

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Raisinville, Township of, Monroe County ..	260155	August 18, 1975, Emerg; August 2, 1982, Reg; October 2, 2014, Susp.	.....do .....	Do.
South Rockwood, Village of, Monroe County.	260320	September 5, 1975, Emerg; May 2, 1983, Reg; October 2, 2014, Susp.	.....do .....	Do.
Summerfield, Township of, Monroe County.	260156	June 23, 1975, Emerg; September 18, 1985, Reg; October 2, 2014, Susp.	.....do .....	Do.
Whiteford, Township of, Monroe County ...	260157	June 30, 1975, Emerg; April 1, 1981, Reg; October 2, 2014, Susp.	.....do .....	Do.

\*-do- =Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: August 20, 2014.

**David L. Miller,**

*Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.*

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**BILLING CODE 9110–12–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**46 CFR Parts 2, 24, 25, 30, 70, 90, and 188**

[Docket No. USCG–2012–0919]

RIN 1625–AB83

**Lifesaving Devices—Uninspected Commercial Barges and Sailing Vessels**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is aligning its regulations with the 2010 Coast Guard Authorization Act. Before 2010, certain uninspected commercial vessels including barges and sailing vessels fell outside the scope of the statute requiring the Coast Guard to regulate lifesaving devices on uninspected vessels. Lifesaving devices were required on such uninspected commercial vessels only if they carried passengers for hire. The 2010 Act brought all uninspected commercial vessels within the scope of the statutory requirement to carry lifesaving devices even if they carry no passengers for hire. The effect of the 2010 Act was to bring, for the first time, uninspected non-passenger commercial barges and sailing vessels within the scope of the lifesaving devices requirement. The Coast Guard is now requiring the use of wearable personal flotation devices for individuals on board those vessels, and amending several regulatory tables to

reflect that requirement. This rulemaking promotes the Coast Guard’s marine safety mission.

**DATES:** This final rule is effective October 10, 2014.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2012–0919 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to <http://www.regulations.gov>, inserting USCG–2012–0919 in the “Keyword” box, and then clicking “Search.”

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email Mr. Martin Jackson, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; telephone 202–372–1391, email [Martin.L.Jackson@uscg.mil](mailto:Martin.L.Jackson@uscg.mil). For information about viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826, toll free 1–800–647–5527.

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**I. Abbreviations**

- CFR Code of Federal Regulations
- E.O. Executive Order
- FR **Federal Register**
- MISLE Marine Information for Safety and Law Enforcement
- NPRM Notice of proposed rulemaking
- OSHA Occupational Safety and Health Administration
- PFD Personal flotation device
- Pub. L. Public Law
- § Section symbol
- The Act 2010 Coast Guard Authorization Act
- U.S.C. United States Code

**II. Background**

Sections 2103 and 4102 of title 46, United States Code (U.S.C.), provide the legal basis for this rule. Section 2103 gives the Secretary of the department in which the Coast Guard is operating general regulatory authority to carry out the provisions of 46 U.S.C. Subtitle II (“Vessels and Seamen”). Section 4102(b)<sup>1</sup> requires the Secretary to “prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.” The Secretary of Homeland Security’s authority under 46 U.S.C. 2103 and 4102 is delegated to the Coast Guard.<sup>2</sup>

The uninspected vessels to which section 4102(b) applies are not subject to inspection under 46 U.S.C. 3301 and are not recreational vessels.<sup>3</sup> Until passage of the 2010 Coast Guard Authorization Act (“the Act”), section 4102(b) applied only to uninspected vessels “propelled by machinery,” and thus excluded certain uninspected commercial vessels including most

<sup>1</sup> As amended by section 619 of the 2010 Coast Guard Authorization Act, Pub. L. 111–281, 124 Stat. 2905.

<sup>2</sup> DHS Delegation No. 0170.1(II)(92)(a), (92)(b).

<sup>3</sup> See 46 U.S.C. 2101(25) and (43) for the definitions of “recreational vessel” and “uninspected vessel.”

barges and some sailing vessels unless they carried passengers for hire.<sup>4</sup> Current Coast Guard regulations that implement section 4102(b) reflect the “propelled by machinery” requirement and therefore specifically exempt those excluded barges and sailing vessels.<sup>5</sup>

The purpose of the rule is to implement 46 U.S.C. 4102(b) as amended by the Act. The Act deleted the requirement in section 4102(b) that vessels be propelled by machinery. As amended, section 4102(b) now requires all non-recreational uninspected vessels, regardless of vessel type or mode of propulsion, to make an appropriate form of lifesaving device available for the use of individuals on board the vessel. The types and numbers of devices appropriate for each type of vessel are left to the Coast Guard’s discretion, as are the requirements for installing, maintaining, and using those devices.

