

Section 28.50—Definition of Terms Used in This Part

This section has been modified to include additional requirements for "North Pacific Area." The NPRM referenced 50 CFR 210.1 for this definition. Rather than reference another regulation, the definition has been included here for both clarity and convenience by both the industry and the Coast Guard enforcement officials.

The definitions of "accepted organization" and "similarly qualified organization" have been simplified to refer to two new sections, §§ 28.073 and 28.076, which describe the criteria for designation as one of the organizations. The criteria in these sections are similar to the definitions in the NPRM.

Section 28.73—Accepted Organizations

This section has been added to clarify that organizations must request in writing designation as an accepted organization and the criteria under which those requests will be evaluated. See also the discussion under § 28.050.

Section 28.76—Similarly Qualified Organizations

This section has been added to clarify that organizations must request in writing designation as a similarly qualified organization and the criteria under which those requests will be evaluated. See also the discussion under § 28.050.

Section 28.80—Report of Casualty

This section has been slightly modified based upon comments received in response to the NPRM, including those from the Marine Index Bureau. The Coast Guard published a notice in the Federal Register (55 FR 21477) on May 28, 1990, accepting the Marine Index Bureau as an organization authorized to receive and process commercial fishing industry vessel casualty data.

Weather conditions must be included in a report of casualty only if the weather caused or contributed to the casualty. The NPRM had indicated that weather conditions were to be reported for every casualty.

Information concerning fishing license numbers and type of fishing gear in use at the time of a casualty is not needed for statistical or enforcement purposes and these provisions have been removed from the listing of required information in the final rule.

The proposed requirement for a report of a casualty to include the seaworthiness of the vessel after a casualty has been removed from the final rule, since this information can be

derived from the other information reported.

If the casualty is required to be reported to a Coast Guard Marine Safety or Marine Inspection Office on Form CG 2692, in accordance with 46 CFR part 4, a separate report to the Coast Guard is not required from the owner, agent, operator, master, or individual in charge to comply with the requirements of this section. However, that casualty would also be reported to the Marine Index Bureau by the underwriter of primary insurance under the provisions of paragraph (b).

Currently, 46 CFR 4.05-1 requires the following casualties to be reported to the nearest Coast Guard Marine Safety or Marine Inspection Office as soon as possible after the casualty:

(1) All accidental groundings and any intentional grounding which meets any of the other criteria listed below or which causes a hazard to navigation, the environment, or the safety of the vessel.

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel.

(3) An occurrence which materially and adversely affects the vessel's seaworthiness or fitness for service or route.

(4) Loss of life.

(5) Injury which requires professional medical treatment beyond first aid and, in the case of an individual engaged or employed on board a vessel in commercial service, which renders the individual unfit to perform routine vessel duties.

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of \$25,000.

The owner, agent, operator, master, or individual in charge of the vessel is required to report the casualty to the underwriter of primary insurance for the vessel or to the Marine Index Bureau. The underwriter of primary insurance is required to report each casualty to the Marine Index Bureau within 90 days of receiving notice of the casualty and whenever it pays a claim resulting from a casualty. Information furnished by underwriters of primary insurance to comply with the provisions of this section is exempt from disclosure under the Freedom of Information Act because it is commercial and financial information which, if disclosed, would be likely to cause substantial harm to the competitive position of the underwriter. The Coast Guard intends to treat such information as exempt from disclosure. However, compiled information that does not contain information that is likely to cause harm

to the competitive position of underwriters of primary insurance will be releasable.

Section 28.90—Report of Injury

This section requires each individual when in the service of a commercial fishing industry vessel, to report every injury or illness to the master, individual in charge of the vessel, or other agent of the employer within seven days of the injury or illness. The purpose of this provision is to ensure that the employer, or his representative on board the vessel, is aware of all injuries and is provided with an opportunity to correct an unsafe or dangerous condition.

Subpart B—Requirements for all Vessels

This subpart contains regulations which apply to every commercial fishing industry vessel in response to section 4502(a) of the Act. The requirements of this subpart are in addition to the remainder of the requirements of 46 CFR subchapter C, which also apply to commercial fishing industry vessels. A statement to that effect has been added to § 28.100 for clarity.

Section 28.105—Lifesaving Equipment—General Requirements

This section simply restates the existing requirement that life preservers, immersion suits, and other lifesaving equipment required in 46 CFR part 25, subpart 25.25 be carried on board commercial fishing industry vessels. This is in addition to the requirements in this subpart.

The Coast Guard considered requiring work vests (Type V personal flotation devices approved under 46 CFR 160.053) for those individuals working on the open deck of commercial fishing industry vessels. The Committee recommended that work vests not be required because work vests are bulky and interfere with the normal work of personnel on the decks of commercial fishing industry vessels. In some evolutions on commercial fishing industry vessels wearing a work vest may actually add to the hazards since the work vests can be snagged by nets being paid out and increase the likelihood of individuals entering the water accidentally. For these reasons work vests are not worn by most commercial fishing industry individuals. The Coast Guard agreed with the Committee recommendation and no work vests are required in this final rule. The Coast Guard does support the voluntary use of work vests, whether approved or not, when such use will not create an added safety hazard.