



Review of New Yacht Safety Management Regulations

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Abstract. The New Yacht Safety Management Regulations, on the basis of the 2009 edition of The Yacht Safety Management Regulations, has modified and deleted some outdated regulations that hinder the development of the yachting industry. The main modifications and changes are reflected in the changes in the way of yacht application for inspection, more scientific and efficient management of yachts, changes in the record-keeping organization of yacht clubs, and an increase in the amount of penalties. The new version of The Yacht Safety Management Regulations puts forward higher requirements for yacht clubs. In the face of the new regulations, yacht clubs should mainly learn from extra-territorial experience, corporate compliance, personnel management, their own safety and anti-pollution capacity building to cope with the new regulations.

Keywords: Yacht, Yacht Safety Management Regulation, Yacht Club.

1 Introduction

With the gradual development and maturity of China's yacht industry, the yacht industry development of new forms and new modes of business continue to emerge. The 2009 version of *The Yacht Safety Management Regulations* relevant provisions have lagged behind the times, and even hindered the development of the yacht industry, which needs to be revised urgently. The reasons for the revision of *The Yacht Safety Management regulations* can be briefly analyzed from the legal level and the reality level. From the legal level of analysis, *The Yacht Safety Management Regulations*, the core principle is "subordinate law and the higher law should be consistent". Recently, the State Council issued *the Decision on Amending and Abolishing Some Administrative Regulations* (Decree No. 764 of the State Council, hereinafter referred to as *the Decision*), amending *The Regulations of the People's Republic of China on Seafarers*, and canceling the fine for the act of failing to carry the required valid certificates while working on board a vessel. In order to implement the requirements of *the Decision*, the Ministry of Transportation and Communications (MOTC) made corresponding amendments to *The Yacht Safety Management Regulations* and canceled the fines for yacht operators who failed to carry qualified certificates of competency when operating yachts. Based on *The Maritime Transportation Safety Law of the People's Republic of China*, which has been newly promulgated and implemented

in the past two years, the penalty provisions have been sorted out and adjusted to be consistent with the previous law.^[1]

From the reality level analysis, the principle of *The Yacht Safety Management Regulations* is that the law needs to keep pace with the times, and the law serves the development of the society. 2009 January 1, the Ministry of Transportation and Communications promulgated *The Yacht Safety Management Regulations* (hereinafter referred to as the *Regulations*) formally came into force, this is China's first and only ministry-level yacht management regulations, the standardization of China's yachting industry management and the rise of the yacht industry played a very positive role in promoting the development of China's yachting industry. This is the first and only ministerial-level regulation on yacht management in China, which has played a very positive role in the standardization of yacht management and the emergence of the yacht industry. However, the 2009 version of *The Yacht Safety Management Regulations*, as a long-standing law, has lagged far behind the development of society, hindering the development of the yacht industry to a certain extent. In order to fundamentally solve the contradiction between the yacht management system and the reality, it is necessary to introduce a new *Yacht Safety Management Regulations* to adapt to the yacht industry, so as to promote the vigorous development of yacht industry.^[2]

2 Specific Changes in the New the Yacht Safety Management Regulations

The 2023 Yacht Safety Management Regulations make the following changes from *The 2009 Yacht Safety Management Regulations*:

Change 1, the way yachts apply for inspection has changed. Article 5 of the new version of *The Yacht Safety Management Regulations* *Yacht accidents*, the occurrence of major changes in the situation need to apply to the ship inspection agency "additional inspection" amended to apply to the ship inspection agency "temporary inspection".

Change 2, the yacht safety management approach is more efficient and scientific. Article 16 of the new version of *The Yacht Safety Management Regulations* deletes the requirement that yachts should regularly apply for 12-month regular visas in accordance with The provisions of the Ship Visa Management Rules. It is clarified that when a yacht enters or leaves a port, it shall report to the maritime administration in accordance with The Measures for Administration of Ship Entry and Exit Report. According to the Decision of The State Council on Amending and Abolishing Some Administrative Regulations, the new version of *The Yacht Safety Management Regulations* has canceled the fine for yacht operators who do not carry qualified certificates of competency when operating yachts. The new edition of the Provisions on Safety Management of Yachts has canceled the provision that yachts should pay the corresponding ship taxes and fees in accordance with the state regulations.