### III. Discussion of Comments and Changes

Our 2013 notice of proposed rulemaking (NPRM)<sup>6</sup> drew comments from 11 sources: 4 from the barge industry, 1 industry worker, 1 industry association, 1 association representing workers,<sup>7</sup> and 4 individuals who did not indicate their affiliations, if any. We have revised the regulatory text of this final rule in response to some of the comments.

*Public meetings.* One industry commenter said that changing the regulations in a way that might make sense for its operations might “be incorrect” for another operator, and that therefore we should hold public meetings in which members of the public could discuss how best to change the regulations. In our view, it was not necessary to hold public meetings because the NPRM proposed regulatory text that would accommodate the circumstances of different industry segments.

*Vessels we overlooked.* Two individuals said our proposals exclude some vessel types that should be covered. The first commenter said that the congressional intention in deleting “propelled by machinery” from 46 U.S.C. 4102(b) was to “create parity for all uninspected vessels—both recreational and commercial—with regard to lifesaving equipment requirements.” This commenter said that Table 24.05–1(a) in our existing 46

CFR regulations misleadingly implies that the only “non-self-propelled vessels < 100 gross tons” covered by 46 CFR chapter I, subchapter C are “barges carrying passengers or passengers-for-hire” that are not also subject to inspection as 46 CFR chapter I, subchapter H, K, or T passenger vessels. The commenter said that other non-self-propelled vessels under 100 gross tons must also be subject to subchapter C, and thus subject to lifesaving equipment requirements: for example, dredges, non-self-propelled workboats, and rowed skiffs and tenders. Finally, the commenter informed us of a Vermont-based sailing vessel that has recently entered commercial service and should be covered under the proposed rule. Likewise, the second commenter mentioned vessels dredging for oysters in Maryland waters as examples of commercial sailing vessels that we had overlooked.

We acknowledge that the NPRM stressed its applicability to barges and sailing vessels. However, the NPRM’s proposed regulatory language clearly applied to any vessel that is subject to 46 CFR chapter I, subchapter C. As explained in Table 24.05–1(a), subchapter C applies to all uninspected motor vessels, non-self-propelled vessels, sailing vessels, and steam vessels. Skiffs and other motorized vessels are non-exempt under subchapter C. Our population analysis includes any non-self-propelled vessel in our database records that was previously exempt and is now affected by this final rule, which includes unmanned, non-self propelled dredges. Oyster dredges, if in commercial use, are commercial fishing vessels that are already subject to the personal flotation device (PFD) requirements of 46 CFR 28.110. We did, however, add the Vermont-based sailing vessel to our population analysis, although it is already in compliance with the proposed requirements.

*Wearing PFDs on barges.* Two industry commenters, the industry worker, the industry association, the association representing workers, and two individuals addressed our proposed requirement for wearing PFDs on board a barge. The industry worker estimated that only a small percentage of tankermen on oil and petroleum barges wear PFDs, and said it was time to require PFD use. The worker association and one individual also endorsed our proposed requirement. One industry commenter endorsed wearing a PFD “where there is a risk of falling overboard.” The industry commenters, the industry association, and the second individual provided examples of when

wearing a PFD would not be necessary to protect a person’s safety on board a barge: for example, while in an office or shop facility on the barge, while working in a barge hopper, or when walls or stanchions protect a worker from falling overboard from a moored barge. The association representing workers acknowledged the second individual’s comment, and seemed to imply that a watch officer could use his or her discretion to determine under what conditions wearing a PFD would be necessary. The worker association also specified that the type of PFD we should require is the work vest “commonly used on barges” and “worn properly to be useful as a piece [of] personal protective gear.”

We agree that workers in enclosed spaces on barges, or who are otherwise protected by the barge’s configuration from falling overboard, do not need to wear PFDs to ensure their safety, and we have revised 46 CFR 25.25–9(c) to require the wearing of a PFD only while a worker is on board a barge and at risk of falling overboard. The proposed regulatory language permits the use of “commonly used” PFDs on barges, including work vests that are approved by the Coast Guard, and we include this provision in the final rule.

*PFD storage.* Three industry commenters and the industry association commented on our proposal to allow PFDs for use on a barge to be stored elsewhere than on the barge itself, for example on the barge’s towboat. Two of the industry commenters endorsed this proposal. Two industry commenters and the industry association suggested changing our proposed regulatory language, to make the regulations easier to understand. They suggested, in proposed 46 CFR 25.25–5(b), striking “which must comply with paragraph (b)(1) of this section or make substitutions authorized by paragraph (c) of this section.” They also suggested rewriting proposed 46 CFR 25.25–9(c) so that PFD storage would be required only when PFD use is needed to ensure worker safety.

