

Coast Guard Authorization Act Enacted into Law with Important Policy Changes

DECEMBER 4, 2018

President Trump signed the “Frank LoBiondo Coast Guard Authorization Act of 2018” into law on December 4, 2018. The Act was passed by the U.S. Senate on November 14 and the U.S. House of Representatives on November 27. Congressman Frank LoBiondo of New Jersey, who is retiring at the end of the current Congress, served as Chairman, member or ranking member of the Coast Guard and Maritime Transportation Subcommittee of the House Transportation Committee for 22 of his 24 years of service in the U.S. Congress.

Like many Coast Guard Authorization bills, the 2018 Act not only reauthorizes amounts for the U.S. Coast Guard for two years and makes important Coast Guard administrative policy changes, the 2018 Act also serves as the vehicle for a number of important maritime and environmental policy changes only a few of which are summarized in this note.

In particular, the 2018 Act includes the “Vessel Incidental Discharge Act” (VIDA) which was long under consideration. VIDA deals with the regulation of discharges incidental to the normal operation of vessels, such as ballast water and grey water discharges. Among other things, VIDA makes permanent exclusions for small vessels and fishing vessels. VIDA also requires the U.S. Coast Guard to promulgate regulations to allow state enforcement of the federal discharge standards in lieu of state standards, requires the Environmental Protection Agency to establish standards within two years of enactment for discharges consistent with revised definitions to be followed by new Coast Guard enforcement regulations.

The 2018 Act also addresses the vexing problem of the fishing vessel *America’s Finest* which was allegedly constructed with too much foreign manufactured content to qualify as a vessel built in the United States. The 2018 Act provides a path for the vessel to qualify as U.S. built—which is essential for participation in U.S. regulated fishing waters—following an investigation by the Coast Guard whether the shipyard or purchaser knew that components procured or installed would disqualify the vessel. Temporary harvesting and processing limitations for certain fishing vessels, including *America’s Finest*, were also included in the 2018 Act.

In connection with vessel building standards, the 2018 Act also requires the Coast Guard to publish any letter of determination with respect to whether a vessel would be considered “built in the United States.” The Government Accountability Office is also required to conduct an audit of the standard applied to such determinations and the process of making such determinations.

Finally, the 2018 Act established measures to ensure that U.S. Coast Guard marine inspectors consistently interpret the regulations and standards throughout the United States and including in those measures is a required internal Coast Guard process to resolve any inconsistencies.

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Author

[Charlie Papavizas](#)

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