

## **Supporting Statement for Commercial Fishing Industry Vessel Safety Regulations**

### **A. Justification.**

#### 1. Circumstances that make the collection of information necessary.

Although commercial fishing industry vessels must comply with the provisions of 46 CFR Subchapter C, Part 25, which apply to all uninspected commercial vessels, these regulations (46 CFR Subchapter C, Part 28) are in addition to those requirements and are specific to commercial fishing industry vessels. A total of nine information collection/recordkeeping items have been identified in the regulations under 46 CFR Part 28.

Nondiscretionary: Nondiscretionary in this context means that the Coast Guard is required by the Commercial Fishing Industry Vessels Safety Act of 1988 (Pub. L. 100-424) to collect the information. Congress promulgated the Commercial Fishing Industry Vessel Safety Act of 1988 (the Act) Pub. L. 100-424, now codified as 46 U.S.C. Chapter 45, 6104, and 10603 to reduce the unacceptably high level of fatalities and accidents in the commercial fishing industry.

- The Act requires new fish processing vessels to meet all classification and survey requirements of the American Bureau of Shipping (ABS) or a similarly qualified organization and to maintain on board appropriate certificates evidencing compliance with this requirement.
- The ABS or a similarly qualified organization is also required to examine each uninspected fish processing vessel at least once every two years. As the rules specify that this examination be conducted by a third party surveyor, and that compliance with the regulation be attested to by the third party, the Coast Guard believes that attestation letters are the only means available to accurately monitor compliance with the requirement for examination.

Discretionary: Discretionary in this context means that the Coast Guard has chosen to require the collection and posting of information for designed to improve safety, consistent with the intent of the Act.

- Problems related to vessel stability are historically involved in 70% of deaths on commercial fishing industry vessels. As a result, the Coast Guard believes that vessel stability related operational errors that lead to casualties would be greatly reduced if operating personnel had stability information available to them. Detailed stability information is required for each new fishing vessel 79 feet or greater in length that has no load line requirement, and for vessels with those specifications built after September 15, 1991, that undergo major alterations. These instructions must be appropriate to the vessel's size and the operating personnel's ability. This requirement is similar to that of inspected and load lined vessels. Letters of attestation are also required to ensure that stability calculations are conducted to evaluate stability after major conversions have been done.

- Marking of lifesaving equipment is required on all fishing vessels in order to help familiarize individuals on board commercial fishing industry vessels with the minimum information considered necessary in an emergency. The Coast Guard also feels that having this information posted will result in it being seen frequently and will thus allow individuals to act more rapidly and properly in an emergency.
- The letters of acceptance for instructors and the course curricula are designed to ensure that the instructors and the courses being taught meet minimum standards. This will also help ensure that qualified individuals conduct the training required by 46 CFR 28.270. Additionally, certificates of completion of training, which may be issued by the accepted instructors, will provide proof to the boarding officers that they have completed the required training and that they are qualified to conduct the required drills and instruction.
- Letters approving exemptions are required to ensure that the master or individual in charge of the vessel knows that the vessel is exempted from a particular regulation. In addition, it will provide documentation to the boarding officers that will allow them to ensure that the vessel is not required to be in compliance with the exempted regulations.

This information collection supports the following strategic goals:

Department of Homeland Security

- Prevention
- Protection

Coast Guard:

- Maritime Safety

Prevention Directorate (CG-3P):

- Safety: Eliminate deaths, injuries, and property damage associated with commercial maritime operations.

2. By whom, how, and for what purposes is the information to be used.

The majority of the reporting and recordkeeping requirements are those mandated by the Act. The regulations simply expand and detail the requirements of the law. The discretionary collection and reporting requirements are intended to improve safety in the commercial fishing industry. If this information were not collected, safety on board commercial fishing industry vessels would be adversely affected, contradictory to the intent of the Act. The following table describes each regulation -- which provides a clear indication of its purpose -- and the population it targets.