Change 3, yacht club record organization transfer. The new version of *The Yacht Safety Management Regulations* Article 27, Yacht clubs registered according to law, should be reported to the local provincial maritime administration for the record.

Maritime administration of the record of the yacht club's safety and anti-fouling ability to verify, with the provisions of Article 26, to be filed for publication. The new version of The Yacht Safety Regulations will be the club's record authority to the provincial maritime department, cancel the location directly under the Maritime Safety Administration for the record requirements.^[3]

Change 4, the amount of punishment for yacht violations increases. According to the newly promulgated Maritime Traffic Safety Law of the People's Republic of China in 2021, the new version of Yacht Safety Management Regulations has sorted out and adjusted the punishment provisions, and the amount of punishment has increased significantly.

3 Yacht Clubs' Response to the New Version of *The Yacht Safety Management Regulations*

3.1 Yacht Clubs Should Learn from the Excellent Yacht Safety Management Experience Outside the Region

The new version of *The Yacht Safety Management Regulations* Chapter 1, Article 5 is about the yacht to the ship management organization to apply for inspection provisions, from the 2009 version of the provisions of the yacht accident, the occurrence of major changes in the situation need to apply to the ship inspection agency for "additional inspection" modified to apply to the ship inspection agency for "temporary inspection". Major changes in the ship to the ship management organization to apply for inspection is the international ship inspection standards, *The Yacht Safety Management Regulations* amended to reflect the principle of convergence with international practice. Yacht clubs as an important participant in yachting activities and the main body of responsibility, yacht clubs should also strengthen their own construction, learning from the excellent yacht management experience outside the region. Yacht clubs can learn and draw on a number of aspects when absorbing outstanding foreign yacht management experience. The following are some specific suggestions: First, introduce internationalized talents to improve the management level and service quality of the club. Second, establish cooperative relationships with international yacht clubs for experience exchange and resource sharing, and participate in international yacht industry organizations and activities to understand industry dynamics and trends. Thirdly, learn the experience and practice of foreign yacht clubs in safety management, and formulate a strict safety management system and operating procedures.^[4]

3.2 Yacht Clubs to Strengthen the Awareness of Laws and Regulations and Compliance Awareness

In the new era, the rule of law government continues to promote, the government administration according to law. Through the "decentralization", the construction of "service-oriented" and "digital" government, and constantly create "the rule of law

business environment". The business environment is based on the rule of law. As an important market subject of the yacht industry, yacht clubs should also learn from the government's concept of administration by law, strengthen their own construction of the rule of law, strengthen the awareness of laws and regulations and compliance awareness, and jointly promote the provision of the industry's legalization and institutionalization. The new version of *The Yacht Safety Management Regulations* article 26, paragraph 1 clearly stipulates that "yacht clubs should have legal personality", which means that the yacht club as an independent civil law subject with independent civil liability and civil rights capacity. In this regard, it is of great significance for yacht clubs to strengthen the awareness of laws and regulations and compliance, as well as to build up the red line of production safety to ensure the sound operation of the enterprise, the safety of the employees and the maintenance of social harmony and stability. The following are some specific practices and recommendations: First, as a yacht industry practitioners yacht clubs should enhance the awareness of laws and regulations, organize staff to participate in the yacht industry related laws and regulations training, to ensure that employees have a clear understanding of the relevant laws and regulations and understanding. Secondly, with the continuous improvement of China's legal system, the law has become more and more a favorable "weapon" for enterprises to protect their legitimate rights and interests.^[5] The sea environment is complex and changeable, full of great uncertainty. In order to prevent and resolve risks, yacht clubs can hire professional legal consultants to provide legal advice and risk assessment services to ensure that corporate decision-making is in line with laws and regulations.^[6]

