

Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard will assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If you need assistance in understanding this rule contact the Coast Guard where indicated under **FOR FURTHER INFORMATION CONTACT**.

#### Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4 (109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, the Coast Guard generally must prepare a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. The Act applies if those mandates cause State, local, and tribal governments, or the private sector, to spend, in the aggregate, \$100 million or more in any one year.

Because this action does not impose new or additional enforceable duties on any State, local or tribal government or the private sector, it does not contain a "Federal mandate." Even if the requirements in this proposed action were found to be Federal mandates, they will not result in annual expenditures of \$100 million or more. Therefore, section 202 and 205 do not apply.

Section 203 of the UMRA also requires the Coast Guard to develop a small government agency plan before the Coast Guard establishes any regulatory requirements that may significantly or uniquely affect small governments. Because this rule contains no regulatory requirements that might significantly or uniquely affect small governments, Section 203 of the UMRA does not apply.

#### Environment

The Coast Guard considered the environmental impact of this rule and

concluded that, under paragraph 2.B.2e(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

#### PART 165—(AMENDED)

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary section is added to read as follows:

#### § 165.T14-002 Safety Zone; Waimanalo Bay, Oahu, Hawaii

(a) Location. A safety zone is established within an area bounded by a line drawn between the following points: water's edge at approximately 21°22.8'N, 157°40.4'W; 21°22.8'N, 157°42.3'W; 21°20.8'N, 157°40.4'W; water's edge at approximately 21°20.8'N, 157°42.2'W.

(b) Effective date. This regulation is effective from September 3, 1997 through September 4, 1997.

(c) Regulations. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited, except as authorized by the Captain of the Port, or the patrol commander, via marine radio channel 16, VHF-FM.

Dated: August 27, 1997.

**Frank L. Whipple,**

*Captain, U.S. Coast Guard, Captain of the Port.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 46 CFR Part 28

[CGD 96-046]

RIN 2115-AF35

#### Commercial Fishing Industry Vessel Regulations

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adopting with some changes, as final, the interim rule which established requirements for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Coast Guard issued these regulations to improve the overall safety of U.S. Commercial Fishing Industry Vessels pursuant to the Commercial Fishing Industry Vessel Safety Act of 1988.

**DATES:** This final rule is effective on October 6, 1997.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street, SW., room 3406, Washington, DC 20593-0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-267-1477.

**FOR FURTHER INFORMATION CONTACT:** Commander John J. Davin, Office of Operating and Environmental Standards (G-MSO), telephone 202-267-1181, fax 202-267-4570.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

*Commercial Fishing Industry Vessel Safety Act of 1988*

On September 9, 1988, title 46 United States Code, was amended in chapter 45 (Uninspected Commercial Fishing Industry Vessels, sections 4501 through 4508) by the Commercial Fishing Industry Vessel Safety Act of 1988, Public Law 100-424 ("the Act"). The Act requires the Secretary of Transportation to prescribe regulations for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Secretary further delegated the authority to regulate commercial fishing vessels to the commandant of the Coast Guard. This rulemaking was initiated to implement certain provisions of the Act. This rulemaking does not include requirements pertaining to immersion

suits (found in CGD88-079c, Notice of Proposed Rulemaking dated May 20, 1993) or vessel stability; these provisions will be included in future rulemaking.

#### *Advance Notice of Proposed Rulemaking (ANPRM)*

An ANPRM was published in the **Federal Register** on December 29, 1988 (53 FR 52735), addressing potential requirements for uninspected fishing, fish processing, and fish tender vessels. In response to this ANPRM, nearly 200 comment letters were received and considered in developing the Notice of Proposed Rulemaking.

#### *Notice of Proposed Rulemaking (NPRM)*

On April 19, 1990, the Coast Guard published an NPRM in the **Federal Register** (55 FR 14924), addressing proposed requirements for uninspected fishing, fish processing, and fish tender vessels. In response to the NPRM, the Coast Guard received 500 comments. On August 14, 1991, in order to expedite the regulation package for commercial fishing industry vessels, the Coast Guard published a final rule.

#### *Final Rule (FR)*

A final rule entitled "Commercial Fishing Industry Vessel Regulations" was published in the **Federal Register** (56 FR 40364). These regulations are for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels to implement provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. The final rule indicated that the below listed controversial topics would be the subject of a subsequent supplemental notice of proposed rulemaking (SNPRM).