**Table 1: Regulatory Requirements and the Population They Affect**

<b>Regulation</b>	<b>Summary of regulatory requirements</b>	<b>Description of affected population</b>	<b>Number of units of affected pop./year</b>
Marking of Lifesaving Equipment (§28.135)	Requires lifesaving equipment – wearable personal flotation devices (PFDs), immersion or exposure suits, ring life buoys, life floats, buoyant apparatus, auxiliary craft, and EPIRBs – to be marked with the name of the vessel, and as specified in Table 28.135, in §28.135. Wearable PFDs have further specifications.	All new commercial fishing vessels – both documented & undocumented.	4,178 vessels.
Emergency Instructions (§28.265)	Requires all documented commercial fishing vessels to have emergency instructions “posted in conspicuous locations accessible to the crew”, the exception being vessels that operate with less than 4 people on board.	All new documented fishing vessels.	145 vessels.
Acceptance Letter for Instructors and Course Curricula (§28.275)	Requires that acceptance letters be issued by the Coast Guard to qualified instructors and for accepted course curricula.	All applicants for the acceptance letters.	100 instructors.
Letter of Certification for Training in Drills and Safety Orientation (§28.270)	Each documented fishing vessel is required to have a qualified person conduct the required training in accordance with §28.270.	All new trainers certified by the qualified instructors.	100 new trainers.
Letter of Attestation for Stability Evaluation (§28.505)	Requires the owner to select a qualified individual to perform tests and calculations to evaluate vessel stability after major alterations have been made to a vessel. This is applicable to fishing vessels that are 79 feet or greater, have no load line requirements, and were built after 9/15/1991. These test results and calculations must be maintained on board as a letter of attestation.	Fishing vessels with specifications described in previous column, and that undergo major alterations.	5 vessels.
Stability Instructions (§28.530)	Requires each new commercial fishing vessel and each fishing vessel that undergoes major alterations (all must be 79 feet or greater, have no load line requirements and were built after 9/15/91) to be provided with sufficient stability information in a readily usable form to allow the master or individual in charge to determine the conditions of loading and operations.	All new fishing vessels and ones undergoing major alterations, with specifications described in previous column.	56 vessels.
Uninspected Fish Processing Vessel Examination (§28.710)	Requires all uninspected fish processing vessels to be examined every two years for compliance with the regulations. The examination must be conducted by the American Bureau of Shipping (ABS) or by a similarly qualified organization.	All existing uninspected fish processing vessels.	100 vessels/yr., 200 vessels in total in existence.

**Table 1: Regulatory Requirements and the Population They Affect**  
(Continued from previous page)

<i>Regulation</i>	<i>Summary of regulatory requirements</i>	<i>Description of affected population</i>	<i>Number of units of affected pop./year</i>
Uninspected Fish Processing Vessel Certification of Classification (§28.720)	Requires that fish processing vessels built after, or that underwent a major conversion completed after, July 27, 1990, must be classed by the ABS or a similarly qualified organization. And the vessel must have on board a certificate of class issued by the organization.	All new fish processing vessels.	1 vessel every three years.
Exemption Letter Requirement (§28.60)	Requires that an exemption letter be carried on board each vessel that has been granted an exemption from a part of the regulations.	Approximately 0.5% of all fishing vessels.	418 vessels.

3. Consideration of the use of improved information technology.

There is no prescribed format for reporting requirements. Respondent's submissions may be sent in any formats. We estimate that 60 % of the applications for two requirements (§§ 28.60 and 28.275) are sent electronically (418 + 100 = 518 of the 5,103 total responses, i.e., approx. 10%).

The recordkeeping requirements for this collection are primarily marking or posting requirements, such as the marking of "lifesaving equipment" with the name of the vessel, or the posting of documents such as "Emergency Instructions" and "Stability Instructions." Other documents issued by the Coast Guard or classification societies are for a variety of regulatory requirements that boarding Coast Guard officers can then use to check compliance. Posting of these documents is not amenable to electronic technology.

General information on commercial fishing vessel safety issues, contact information for the Coast Guard District Offices and for the Coast Guard's regional Commercial Fishing Vessel Safety Coordinators and Specialists, is now easily accessible on the USCG website at: <http://www.uscg.mil/hq/g-m/cfvs/index.htm>.

4. Efforts to identify duplication. Why similar information cannot be used.

To date, no Federal, state or local regulatory program required equivalent information.

