for a liferaft. Many fishermen carry or tow them already.

ATA also wants to reiterate that the cost of liferafts is steep and the 12 month servicing requirement is impractical and punitive, particularly those who live in small, isolated communities. USCG documents suggest that the average cost of a liferaft is \$1,740. In December 2016 the cheapest liferaft that we could find for purchase and delivery to Craig, Alaska was \$2,800. USCG documents also indicate that the annual repacking exercise averages \$300, but here in Alaska the cost is far higher. For instance, a 4-man liferaft repack for fishermen in Craig, Alaska can run \$600 for a normal year and \$1,200 in the 5th year. In addition, it costs about \$200 to ship the raft between a service facility and Craig and will likely cost more to most other ports around the state. These high costs are typical for anyone living in rural Alaska, which includes most Alaska commercial fishermen. Given the size of our industry, it is likely that a significant share of the cost to implement this rule is being borne by Alaskans. In addition to the cost of the liferaft and repacking schedule is the fact that winter fishermen (over 400 in the troll fleet alone) lose fishing time while waiting to get their rafts back from the Lower 48. Barge service to many small ports can be once a week or less.

We suggest providing other options for vessels operating exclusively inside of 3 miles, such as inflatable skiffs. And, we request that the USCG consider in future rulemaking allowing a longer timeframe between servicing liferafts. **Our suggestion is that intervals not exceed 24 months.**

SOLAS at Chapter III appears to already provide an opportunity for the US to allow at least 17 months between liferaft servicing:

[SOLAS Chapter III](#) Regulation 20 LIFE-SAVING APPLIANCES AND ARRANGEMENTS

8.1 Every inflatable liferaft, inflatable lifejacket, and marine evacuation system shall be serviced:

.1 at intervals not exceeding 12 months, **provided where in any case this is impracticable, the Administration may extend this period to 17 months;** and ...

In addition, since 2008 there have been rules under SOLAS 74 providing the option for longer service intervals. Chapter III Regulation 20.8.3.3 discusses circumstances that allow, *[s]ervice at intervals not exceeding five years...*

Finally, in 2009, the Maritime Safety Committee approved [MSC.1/Circ.1328](#), which allowed for the approval of inflatable rafts subject to extended service intervals of up to 30 months.

Given the inconvenience and expense incurred by many small boat commercial fishermen due to the current 12 month repacking requirement, and that USCG already appears to have the authority to extend this servicing requirement, we request that you do so and allow 2 year servicing on inflatable rafts; or, at minimum, extend to the maximum extent allowed by law.

§ 28.201 Dockside Safety Inspections

We support the change to 5 years dockside inspections. Even with the new rule it is likely that some fishermen will continue to request more regular inspections on a voluntary basis. However, for those who fish year round it has sometimes been difficult to schedule an inspection, particularly in small Alaskan communities where USCG only comes to town a few days a year. We realize USCG personnel do their best to accommodate the fleet's schedule, but it must be difficult to cover all the bases. The modification should be helpful to everyone involved.

§ 28.200 Applicability; documentation of maintenance, training, and drills.

This rule doesn't make a lot of sense, particularly since there is no guidance as to anything but the basic nature of the type of records you want us to keep on equipment maintenance, crew instruction and drills. Nor is there an explanation about how this documentation will really improve overall safety. While jotting down the day that a captain conducted a crew training drill might be self-explanatory, 'equipment maintenance' is not. This seems far too subjective and the provision is likely to create unnecessary problems for all involved.

§ 28.205 Fireman's outfits and self-contained breathing apparatus.

This regulation makes absolutely no sense on small fishing vessels. If you need to don a fireman's suit then you probably should have grabbed your survival suit, called your maydays, and hopped in the water long before you reached for it. The space to store this equipment is also more than most wheelhouses can handle.

§ 28.270 Instruction, drills, safety orientation, and training.

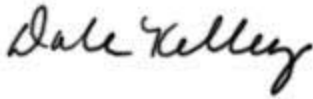
Reasonable safety training is not problematic, but it is important not to overburden small boat skippers with costly training and licensing requirements. Some of our members question the value of certain training to those who regularly fish alone or with one or two other crewmen for only a small portion of the year. ATA appreciates that training was placed on a 5 year cycle, but also suggests that training could be a one time requirement. We request the USCG continue to review this issue and also consider:

- Ensuring that documentation of crew training is only required during those times that crew is actually onboard (e.g. not 'monthly').
- Grandfathered licensing provisions for those fishermen who have already spent many years at sea with no significant incidents.
- Dropping the drill instructor training provision for those who fish alone.

- Clarify whether or not there will be acceptable substitutes for training requirements, such as 6-pk and 100-ton licenses.
- Encourage additional federal funding of grants to provide training to those who have not yet been able to participate in the drill instructor training course. Remember that many skippers fish year-round and/or live in small or remote communities that are spread out over a large area, so the time and expense of traveling for training is often impractical and expensive. Despite the fact that AMSEA does an exceptional job of outreach and travel, there are thousands of skippers and crew to train in Southeast Alaska alone.

Thank you for the work you do to protect our nation's fishermen and boaters. Please don't hesitate to contact me if I can be of assistance to you now or at some point in the future.

Best regards,

A handwritten signature in black ink that reads "Dale Kelley". The signature is written in a cursive, slightly slanted style.

Dale Kelley
Executive Director

CC: Jack Kemerer, Chief, Fishing Vessels Division