



JONATHAN COOPER

U.S. FLAG OPENING TO YACHTS OF 300 GROSS TONS OR MORE

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Under a law passed in August 2018, the U.S. Coast Guard (“USCG”) will now allow U.S. vessel documentation for recreational vessels of 300 gross tons or more.

Until the passage of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (“NDAA”), yachts of 300 gross tons or more have been subject to USCG inspection as “seagoing motor vessels.” Under the NDAA compliant yachts will be exempt from the USCG inspection requirement. This inspection requirement has deterred many yacht owners because the USCG inspection regulations and standards were designed for merchant and cargo ships, most yachts cannot comply. The result has been that most yachts of 300 gross tons or more, operating outside inland waters, have been registered under foreign flags.

On August 13, 2018, the President signed into law the NDAA which includes a provision requiring the USCG to develop regulations for U.S. documented yachts of 300 gross tons or more that are comparable to the Large Yacht Code (“LY3”) that has been adopted by the U.K. Marine and Coastguard Agency. The USCG has one year to develop this new code. Until that code is adopted, yachts of 300 gross tons or more that comply with LY3, or an equivalent code, regulation or standard that is acceptable to the USCG, will be eligible for U.S. documentation.

Still, some parts of the new law may dissuade yacht owners from applying for U.S. documentation. First, large yachts must comply with other requirements for U.S. documentation, including citizenship requirements for the yacht’s owner and crew. Second, as part of the application for U.S. documentation, owners of large yachts will be required to disclose the identity of the yacht’s beneficial owner to the USCG. Third, large yachts cannot carry passengers for hire, which means they cannot be time-chartered (bareboat chartering may be allowed).

Superyacht industry leaders have worked hard to get this law on the books and look forward to seeing more yachts flying the U.S. flag. ••