5. Methods to minimize the burden to small businesses if involved.

The burdens were minimized to the extent considered appropriate when the regulation was initially implemented. As many of the requirements were one-time only requirements, an even smaller number of new small businesses are affected each year.

6. Consequences to the Federal program if collection were conducted less frequently.

The law mandates the specific frequencies of the information collection requirements of the nondiscretionary items. The discretionary regulatory obligations are primarily one-time only requirements except for three items, which are required more frequently. From the description below, it is apparent that reducing the frequency of the collection of these three items would hinder or degrade the administration of the marine safety goal it is designed to achieve.

- a) Acceptance letters for safety training courses are valid for five years, so that it allows the Coast Guard to review the course curricula every five years to see if the courses are adhering to the regulatory requirements if there were any changes, and to ensure that the courses are still using current and acceptable training methods, etc.
- b) Letters of attestation and stability restrictions are required each time there is a major conversions to an existing fishing vessel 79 feet or greater, with no load line requirements, that was built after September 15, 1991.
- c) Exemption letters are required to be submitted to the Coast Guard whenever a fishing vessel wishes not to comply with a regulation for a relevant reason.

7. Explain any special circumstances that would cause the information collection to be conducted in a manner inconsistent with guidelines.

- a) Letters of Acceptance and Certificates of Completion – Must be maintained for the period of validity, which is 5 years.
- b) Letters of Attestation – These are required to be maintained for the life of the vessel, or until a change is made to the vessel which will change the operating instructions relating to vessel stability. This includes the changing of the master/individual in charge of the vessel. This time frame can be indefinite, but normally would range anywhere from 6 months to 15 years.
- c) Exemption Letters – These are required to be maintained for the life of the vessel or for the time that the exemption is valid. This time frame can also be indefinite or can be for a period as short as 1 day.

8. Consultation.

A 60 day Notice was published in the Federal Register to obtain public comment on this collection. (See [USCG-2007-29053], October 5, 2007; 72 FR 57053) The USCG has not received any comments on this information collection.

9. Explain any decision to provide any payment or gift to respondents.

There are no payment or gifts to the respondents associated with this collection of information.

10. Describe any assurance of confidentiality provided to respondents.

By regulation, the Coast Guard protects confidential information from public disclosure.

11. Additional justification for any questions of a sensitive nature.

No issues of a sensitive nature have been addressed here.

12. Estimates of reporting and recordkeeping hour and cost burdens of the collection of information.

- The number of respondents is about 5,103.
- The number of responses is about 5,103.
- The annual burden to the public was estimated to be 5,917 hours and \$337,835 in costs. Appendix A tabulates the annual cost and hour burden calculations, as well as the number of responses. Details associated with the calculations of these burdens are described below.

Assumptions used in the analysis below are as follows:

- 22,167 existing documented commercial fishing industry vessels (MSMS Database);
- 61,383 existing undocumented commercial fishing industry vessels (MSMS Database and CG Office of Vessel Activities);
- 4,178 new vessels built annually (5% of total vessel population of 83,550);
- 145 new documented vessels built annually (MSMS Database);
- 1,417 existing fishing vessels 79 feet or greater in length (MSMS Database);
- 200 existing fish processing vessels (MSMS Database and CG Office of Vessel Activities); 1 new fish processing vessel built once every three years (Coast Guard estimate);
- We assume that Coast Guard personnel of E-6 rank (clerical) and the equivalent level in the civilian sector will draft the instructions, certificates of compliance, etc. The government wage rate for this rank is \$46 per hour, and the private sector equivalent is \$55 per hour.<sup>1</sup>

Marking of lifesaving equipment. §28.135 requires lifesaving equipment – wearable personal flotation devices (PFDs), immersion or exposure suits, ring life buoys, life floats, buoyant apparatus, auxiliary craft, and Emergency Position Indicating Radio Beacons (EPIRBs) – to be marked with the name of the vessel and as specified in Table 28.135, in §28.135. Wearable PFDs must be marked with either the name of the vessel, the owner of the device, or the individual to whom it is assigned, and according to the specifications in Table 28.135.

The number of vessels affected by this requirement will be all new vessels (documented and undocumented), which we estimate to be **4,178 annually**. Since the regulation has been in place for many years, we assume that existing vessels have already complied with the requirement -- the requirement is normally undertaken only once, and is thus a one-time burden.

