

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

[as proposed by USCG-2012-0025; RIN 1625-AB85]

OMB No.: 1625-0061
COLLECTION INSTRUMENTS: Instruction

A. Justification.

1) Circumstances that make the collection of information necessary.

Commercial fishing industry vessels must comply with the provisions of 46 CFR Subchapter C, Part 25, which apply to all uninspected commercial vessels, and the commercial fishing industry vessel specific regulations in 46 CFR Subchapter C, Part 28. A total of twelve information collection/recordkeeping items are in 46 CFR Part 28.

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, 46 U.S.C. 6104, and 46 U.S.C. 10603 to reduce the unacceptably high level of fatalities and accidents in the commercial fishing industry. Also, Congress signed into law the Coast Guard Authorization Act of 2010 (Pub. L. 111-281) and the Coast Guard and Maritime Transportation Act of 2012 (Pub. L. 112-213), both of which build on the requirements set forth in the 1998 Act, and work to enhance worker and vessel safety.

- 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.
- The proposed rule would require vessel owners and operators that operate beyond 3 nautical miles of the baseline to document lifesaving equipment maintenance, inspection, instructions and drills, and to document the completion of a dockside examination once every five years.
- 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
- Protection of the Natural Resources

Prevention Policy and Response Policy Directorates (CG-5P & CG-5R)

- Safety: Eliminate deaths, injuries, and property damage associated with commercial maritime operations.
- Human and Natural Environment: Eliminate environmental damage associated with maritime transportation and operations on and around the nation's waterways.

2) Purpose of the information collection.

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. If this information were not collected, safety on board commercial fishing industry vessels would be adversely affected, contradictory to the intent of the Act. Appendix A describes each regulation -- which provides a clear indication of its purpose -- and the population it targets. Requirement items (11) and (12) represent two additional populations that would be required to provide information under the proposed rule.

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 10 % of the applications are sent electronically.

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: <https://homeport.uscg.mil> > Missions > Domestic Vessels > Uninspected Vessels > Commercial Fishing Vessels.

4) Efforts to identify duplication.

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. 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) Special collection circumstances.

This information collection is conducted in manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8) Consultation.

The Coast Guard published on **MMM DD, 2016**, a Notice of Proposed Rulemaking (NPRM) entitled "Commercial Fishing Vessels – Implementation of 2010 and 2012 Legislation" [USCG-2012-0025; RIN 1625-AB85; **81** FR **xxxx**]. The rulemaking—

- proposes to align its commercial fishing industry vessel regulations with the mandatory provisions of 2010 and 2012 legislation passed by Congress that took effect upon enactment. The alignments would change the applicability of current regulations, and add new requirements for safety equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rule only proposes to implement these legislative mandates, would exercise no Coast Guard regulatory discretion, and would promote the Coast Guard's maritime safety mission.

The NPRM 90-day comment period closes on **MMM DD, 2016**.

9) Decision to provide any payment or gift to respondents.

There is no offer of monetary or material value for this information collection.

10) Describe any assurances of confidentiality provided to respondents.

There are no assurances of confidentiality provided to the respondents for this information collection.

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

There are no questions of sensitive language.

12) Estimated annual hour and cost burdens to respondents.

- The total annual respondents are 40,844.
- The total annual responses are 64,065.
- The total annual burden hours requested is 26,868.
- The total annual cost is \$1,369,745.

The burden to respondents is provided in Appendix B. The wage rates used are in accordance with the

current edition of COMDTINST 7310.1(series) for “Out-Government” personnel or the U.S. Bureau of Labor Statistics, Occupational Employment Statistics. All figures are fully-loaded wage rates.

Inputs and Assumptions in the Analysis: The estimated vessel population is based on data acquired from the Coast Guard’s Marine Information for Safety and Law Enforcement (MISLE) database. Wages are obtained from Coast Guard Reimbursable Standard Rates (COMDTINST 7310.1(series)) and the U.S. Bureau of Labor Statistics, Occupational Employment Statistics.

Impact by Requirement: The twelve reporting and recordkeeping requirements are described in detail below, along with the estimated annual burden hours and costs. Items (11) Documentation of Equipment (§28.140) and (12) Dockside Examination Certificate of Completion (§28.201) are the two additional populations that would be required to provide information under the proposed rule. Appendix B contain detailed hour and cost breakdowns.