#### *Supplemental Notice of Proposed Rulemaking (SNPRM)*

On October 27, 1992, the Coast Guard published an SNPRM in the **Federal Register** (57 FR 48670). The controversial topics addressed in the SNPRM included the Aleutian Trade Act of 1990 (Pub. L. 101-595); stability for fishing vessels less than 79 feet in length; administration of exemptions authorized by 46 U.S.C. 4506; termination of unsafe operations; requirements for survival craft on fishing vessels with 3 or fewer individuals on board operating within 12 miles of the coastline and outside the boundary line; and acceptance criteria for instructors and course curricula.

On October 24, 1995, the Coast Guard published a final rule relating only to the Aleutian Trade Act (60 FR 54441).

The Coast Guard is working with the Commercial Fishing Industry Vessel Advisory Committee to develop the stability section for vessels less than 79 feet in length.

#### *Interim Rule*

An interim rule with request for comments entitled "Commercial Fishing Industry Vessel Regulations", was published on November 5, 1996, in the **Federal Register** (61 FR 57268). The interim rule addressed the four items not included in the final rule of August 14, 1991 (56 FR 40364) and made several technical corrections.

The Coast Guard received 104 letters commenting on the interim rule. These include 72 form letters from commercial fishers and commercial fishing associations, 13 letters from commercial fishers, 9 letters from commercial fishing associations, 2 letters from a member of Congress, 2 letters from fishing publications, 2 letters from an insurance concern, 1 letter from a naval architect/engineer, 1 letter from an equipment manufacturer, 1 letter from a fishing vessel safety organization, and 1 letter from a riverboat operation. Many of the letters requested public meetings for their specific area. The Coast Guard determined that a public meeting was unnecessary for this rulemaking because the comments were substantive and represented all aspects of the fishing industry. Additionally, the interim rule had a comment period that ended on December 20, 1996. In response to many comments received, an extension was published in the **Federal Register** on December 27, 1996 (61 FR 68161) that extended the comment period until February 20, 1997.

#### *Discussion of Comments and Changes*

No comments were received for § 28.50 definitions, § 28.320 fixed gas fire extinguishing systems, and § 28.380 general structural fire protection. Two commercial fishers questioned if the freeing ports in § 28.555 were required for vessels less than 50 feet in length. This is a moot point since this requirement is in a subpart that applies only to commercial fishing industry vessels 79 feet or more in length. Additionally, we made a technical correction to § 28.225 and removed Note 2 from table 28.120(c) because it is not applicable to that table.

#### *Section 28.60 Exemption Letter*

This section prescribed the mechanism to obtain an exemption for commercial fishing industry vessels authorized under the Commercial Fishing Industry Vessel Safety Act (46 U.S.C. 4506). Many of the form letters

and six letters commented that exemption granting authority should be delegated to Coast Guard District Commanders. As discussed in the interim rule, Coast Guard Headquarters, utilizing field unit and district inputs, has implemented this program since August, 1991. However, to expedite the approval process, this section is modified to allow District Commanders the authority to issue exemption letters.

#### *Section 28.65 Termination of Unsafe Operations*

This section contains criteria for the voyage termination of a commercial fishing industry vessel. Three comments were received concerning § 28.65(b)(11), which allows termination of the operations if the vessel has an expired load line certificate. The commenters pointed out that this is not sufficient to meet the requirements of 46 U.S.C. 4502(2), which requires termination of operations if the vessel does not have on board the certificate required by 46 U.S.C. 4503(1). This certificate indicates that the vessel meets all survey and classification requirements prescribed by the American Bureau of Shipping, or other qualified organization approved by the Secretary of Transportation. This certificate is more detailed than a load line certificate. We agree with the commenters. Load line requirements are already covered in § 28.65(c), so § 28.65(b)(11) has been modified to reflect the requirement of 46 U.S.C. 4505(2). Also, a comment was received that the wording of the load line requirement should not just be for a document check, but rather compliance with all the provisions of a load line certificate. The Coast Guard agrees and has revised the load line wording in this section.

A comment was received which emphasized the importance of Coast Guard Boarding Officer training and knowledge of the requirements before terminating a voyage. As stated in the interim rule, Coast Guard agrees that a vessel termination is an action that must be utilized with care. The Coast Guard has determined that no vessel operation should be terminated without the approval of the cognizant District Commander or a member of his/her staff authorized to make this determination. As a safeguard against any indiscriminate judgments, a Boarding Officer may not terminate a vessel's operations, but must objectively assess the vessel's condition and report the facts to superiors who, in turn, will evaluate the situation surrounding the case and make the final determination.