The time required to mark equipment is estimated to be **1 hour** per vessel. **At \$55 an hour, this comes to \$229,790 and 4,178 burden hours annually.**

Emergency Instructions. §28.265 requires all documented commercial fishing industry vessels to have emergency instructions “posted in conspicuous locations accessible to the crew”, the exception being vessels which operate with less than 4 people on board – these vessels are permitted to have emergency instructions readily available as an alternative to posting (§28.265 (c)). Furthermore, all vessels with more than 4 individuals on board are given the option of keeping readily available a part of the emergency instructions, sections §28.265 (d)(6), (d)(7), (d)(8), and (d)(9), while sections §28.265 (d)(1), (d)(2), (d)(3), (d)(4) and (d)(5) must be posted as described above.

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<sup>1</sup> Derived from Enclosure (2) to COMDINST 73101.1J.

For our analysis here, we assume (conservatively) that:

- a) All documented commercial fishing vessels have more than 4 people on board, as documented vessels are greater than 5 net tons and are likely to have more than 4 people on board, and
- b) All documented commercial fishing vessels post all the emergency instructions covered in section §28.265 (d).

Since this is a one-time burden and is a requirement that has been in place for several years, we assume that only new documented fishing vessels will be affected.

Annually, this will affect approximately **145** new documented fishing vessels. It is estimated that **3 hours** will be necessary to prepare and post the emergency instruction. **At \$55 an hour, the annual cost will be \$23,925 and the annual burden hours, 435.**

Acceptance Letters and Certificates of Completion. §28.275 requires that acceptance letters be issued to qualified instructors and for accepted course curricula. Additionally, if the qualified instructors chose to, they could issue certificates of completion for the required training. The Coast Guard expects that **100 applicants** will apply each year for acceptance as qualified instructors.

The preparation of a request is estimated to take one hour, and the filing of the request is estimated to take an additional 0.10 of an hour. **At \$55 per hour clerical wage rate for the civilian sector, for 1.1 hours per submittal, the cost is \$6,050 and 110 burden hours annually.**

Letter of certification for training in drills and safety orientation. Each documented fishing vessel is required to have a qualified person conduct the required training in accordance with §28.270. The master or individual in charge of each vessel must ensure that drills are conducted and instruction is given to each individual on board at least once each month. While there is no requirement for the vessel to have on board certification confirming that the training was conducted, the collection of information burden here is assessed for the qualified individuals who must maintain on file a letter of acceptance or certification of training capacity.

If the time to maintain on file the letter of acceptance or certificate of completion is **0.10 of an hour, at \$55 per hour wage rate, the cost associated with the 100 new trainers annually will be \$550 and 10 burden hours annually.** We assume here that about 100 new trainers conduct drills and training in safety measures each year.

Letter of attestation for stability evaluation. Under §28.505, it is the owner's responsibility to select a qualified individual to perform tests and calculations to evaluate vessel stability, and to maintain those test results and calculations developed in evaluating stability. This is applicable to commercial fishing vessels 79 feet or more in length, that are not required to be issued a load line, and undergo substantial alterations as described in §28.501.

The number of fishing vessels that are 79 feet or greater in length, that do not have load line certificates, and that were built after 1991, is 509 (Coast Guard estimate). We estimate that about 1% of these vessels, **5**, undergo substantial alterations annually as described in §28.501, and will require tests and calculations for vessel stability evaluation.

The time considered here is the time to fill out and sign a letter of attestation (not the evaluation itself), which is estimated to be **one hour**. **At \$55 an hour, the cost is \$275 annually, and results in 5 one-time burden hours.**

Stability instructions. §28.530 requires each new commercial fishing vessel and each fishing vessel that undergoes major alterations (described in §28.500), to be provided with sufficient stability information in a readily usable form to allow the master or individual in charge to determine the conditions of loading and operations. Stability instructions must be developed by a qualified individual, and must be developed based on the vessel's individual characteristics.

