

COMMERCIAL FISHING SAFETY ADVISORY COMMITTEE

BYLAWS

ARTICLE I AUTHORITY

As provided for in Title 46, United States Code, Section 4508, as amended by Section 604 of the *Coast Guard Authorization Act of 2010*, (P. L. 111-281), the Secretary of Homeland Security has established the Commercial Fishing Safety Advisory Committee (CFSAC). The committee shall operate in accordance with the provisions of the *Federal Advisory Committee Act* (FACA) (Title 5, United States Code, Appendix).

ARTICLE II PURPOSE

The CFSAC provides advice and recommendations to the U.S. Coast Guard (USCG) and the Department of Homeland Security on matters relating to the safety of commercial fishing * industry vessels. The CFSAC will advise, consult with, report to, and make recommendations to the USCG on matters and actions relating to the safe operation of vessels to which Title 46 U.S.C. Chapter 45 applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualification and training.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

- Section 1 Composition. The CFSAC shall consist of 18 members, as specified in Title 46 U.S.C. Section 4508. The members are appointed to express the viewpoint of non-governmental entities or recognizable groups or stakeholders who have interest in the subject matter and represent the commercial fishing industry.
- Section 2 Appointments. Members of the CFSAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Director of Inspections and Compliance (CG-5PC) through the Commandant. 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 vote. Members appointed to the “General Public” category positions will serve as Special Government Employees.
- Section 3 Terms of Office. A CFSAC member shall serve a term of up to 3 years. Approximately one-third of members’ terms of office will expire each year. If a vacancy occurs in the membership of the CFSAC, another member will be appointed to fill the vacancy for the remainder of the vacated term. In the event the committee terminates, all appointments to the committee shall terminate. A member appointed to fill an unexpired term shall serve the remainder of that term.

Section 4 Certification of Non-Lobbyist Status. All members of the CFSAC must annually self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*, 2 United States Code, Section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on the CFSAC. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Members appointed to the CFSAC prior to June 18, 2010, who are registered lobbyists are permitted to serve the remainder of their term of office. Candidates for appointment must self-certify that they are not registered lobbyists under the *Lobbying Disclosure Act*. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the *Lobbying Disclosure Act*.

Section 5 Security Clearances. Members of the CFSAC are not required to hold a Federal Government security clearance.

Section 6 Members' Responsibilities. Because the membership of the CFSAC is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at committee meetings. The Director of Inspections and Compliance (CG-5PC) shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the committee.

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

- a. Missing two consecutive meetings, or not participating in the committee's work;
- b. Registering as a lobbyist after appointment; or
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7 Restrictions on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this 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 CFSAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of the CFSAC are advisors to the agency and have no authority to speak for the committee, the United States Coast Guard, or for a Department outside the committee structure.

- d. Members may not testify before Congress in their capacity as a member of the CFSAC. If requested to testify before Congress, members of the CFSAC:
 - 1. Cannot represent or speak for the committee, DHS, any 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 subsection d. also apply.

ARTICLE IV OFFICIALS

Section 1 Chairperson and Vice Chairperson. The Chair and Vice-Chair are elected by the Committee annually. 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. 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 will be one year, and a member may serve more than one term in either of these positions.

Section 2 Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to the CFSAC and is appointed by the Director of Inspections and Compliance (CG-5PC). In accordance with the provisions of the FACA, 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 (CG-5PC).

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 updating information on committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- 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 FACA.

ARTICLE V MEETING PROCEDURES

Section 1 Meeting Schedule and Call of Meetings. The CFSAC shall meet at least once during each calendar year at the call of the DFO, and additional meetings may be held with 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 task force meetings. The DFO will determine the location of meetings and meeting dates.

Section 2 Agenda. The Agenda is developed by the DFO in consultation with the Chair. 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* a minimum of 15 calendar days in advance of the meeting date.

Section 3 Quorum. A quorum for the CFSAC is the presence of fifty percent plus one of the appointed committee members. A quorum of the committee is required to vote on issues being addressed. The DFO will determine if a quorum exists at the beginning of each meeting of the CFSAC. If a quorum does not exist, the meeting may continue, but no action may be taken by the members present.

Section 4 Voting Procedures. The Chair shall conduct each meeting in general accordance with *Robert's Rules of Order*. Voting will be conducted by voice and/or hand votes and recorded in the minutes. Only CFSAC members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. Recommendations to the Coast Guard will generally be made through a resolution recorded in the minutes of the meeting, but may be submitted by formal letter or report from the Chair to the DFO as may be necessary.

Section 5 Minutes. An audio record of CFSAC meetings is made, if possible, and then converted to transcript. A summary or minutes of the meeting may be made from these records. The DFO will prepare minutes of each meeting and distribute copies to each committee member. Minutes of open meetings are available to the public upon request. 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*.

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, and the committee will formally approve the summary/minutes for release at the next scheduled meeting.

Section 6 Open Meetings. Unless otherwise determined in advance, all meetings of the CFSAC shall 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 CFSAC at any time. All materials provided to the committee shall 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. Procedures for the public to make oral comments during or filing written statements at a CFSAC meeting are clearly detailed in the *Federal Register* notice of the meeting.

Section 7 Closed Meetings. All or parts of meetings of the CFSAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of Subsection (c) of 5 United States Code, 552b, the *Government in the Sunshine Act* (Sunshine Act). 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 Chairman 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 without prior approval and notice published in the *Federal Register* at least 15 calendar days in advance. Closed meetings can only be attended by

DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

The United States Coast Guard, Office of Commercial Vessel Compliance (CG-CVC), Fishing Vessels Division (CG-CVC-3) is responsible for providing financial support to CFSAC. Expenditures for committee activities must be approved in advance by the DFO. Members will be issued invitational orders to the meetings, and will be reimbursed for travel and per diem expenses at the prevailing government rates.

ARTICLE VII ADMINISTRATION

The United States Coast Guard, Office of Commercial Vessel Compliance (CG-CVC), Fishing Vessels Division (CG-CVC-3) is responsible for clerical and administrative support to CFSAC.

ARTICLE VIII SUBCOMMITTEES

The DFO may approve the establishment of subcommittees for any purpose consistent with this charter. Such subcommittees may not work independently of the chartered committee and must present their work to the CFSAC for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the CFSAC and may not report directly to the Federal government or any other entity.

Subcommittees or working groups may be established as necessary at each meeting by tasking from the DFO and concurrence of the Chair. Members will be designated by assignment or on a volunteer basis, but proper balance and representation will be ensured by the Chair. The term of a subcommittee may be for one meeting, or can be carried over to future meetings as necessary.

ARTICLE IX RECORDKEEPING

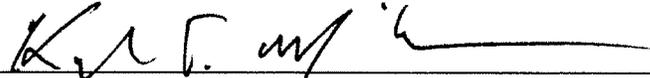
The records of the CFSAC, as well as formally and informally established subcommittees or other work groups of the CFSAC, shall be handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, in accordance with the *Freedom of Information Act* (Title 5 U.S.C. Section 552).

ARTICLE X RECOMMENDATIONS AND REPORTING

Reports and/or recommendations from the CFSAC to the Coast Guard must be approved by the committee as a whole by majority vote. Recommendations to the Coast Guard will generally be made through a resolution recorded in the minutes of the meeting, but may be submitted by formal letter or report from the Chair to the DFO as may be necessary. The DFO will track recommendations and report back to the committee at future meetings on the status or actions taken regarding the recommendations.

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.



Kyle P. McAvoy, CAPT, USCG
Designated Federal Officer
Date approved 06 SEP 2012