*Section 28.120 Survival Craft*

This section deals with the carriage of survival craft for vessels less than 36 feet in length with 3 or fewer persons onboard within 12 miles of the coastline, and vessels 36 feet or more in length operating within 12 miles of the coastline. A correction to table 28.120(a) was published in the **Federal Register** on December 27, 1996 (61 FR 68161) to include a "see note 2" to allow buoyant apparatus if a vessel over 36 feet in length stays within 12 miles of the coastline.

As with the SNPRM of October 1992, this section received the most comments, for and against the proposed provisions. The majority of comments came from letters contending that "\* \* \* Congress intended to exempt vessels less than 36 feet operating inside 3 miles from all types of survival craft, not just inflatable life rafts. This change will cost one fishery alone over \$1,000,000." The Coast Guard agrees with the form letters in their monetary assessment of this rulemaking. In the regulatory assessment, the Coast Guard stated that if 20,000 commercial fishing vessels purchased a buoyant apparatus, it would cost the industry \$9.8 million. Therefore, if a fishery of 2,000 vessels outfitted its vessels with a buoyant apparatus costing \$500 apiece, the cost to the fishery could be one million dollars.

The Coast Guard does not concur with this interpretation that Congress intended to provide a blanket exemption to vessels less than 36 feet in length operating inside three miles from all types of survival craft. The Congressional exemption can be found in 46 U.S.C. 4506 which exempts vessels less than 36 feet in length not operating on the high seas (within 12 miles) from having to carry life rafts or lifeboats. Congress' intent in implementing this law was very specific in describing survival craft as illustrated by the requirement for a buoyant apparatus found in 46 U.S.C. 4502(a)(6). Additionally, five comments stated that a buoyant apparatus is too bulky and could impede the vessel's operation. Some inspected small passenger vessels carry this same equipment without impeding operations. As an option, an approved buoyant apparatus in the shape of a ring that can easily be mounted on a bulkhead or overhead and could not interfere with fishing operations is available commercially. Also, another equipment manufacturer offers an approved buoyant apparatus which forms a Bimini-style hard top over an open cockpit. Quick-release latches allow it to be rapidly launched

in case of an emergency. Therefore, the Coast Guard has continued this requirement.

Five comments stated that day boats should not require any type of survival craft primarily because these boats normally operate in the vicinity of other such boats. This point was addressed in the SNPRM (57 FR 48674), in which the Coast Guard determined that every vessel is a separate entity and that relying on other vessels constitutes an unnecessary risk.

Three comments questioned why 36 feet in length was used, and one comment stated that the regulations should be changed to 50 feet in length. 46 U.S.C. 4506(b) establishes the length requirement that has been implemented into the regulations.

Two comments received recommended the use of a recreational inflatable craft as a survival craft. This issue was addressed extensively in the final rule published in the **Federal Register** (56 FR 40370) on August 14, 1991. In that rule, we discussed in depth our concerns about using unapproved rafts for survival craft and the reasons for not accepting these crafts.

Two comments noted that a buoyant apparatus would not be effective for smaller vessels in cold waters. The Coast Guard agrees that in cold water a vessel should carry a survival craft that will keep persons out of the water. However, when the Coast Guard proposed inflatable buoyant apparatus for this size of vessel, the proposal was found to be cost prohibitive due to initial cost, annual servicing costs, and space and weight considerations. The Coast Guard encourages vessel owners, operators, and insurance companies (through incentives), where safe, to exceed the minimum standards set forth in these regulations and outfit each vessel with an inflatable buoyant apparatus.

Two comments supported the carriage of buoyant apparatus as proposed. Also, two comments requested that the Coast Guard include the carriage substitution in note 2 to the 28.120 tables to the category "Beyond Boundary Line, within 20 miles of coastline, warm waters" listed in the "Area" column. At present, the Coast Guard requires a life float for this area. The Coast Guard agrees that for consistency between the areas, a buoyant apparatus may be carried if the vessel meets and follows the criteria found in note 2 and § 28.120(c).