The affected fishing vessels, once again, are those that are 79 feet or greater in length, that do not have load line certificates, and that were built after 1991, and number 509 (Coast Guard estimate). Of this vessel population, we assume 1% undergo major alterations (5 vessels), and 10% are new vessels (51 vessels). The assumption of 10% for new vessels is based on the fact that 509 vessels were built from 1991 to 2004, which is approximately 10% growth of the vessel population each year. Thus, **56 vessels** will have to employ a naval architect to undertake the job of drafting stability instructions.

This would take an average of **10 hours** for each vessel design. The cost of drafting stability instructions is 10 hours at the rate of **\$75 per hour for a naval architect**. **The burden for 56 vessels annually would be \$42,000 and 560 one-time burden hours.**

Fish processing vessel examination and certification of compliance. §28.710 requires all uninspected processing vessels in service to be examined every 2 years for compliance with the regulations. This examination must be conducted by the American Bureau of Shipping (ABS), by a similarly qualified organization, or by a surveyor of an accepted organization. Each individual conducting the examination, upon finding the vessel in compliance, must provide a written certification of compliance to the owner or operator of the vessel.

There are approximately 200 uninspected fish processing vessels in existence, and half are examined in one year (i.e., 100 vessels).

We assume that civilian personnel of a grade equivalent to GS-12 will draft the certificate of compliance. **The wage rate for this rank is \$61.<sup>2</sup>** Since preparation of certification letters is estimated to take **two hours** per examination, the **annualized cost is \$12,200 and 200 burden hours.**

Fish processing vessel survey and classification. §28.720 requires that fish processing vessels built after or that underwent a major conversion completed after July 27, 1990, must be classed by the ABS or a similarly qualified organization. The vessel must have on board a certificate of class issued by the organization that classed the vessel, and meet all survey and classification requirements prescribed by that organization.

While the cost of the certificate is included in the fees collected by the classification society and is negligible compared to the other costs for classification, a nominal burden is calculated here for the actual drafting of the certificate.

We assume it takes **three hours**, and again we assume a wage rate of **\$55 per hour** for the civilian sector. As the population of fish processing vessels has been fairly stagnant in the last

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<sup>2</sup> Derived from Enclosure (2) to COMDTINST 73101.1J.

few years, we assume that **only one new vessel is built in the three years** that this cost is considered for. **The annualized cost is \$55 and 1 burden hour.**

Exemption Letters. §28.60 requires that an exemption letter be carried on board each vessel that has been granted an exemption from a part of the regulations. The Coast Guard estimates that approximately 0.5 percent of the fishing fleet, **418 vessels**, will request exemptions annually.

The time required to draft and submit an exemption request is estimated to be **one hour. At \$55 per hour cost to the civilian sector, the cost is \$22,990 and 418 burden hours annually.**

13. Estimates of annualized capital and start-up costs.

There are no capital costs associated with these regulatory requirements.

14. Estimates for annualized Federal Government costs.

The total annualized cost to the Federal Government is \$146,854 and 2,274 burden hours. Details are below. Appendix B further tabulates the annual cost and hour burdens.

Acceptance Letters and Certificates of Completion. §28.275 requires that acceptance letters be issued to qualified instructors and for accepted course curricula. Additionally, if the qualified instructors chose to, they could issue certificates of completion for the required training. The Coast Guard expects that **100 applicants** will apply each year for acceptance as qualified instructors.

For the government, the time to review and issue a letter of acceptance (or rejection) is estimated to be **1.5 hours per request.** Assuming Coast Guard personnel of rank **O-2 undertake this task, at a wage rate of \$49 per hour<sup>3</sup>**, this equates to **\$7,350 and 150 burden hours.**

Exemption Letters. §28.60 requires that an exemption letter be carried on board each vessel that has been granted an exemption from a part of the regulations. The Coast Guard estimates that approximately 0.5 percent of the fishing fleet, **418 vessels**, will request exemptions annually.

The time for the Coast Guard to review an application and draft a response is expected to be **5 hours** per request. Assuming Coast Guard personnel of rank GS-13 undertake this task, **at a wage rate of \$66 per hour<sup>4</sup>, this comes to \$137,940 and 2,090 burden hours annually.**

The Coast Guard expects to approve approximately **80%** of the exemption requests, or **335** requests. The high rate of approval is due in large part to the fact that there is a body of exemptions that is now considered acceptable by the Coast Guard, through experience, that certain vessels automatically apply for. The time required to post or file an approved exemption letter is estimated to be **0.10 of an hour.** **At \$46 per hour, the cost is \$1,564 and 34 burden hours annually.**

15. Explain the reasons for the change in burden.

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<sup>3</sup> Derived from Enclosure (2) to COMDINST 73101.1J.