Yacht clubs should strengthen the awareness of compliance with rules and regulations, which can start from the formulation and implementation of rules and regulations. The yacht club should formulate a perfect enterprise rules and regulations in line with the law, clarify the duties and rights of enterprise employees, and standardize the operation and management of the enterprise. "The most important thing in the world is not difficult to legislate, but to enforce the law." Just like the legal system, yacht clubs also need to strictly enforce the rules and regulations, require employees to strictly abide by the rules and regulations, and seriously deal with behavior that violates the rules and regulations to ensure the authority of the rules and regulations.

3.3 Yacht Clubs Should Build Their Own Safety and Pollution Prevention Capacity

The new version of *The Yacht Safety Management Regulations* will transfer the yacht club record authority to the provincial maritime department, and the approval procedure is stricter, which puts forward higher requirements for yacht clubs. To become a qualified yacht club, yacht clubs should strengthen their own safety capacity building. Yacht clubs should strengthen the management of daily maintenance and repair of yachts. Regular safety inspection and maintenance of yachts to ensure that they are in good technical condition. At the same time, the club should also pay attention to the yacht's safety performance and technology update, timely introduction of new technology and new equipment to improve the safety and reliability of the yacht.

If a yacht club is to obtain the qualification for record, the maritime management agency needs to verify the yacht club's ability to prevent pollution. The new version of *The Yacht Safety Management Regulations* Chapter IV Article 24 is about yachts to protect the marine environment. The operation of yachts, as an important vehicle for water-based activities, inevitably has an impact on the marine environment. Marine ecosystems are complex and sensitive, and any slight pollution may cause irreversible damage to them.^[7] Yachting activities may generate oil, garbage and other pollutants that pose a threat to the marine environment. Therefore, as an important manager of yachts, yacht clubs should comply with the provisions of *The Yacht Safety Management Regulations* for the protection of the marine environment and establish a sense of protection of the marine ecosystem. Protect the marine ecological environment and strengthen the responsibility. Reduce pollution at source, protect marine ecology and "marine biodiversity", and contribute to the sustainable development of the marine ecological environment.^[8]

3.4 Yacht Clubs Strengthen Management of Yacht Operators

The new version of *The Yacht Safety Management Regulations* on the yacht operator by improper means to obtain the certificate of competency and the sea navigation of the yacht does not hold valid certificates, instruments, the penalty standard applies to *The People's Republic of China Maritime Traffic Safety Law*. Compared with the 2009 version of the provisions, in order to maintain the coordination of the subordinate law and the supreme law based on the newly amended *The People's Republic of China Maritime Traffic Safety Law* to impose penalties, a substantial increase in the range of penalties. In this regard, in order to ensure the legal and normal operation of yacht clubs, yacht clubs should strengthen the management of yacht operators. Yacht clubs should ensure that yacht operators have the necessary operating skills and safety awareness, and strengthen the examination of the certificate of competency of yacht operators. Establish a management system for yacht operators, record violations and points for violations, and take appropriate measures against operators whose points for violations exceed a certain limit. Through the implementation of the above measures, yacht clubs can comprehensively improve the professional skills and safety awareness of employees, providing a strong guarantee for the safe and efficient conduct of yacht activities. At the same time, this also helps to enhance the overall competitiveness of enterprises and promote the healthy development of the yacht industry.

4 Conclusion

The new version of *The Yacht Safety Management Regulations* will play a role in promoting the new law, which can better protect the safety of yacht use, promote the development of the yacht industry on a healthy and orderly track, and promote the high-quality development of the marine economy. The revision of the new edition of the Regulations on *The Yacht Safety Management Regulations* is intended to better adapt to the development needs of the yachting industry, enhance the level and inter-

nationalization of the safety management of yachts, safeguard the safety of human life and property on the water, and promote the healthy and orderly development of the yachting industry.

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