*Section 28.270 Instruction, Drills, and Safety Orientation*

This section modified paragraph (c) to strengthen the instructor and training requirements for an individual licensed by the U.S. Coast Guard to operate a vessel of 100 gross tons or more. These individuals must comply with the requirements of § 28.275. One comment received wanted clarification to § 28.270(c) as to whether a licensed individual must meet all of § 28.275, or just § 28.275(a)(2). We agree that the second sentence does cause confusion and have removed it from the final rule to clarify that all individuals must meet the criteria found in § 28.275.

One comment stated that the weak link in these regulations is the lack of licensing operators of commercial fishing industry vessels. Both the Coast Guard and the Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) have determined that the licensing of commercial fishing vessel operators, with emphasis on training, is necessary to reduce casualties caused by human error and to improve the historically poor safety record of the fishing vessel industry. The Coast Guard agrees, but lacks statutory authority to implement a licensing plan and notes that licensing of operators of commercial fishing industry vessels is beyond the scope of this rulemaking.

Another commenter urged the Coast Guard to make the logging of drills mandatory to supplement the drill requirements under our current regulations. The Coast Guard agrees, however, this would have to be addressed as a proposal in a future rulemaking.

*Section 28.275 Acceptance Criteria for Instructors and Course Curricula*

This section amended the experience and training provisions for persons with a Coast Guard issued license of 100 gross tons or more. One commenter, supporting our amendments, stated that this provision was overdue; and that a license was not necessarily an indicator that the holder knew the elements of safety and survival at sea, or was capable of training others. Further, two commenters requested that we include in this section a reasonable time frame, to enable licensed individuals to comply with the experience and training requirements. The Coast Guard agrees and has placed a note in this section to grandfather existing license holders without fishing experience until September 15, 1998. This allows them additional time to comply with these provisions.

Two commenters opposed the provision that requires training and fishing experience because an operator with the knowledge and experience to qualify for a Coast Guard license has the knowledge and wherewithal to conduct monthly safety drills aboard his/her vessel. While earning a Coast Guard license does show a certain degree of skill and knowledge, the license does not specifically cover the 10 contingencies required in § 28.270. Furthermore, § 28.270 applies to individuals that may not have Coast Guard licenses. Therefore, the Coast Guard continues to require this provision.

Two comments recommended that the 8 hour course curriculum (minimum) currently found in Navigation and Vessel Inspection Circular 7-93 be placed in this section of the regulations. The Coast Guard and the Commercial Fishing Industry Vessel Advisory Committee agree with this recommendation. However, because it is not Coast Guard policy to place specific course requirements in terms of hours in the regulations, we have not done so.

#### *Regulatory Assessment*

This rule is a non-significant regulatory action under 3(f) of Executive Order 12866 and is non-significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040, February 26, 1979). It has been reviewed by the Office of Management and Budget under that Order. The Coast Guard has prepared a regulatory assessment and placed it in the rulemaking docket. The assessment may be inspected and copied at the address listed under **ADDRESSES**.

Because this final rule represents administrative changes to the interim rule and in no way affects the costs or benefits described in the interim rule (61 FR 57271), this Regulatory Assessment is adopted with no changes.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The economic impact on small entities by this rule will be with commercial fishing industry vessels either 10.97 meters (36 feet) or more in length that operate within 12 miles of the coast or less than 10.97 meters (36 feet) in length

operating within 12 miles of the coastline with 4 or more persons. An estimated 20,000 state numbered or documented commercial fishing vessels might be affected by this rule. These vessels will incur a capital cost estimated to be between \$400 and \$500 with no annual recurring cost. The cost is the same for part-time and seasonal operators as it is for full-time operators. This rule has a minimal, nonrecurring cost and furthermore, no comments were received concerning this section. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### *Assistance for Small Entities*

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to help small entities understand this rule so that they can better evaluate its effects on them. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Commander John J. Davin, Office of Operating and Environmental Standards (G-MSO), telephone 202-267-1181 or fax 202-267-4570.

#### *Collection of Information*

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of the interim rule to the Office of Management and Budget (OMB) for its review and approval of the collection of information. OMB approved the collection. The section numbers are §§ 28.60, 28.80, 28.90, and 28.275, and the corresponding approval number from OMB is OMB Control Number 2115-0582, which expires on August 31, 1998.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### *Federalism*

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### *Environment*

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. These rules are expected to have no significant effect on the environment. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

#### **List of Subjects in 46 CFR Part 28**

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

Accordingly, the interim rule amending 46 CFR part 28 which was published in the **Federal Register** (61 FR 57268) on November 5, 1996, is adopted as a final rule with the following changes:

#### **PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS**

1. The authority citation for part 28 continues to read as follows:

**Authority:** 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; 49 CFR 1.46.

2. Revise § 28.60 to read as follows:

#### **§ 28.60 Exemption letter.**

(a) *Types of exemptions.* (1) *Specific exemption* means an exemption for an individual commercial fishing industry vessel.