<sup>4</sup> Derived from Enclosure (2) to COMDINST 73101.1J.

The change (i.e., decrease) in hour burden is an ADJUSTMENT and is strictly due to a decrease in the vessel population. The Coast Guard now uses a relatively new data base--MISLE--for estimating vessel populations and this allows us to more accurately estimate the vessels impacted by this COI. The methodology for estimating hour burden per respondent per year remains unchanged.

The change in the number of responses is due to a change in the estimated number of vessels. The methodology for estimating the number of responses per year remains unchanged.

16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis and publication.

These results will not be published for statistical use.

17. Explain the reasons for seeking not to display the expiration date for OMB approval of the collection of information.

We are not seeking such approval. The OMB Number will appear on appropriate PRA disclosure information.

18. Explain each exception to the certification statement.

There are no exceptions to the certification statement.

**B. Collection of Information Employing Statistical Methods.**

This information collection does not employ statistical methods.

## **Appendix A: Annual Reporting and Recordkeeping Burden for Marine Industry & Public**

<b><i>Reporting &amp; Record-keeping Requirements</i></b>	<b>Frequency of Reporting</b>	<b>Type of Unit Affected</b>	<b>Number of Units Affected Annually/ Responses</b>	<b>Annual Cost</b>	<b>Annual Hour Burden (Hours)</b>
Marking of Lifesaving Equipment (§28.135)	One-time	New commercial fishing vessels (documented and undocumented)	4,178	\$229,790	4,178
Emergency Instructions (§28.265)	One-time	New documented commercial fishing industry vessels	145	\$23,925	435
Acceptance Letter for Instructors and Course Curricula (§28.275)	Acceptance letter valid for 5 years	All applicants	100	\$6,050	110
Letter of Certification for Training in Drills and Safety Orientation (§28.270)	One-time	Qualified drill and safety orientation instructors	100	\$550	10
Letter of Attestation for Stability Evaluation (§28.505)	Each Occurrence	Existing vessels w/ major conv., etc.	5	\$275	5

**Appendix A: Annual Reporting and Recordkeeping Burden for Marine Industry & Public** (continued)

<i>Reporting &amp; Record-keeping Requirements</i>	<b>Frequency of Reporting</b>	<b>Type of Unit Affected</b>	<b>Number of Units Affected Annually/ Responses</b>	<b>Annual Cost</b>	<b>Annual Hour Burden (Hours)</b>
Stability Instructions (\$28.530)	One-time	New vessels & existing vessels w/ major conv. (79 ft or greater, etc.)	56	\$42,000	560
Uninspected Fish Processing Vessel Examination (\$28.710)	Biennial	Existing fish processing vessels	100	\$12,200	200
Uninspected Fish Processing Vessel Certification of Classification (\$28.720)	One-time	New fish processing vessels	1	\$55	1
Exemption Letter Requirement (\$28.60)	Each Request	0.5% of all fishing vessels	418	\$22,990	418
<b>Total Annual Costs of Reporting &amp; Recordkeeping to Industry</b>			<b>5,103</b>	<b>\$337,835</b>	<b>5,917 burden hours</b>

**Appendix B: Cost to Government**

<i>Regulatory Requirements</i>	<b>Frequency of Reporting</b>	<b>Type of Unit Affected</b>	<b>Number of Units Affected Annually</b>	<b>Annual Cost</b>	<b>Annual Hour Burden (Hours)</b>
Acceptance Letter for Instructors and Course Curricula (\$28,275)	Each application review	Each C.G. review	100	\$7,350	150
Exemption Letter Requirement (\$28,600)	Each Request Review	0.5% of all fishing vessels	418	\$137,940	2,090
	Each Approved Request	Each C.G. approval	335	\$1,564	34
<b>Total Annual Costs to Government</b>				<b>\$146,854</b>	<b>2,274 burden hours.</b>