We agree with these commenters. We made the suggested change in § 25.25–5(b), but went beyond that to remove the introductory language altogether, lest it inadvertently serve to exempt all barges from the requirements of § 25.25–5. To ensure consistency, we also revised § 25.25–5(b)(3), to make it clear that barges are exempt from that paragraph’s lifebuoy requirements. We have revised § 25.25–9(c) to require the wearing of a PFD only while a worker is on board a barge and at risk of falling overboard.

<sup>4</sup> Vessels carrying passengers for hire are inspected vessels covered by 46 U.S.C. 3301.

<sup>5</sup> See 46 CFR 25.25–1(c), (d).

<sup>6</sup> 78 FR 42739 (Jul. 17, 2013).

<sup>7</sup> The association representing workers made two submissions to the docket.

*Operator responsibility.* Four industry commenters, the industry association, and the worker association commented on our proposal to make the barge operator responsible for ensuring compliance, in particular with the proposed requirement to wear a PFD on board a barge. All five commenters agreed that placing this responsibility on the barge operator would create ambiguity. Two of the industry commenters and the industry association said that “barge operator” could refer to “the barge owner, the operator of an attending vessel, or even a fleet or dock worker.” The worker association said that the barge operator might not be in a position to ensure that the device is donned properly or worn at all times. The worker association suggested that the officer in charge of the watch would be the proper person to carry those responsibilities. The four industry commenters pointed out that personnel representing many different operators might be on board a barge at any given time, and that the only effective way to enforce the proper wear of PFDs on board the barge would be make each individual’s employer responsible for ensuring compliance.

We understand that the identity of the “barge operator” may change over time depending on the barge’s operation at any given moment and that the key is to determine who controls access to the barge at the moment. When the barge’s owner controls that access, the owner is also the operator; if it is the master of another company’s tow that controls access, that master is the operator; and if the barge is being fleeted and access is controlled by the dock master, the dock master is the operator for purposes of these regulations.

*Throwable devices.* The worker association and one individual commented on devices that can be thrown to a person overboard, to assist in the person’s rescue. The individual said “there are many instances where barges could be equipped with a throwable (Type IV) device that is readily accessible in the event that a crewmember or other individual falls in the water.” The worker association said we should require a barge to carry a throwable device if there are occasions when two or more persons are on board, and recommended a trademarked model of lifebuoy that is equipped with a 100-foot lifeline because of its superiority as an effective rescue tool.

We recommend the use of throwable devices when two or more persons are on a barge, but we will not require that use at this time. Our emphasis in this final rule is on wearable *personal* devices. Developing requirements for

throwable devices is outside the scope of this rulemaking.

*Occupational Safety and Health Administration (OSHA) regulations.* The worker association recommended that Coast Guard follow OSHA’s example in certain areas. The recommendations included determining whether towboats should be required to carry lifesaving skiffs (as “many of them already do”), requiring a lifebuoy to be equipped with at least 90 feet of retrievable line, and adopting a regulation for working over or near water that would be similar to OSHA requirements.<sup>8</sup>

We recommend the carriage of lifesaving skiffs and lifebuoys on vessels where that carriage makes sense, but we will not require it at this time. Our emphasis in this final rule is on wearable *personal* devices. Developing requirements for skiffs and lifebuoys is outside the scope of this rulemaking.

*Economic data and analysis.* The worker association and one individual commented on our economic data and analysis. The association questioned our estimate that 35,568 barges would be subject to our proposed regulations, and commented that although our proposals seem to carry low cost, they also would do nothing to improve safety on uninspected barges. The individual was disturbed by our data, indicating that out of 40 casualties we examined, only one casualty was not wearing a life preserver/PFD; he said that before changing any regulations, we should determine why so many individuals died despite wearing a life preserver/PFD.

Based on comments regarding the population, we re-evaluated the affected population and determined that an estimated 62,240 vessels are affected by this rule. We made this determination by removing a filter for “uninspected” vessels, as some barges may not be listed as uninspected.

As for the casualty data, it is important to keep in mind, when consulting our data, that they are limited to the statistics we collect when investigating actual injuries and deaths. The data do not reflect the many near misses that have occurred to people who fell overboard without a life preserver/PFD and fortunately survived without major injury.

*Beyond scope.* The worker association made three comments that we consider to be beyond the scope of this rulemaking, and we have not reflected these comments in our revisions to regulatory text. In each of this commenter’s two submissions to the docket, the submission included copies

of articles or previous comments relating to a variety of maritime safety considerations. These were not presented in the context of this specific rulemaking and did not indicate the relevance of this material to other specific comments made by the association. The third comment was that the safety needs of persons working below deck on uninspected barges, “in confined spaces to pump, plug holes, inspect, etc.” need attention by the Coast Guard. Persons in confined work spaces in shipyards are subject to OSHA regulations.<sup>9</sup>

#### IV. Discussion of the Rule

The Coast Guard is amending 46 CFR subpart 25.25, which concerns life preservers and other lifesaving equipment on uninspected commercial vessels.