(2) *Class exemption* means an exemption for a class or fleet of commercial fishing industry vessels.

(b) *Exemption procedure.* A request for an exemption of either type must be in writing, have specific reasons for the request, and be sent to the Coast Guard District Office having jurisdiction over the waters where the vessel(s) will be operating. Coast Guard District geographical areas are described in 33 CFR part 3. The District Commander will review the request to determine that:

- (1) Good cause exists for granting an exemption; and
- (2) The safety of the vessel and those on board will not be adversely affected.
- (c) The District Commander will either approve or deny the request in writing. In granting a request, the District Commander will specify the terms under which the exemption is granted and distribute the letter describing these terms to the party or parties requesting the exemption.
- (d) *Exemption letter.* Exemption letters, or suitable copies, describing the

terms under which the exemption is granted shall be maintained at all times on board each vessel to which any exemption applies.

(e) *Right of appeal.* Any person directly affected by a decision or action taken under this part may appeal in accordance with § 1.03 of this chapter.

(f) *Rescinding an exemption letter.* Exemptions granted may be rescinded by the District Commander if it is subsequently determined that the safety

of the vessel and those onboard is adversely affected.

3. Amend § 28.65 by revising paragraphs (b)(11) and (c) to read as follows:

**§ 28.65 Termination of unsafe operations.**

\* \* \* \* \*

(b) \* \* \*

(11) A missing or expired certificate of class, as required by 46 U.S.C. 4503(1), for a fish processing vessel.

(c) A Coast Guard Boarding Officer may direct the individual in charge of a fish processing vessel that is missing a Load Line Certificate, or that does not comply with the provisions of the Load Line Certificate issued by the American Bureau of Shipping or a similarly qualified organization, to return the vessel to a mooring and to remain there until the vessel obtains such a certificate.

4. Amend § 28.120 by revising tables 28.120 (a), (b), and (c) to read as follows:

TABLE 28.120(a).—SURVIVAL CRAFT FOR DOCUMENTED VESSELS

Area	Vessel type	Survival craft required
Beyond 50 miles of coastline .....	All .....	Inflatable liferaft with SOLAS A pack.
Between 20–50 miles of coastline, <i>cold</i> waters .....	All .....	Inflatable liferaft with SOLAS B pack
Between 20–50 miles of coastline, <i>warm</i> waters .....	All .....	Inflatable liferaft.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable liferaft.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus. See note 2.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus. See note 2.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float. See note 2.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus. See note 2.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus. See note 2.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus. See note 2.
Great Lakes, <i>cold</i> waters .....	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus. See note 2.
Great Lakes, beyond 3 miles of coastline, <i>warm</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, within 3 miles of coastline, <i>warm</i> waters .....	All .....	None.

Note: 1. The hierarchy of survival craft in descending order is lifeboat, inflatable liferaft with SOLAS A pack, inflatable liferaft with SOLAS B pack, inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

2. If a vessel carries 3 or fewer individuals within 12 miles of the coastline, see § 28.120 (b) and (c) for carriage substitution.

TABLE 28.120(b).—SURVIVAL CRAFT FOR UNDOCUMENTED VESSELS WITH NOT MORE THAN 16 INDIVIDUALS ON BOARD

Area	Vessel type	Survival craft required
Beyond 20 miles of coastline .....	All .....	Inflatable buoyant apparatus.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable buoyant apparatus.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Buoyant apparatus.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus. See note 2.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float. See note 2.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Buoyant apparatus.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus. See note 2.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, beyond 3 miles of coastline, <i>warm</i> waters .....	All .....	Buoyant apparatus. See note 2.
Great Lakes, within 3 miles of coastline, <i>warm</i> waters .....	All .....	None.

Note: 1. The hierarchy of survival craft in descending order is lifeboat, inflatable liferaft with SOLAS A pack, inflatable liferaft with SOLAS B pack, inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

2. If a vessel carries 3 or fewer individuals within 12 miles of the coastline, see § 28.120 (b) and (c) for carriage substitution.