(1) 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). 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 position assigned to this task is analogous to an E-6.

(2) 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. 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. The position assigned to this task is analogous to an E-6.

(3) Acceptance Letter for Instructors and Course Curricula (§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 position assigned to this task is analogous to an E-6.

(4) 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. 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. The position assigned to this task is analogous to an E-6.

(5) Letter of Attestation for Stability Evaluation (§28.505): 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 position assigned to this task is analogous to an E-6.

(6) 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 position assigned to this task is analogous to Marine Engineers and Naval Architects.

(7) Uninspected Fish Processing Vessel Exam (§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. The position assigned to this task is analogous to a GS-12.

(8) 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. 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. The position assigned to this task is analogous to an E-6.

(9) 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. The Coast Guard estimates that approximately 0.5 percent of the fishing fleet will request exemptions annually. The position assigned to this task is analogous to an E-6.

(10) Citizenship Waiver (§28.1105 & .1110): Details the process to apply for a waiver relieving vessel owners or operators of the requirement that no more than 25% of the total number of unlicensed seamen on a U.S. documented vessel may be aliens lawfully admitted to the United States under the Immigration and Nationality Act of 1952. Over the last two years, the Coast Guard has received, on average, 13 waiver requests per year, with the number expected to decline for 2010. The position assigned to this task is analogous to Captains, Mates, and Pilots of Water Vessels.

(11) Documentation of Equipment (§28.140): Requires the keeping of records of equipment, maintenances, and drills/instructions in a safety logbook. The position assigned to this task is analogous to Captains, Mates, and Pilots of Water Vessels.

(12) Dockside Examination Certificate of Completion (§28.201): Requires the vessel to have a dockside examination every five years and carry a certificate of completion. The position assigned to this task is analogous to Captains, Mates, and Pilots of Water Vessels.

13) Total annualized capital and start-up costs.

There are no capital, start-up or maintenance costs associated with this information collection.

14) Estimates for annualized Federal Government costs.

The estimated annual Federal Government cost is \$563,669 (see Appendix C). The wage rates used are in accordance with the current edition of COMDTINST 7310.1(series) for "In-Government" personnel. All figures are fully-loaded wage rates.

Impact by Requirement: Four of the twelve reporting and recordkeeping requirements are estimated to have an impact on the Federal Government. Below are the associated annual costs. Item (11) Dockside

Examination Certificate of Completion (§28.201) is an additional government burden that would be required under the proposed rule. Appendix C contains detailed cost breakdown.

(3) Acceptance Letter for Instructors and Course Curricula (§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 is expected to review and issue a letter of acceptance (or rejection). The position assigned to this task is analogous to a LTJG (O-2).

(9) 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. The Coast Guard estimates that approximately 0.5 percent of the fishing fleet will request exemptions annually. The Coast Guard is expected to review an application and draft a response. The positions assigned to this task are analogous to a GS-13 and an E-6.

(10) Citizenship Waiver (§28. 1105 & .1110): Details the process to apply for a waiver relieving vessel owners or operators of the requirement that no more than 25% of the total number of unlicensed seamen on a U.S. documented vessel may be aliens lawfully admitted to the United States under the Immigration and Nationality Act of 1952. Over the last two years, the Coast Guard has received, on average, 13 waiver requests per year, with the number expected to decline for 2010. The Coast Guard is expected to review each waiver request. The position assigned to this task is analogous to a GS-13.

(12) Dockside Examination Certificate of Completion (§28.201): Requires the vessel to have a dockside examination every five years and carry a certificate of completion. The Coast Guard is expected to issue certification. The position assigned to this task is analogous to a GS-12.

15) Reasons for the change in burden.

The change in burden is a PROGRAM CHANGE due to the 1625-AB85 Commercial Fishing Vessels rulemaking. The Coast Guard is adding new requirements for the documentation of equipment and dockside examination certification. The result of the Program Change is an increase in burden.

16) Plans for tabulation, statistical analysis and publication.

This information collection will not be published for statistical purposes.

17) Approval for not explaining the expiration date for OMB approval.

The Coast Guard will display the expiration date for OMB approval of this information collection.

18) Exception to the certification statement.

The Coast Guard does not request an exception to the certification of this information collection.

B. Collection of Information Employing Statistical Methods.

This information collection does not employ statistical methods.