TABLE 28.120(c).—SURVIVAL CRAFT FOR UNDOCUMENTED VESSELS WITH MORE THAN 16 INDIVIDUALS ON BOARD

Area	Vessel type	Survival craft required
Beyond 50 miles of coastline .....	All .....	Inflatable liferaft with SOLAS A pack.
Beyond 20–50 miles of coastline, <i>cold</i> waters .....	All .....	Inflatable liferaft with SOLAS B pack.
Beyond 20–50 miles of coastline, <i>warm</i> waters .....	All .....	Inflatable liferaft.
Beyond Boundary Line, between 12–20 miles of coastline, <i>cold</i> waters.	All .....	Inflatable liferaft.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus.
Beyond Boundary Line, within 12 miles of coastline, <i>cold</i> waters.	Less than 10.97 (36 ft) in length.	Buoyant apparatus.
Beyond Boundary Line, within 20 miles of coastline, <i>warm</i> waters.	All .....	Life float.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus.
Inside Boundary Line, <i>cold</i> waters; or Lakes, bays, sounds, <i>cold</i> waters; or Rivers, <i>cold</i> waters.	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus.
Inside Boundary Line, <i>warm</i> waters; or Lakes, bays, sounds, <i>warm</i> waters; or Rivers, <i>warm</i> waters.	All .....	None.
Great Lakes, <i>cold</i> waters .....	10.97 meters (36 ft) or more in length.	Inflatable buoyant apparatus.
Great Lakes, <i>cold</i> waters .....	Less than 10.97 meters (36 ft) in length.	Buoyant apparatus.
Great Lakes, beyond 3 miles of coastline, <i>warm</i> waters .....	All .....	Buoyant apparatus.
Great Lakes, within 3 miles of coastline, <i>warm</i> waters .....	All .....	None.

Note: 1. The hierarchy of survival craft in descending order is lifeboat, inflatable liferaft with SOLAS A pack, inflatable liferaft with SOLAS B pack, inflatable liferaft with coastal service pack, inflatable buoyant apparatus, life float, buoyant apparatus. A survival craft higher in the hierarchy may be substituted for any survival craft required in this table.

5. Amend § 28.225 by revising paragraphs (a)(3)(i) and (a)(3)(ii) to read as follows:

**§ 28.225 Navigational information.**

- (a) \* \* \*
- (3) \* \* \*

(i) Tide tables promulgated by the National Ocean Service; and  
 (ii) Tidal current tables promulgated by the National Ocean Service, or a river current publication issued by the U.S. Corps of Engineers or a river authority.

6. Amend § 28.270 by revising paragraph (c) to read as follows:

**§ 28.270 Instructions, drills, and safety orientation.**

\* \* \* \* \*

(c) *Training.* No individual may conduct the drills or provide the instructions required by this section unless that individual has been trained in the proper procedures for conducting the activity.

\* \* \* \* \*

7. Amend § 28.275 by revising paragraph (a)(2) and adding paragraph (a)(3) and a note following paragraph (a)(3)(ii) to this section to read as follows:

**§ 28.275 Acceptance criteria for instructors and course curricula.**

- (a) \* \* \*

(2) A valid merchant mariner's license issued by the Coast Guard authorizing service as master of uninspected fishing industry vessels and proof of experience

that relates directly to the contingencies listed in 46 CFR 28.270(a) including—

- (i) Experience as an instructor; or
- (ii) Training received in instructional methods; or

(3) A valid merchant mariner's license issued by the Coast Guard authorizing service as a master of inspected vessels of 100 gross tons or more and proof of experience that relates directly to the contingencies listed in 46 CFR 28.270(a) including—

- (i) Experience as an instructor; or
- (ii) Training received in instructional methods. (See note 1.)

**Note 1:** Persons holding a license authorizing service as a master of inspected vessels of 100 gross tons or higher with an original issue date prior to May 1, 1997, have until September 15, 1998, to comply with the provisions listed in § 28.275(a)(3).

\* \* \* \* \*

Dated: July 17, 1997.

**R.C. North,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine, Safety and Environmental Protection.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket No. 970730185-7206-02; I.D. 070797B]

RIN 0648-AJ13

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement the provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). For the red snapper fishery in the Gulf of Mexico exclusive economic zone (EEZ), the regulatory amendment: Changes the opening date for the 1997 fall commercial fishing season from September 15 to September 2; restricts the harvest of red snapper during the 1997 fall commercial season to an initial period of September 2 to September 15