Section 25.25–1 exempts certain types of vessels from subpart 25.25. Paragraphs (a) and (b) of the section exempt non-commercial vessels and vessels leased, rented, or chartered to another for that person’s non-commercial use. Paragraphs (c) and (d) exempted uninspected commercial sailing vessels and barges that do not carry passengers for hire. Paragraphs (c) and (d) reflected the pre-2010 inclusion of the “propelled by machinery” condition in 46 U.S.C. 4102(b). Because section 4102(b) now mandates the Coast Guard to require some form of lifesaving devices on uninspected commercial vessels even if they do not carry passengers for hire, irrespective of propulsion, we are removing 46 CFR 25.25–1(c) and (d).

We are amending the definitions in 46 CFR 25.25–3 by adding a definition for “approval series,” a term we use elsewhere in the subpart to describe equipment requirements.

We are amending 46 CFR 25.25–5, revising current paragraphs (b) through (f) to eliminate references to equipment specifications that have become obsolete or that have lost their Coast Guard-approved status since this section was last amended in 2002. Although the regulatory text omits the language of current § 25.25–5(f)(3), requiring Type V commercial hybrid PFDs approved under approval series 160.077 to be worn when a vessel is underway and the intended wearer is not within an enclosed space, the substance of that provision is covered by the requirement in § 25.25–5(c)(2)(i) for approved commercial hybrid PFDs to be used in accordance with the conditions marked on the PFD and in the owner’s manual. All Coast Guard-approved Type V

<sup>8</sup> See 29 CFR 1926.106.

<sup>9</sup> See 29 CFR part 1915, subpart B.

hybrid PFDs are labeled with, and their user manuals refer to, the conditions contained in current § 25.25–5(f)(3). Otherwise, the requirements currently found in § 25.25–5(b) through (f) are not substantively changed, but are incorporated into revised § 25.25–5(b) and (c). As revised, § 25.25–5 requires the operator of each vessel to which subpart 25.25 applies to provide some form of wearable PFD, or an immersion suit, for individuals on board. Except for barges, vessels longer than 26 feet must also be equipped with lifebuoys. Lifebuoys typically are mounted on stanchions. Given the configuration of some barges, installation of a lifebuoy stanchion could unreasonably interfere with operations, and because often only one individual is on board a barge at any given time, should that individual fall overboard there would be no one available to throw the lifebuoy to the individual.

We are amending 46 CFR 25.25–9 to allow PFDs for barge personnel to be stowed remotely rather than on the barge itself, and to require barge operators to ensure that PFDs are worn by individuals while they are on board a barge and at risk of falling overboard. In addition, this requirement could be met by donning a work vest approved under approval series 160.053, routinely used by personnel on barges. This is consistent with current industry practice. Typically, barge operators stow PFDs on the barge's towboat, and require crew members to don PFDs before they go aboard a barge and to wear them while on board. Allowing this not only increases safety but also does so at a lower cost relative to the lifebuoy and barge stowage options.

We are amending tables in 46 CFR 2.01–7, 24.05–1, 30.01–5, 70.05–1, 90.05–1, and 188.05–1. These tables describe the applicable Coast Guard regulations for different vessel types, and are being revised to remove references to the 46 CFR 25.25–1(c) and (d) exemptions that we are also removing.

Finally, we are revising the authority lines for each part affected by this rule, to ensure that each authority line cites the Secretary of DHS's general regulatory authority (delegated to the Coast Guard) to implement 46 U.S.C. Subtitle II, Vessels and Seamen.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes or E.O.s.

### A. Regulatory Planning and Review

E.O.s 12866 (“Regulatory Planning and Review”) and 13563 (“Improving Regulation and Regulatory Review”) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

A final regulatory assessment follows: As described in section II (Background) of this final rule, 46 U.S.C. 4102(b), as amended by the Act, now makes all previously exempt uninspected commercial barges and sailing vessels subject to Coast Guard regulation for the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board. The Act removed language that formerly limited the applicability of section 4102(b) to vessels “propelled by machinery,” which effectively kept most commercial barges, which are not self-propelled by machinery, as well as commercial sailing vessels, outside the scope of section 4102(b). At this time, we are aware of only one uninspected commercial sailing vessel not carrying passengers for hire currently in service (the Vermont vessel brought to our attention by a public comment) but we determined that it has an auxiliary motor and therefore can be self-propelled by machinery. That vessel has PFDs stored on board. Thus the data on which the rest of this discussion is based relate exclusively to uninspected commercial barges not carrying passengers for hire.

As amended, 46 CFR 25.25–5(b) requires operators of affected vessels to store and maintain at least one PFD for each person on board a barge.<sup>10</sup> In lieu

<sup>10</sup> While barges may in practice be tied together, there is no exception as to storing a set of lifesaving devices for each barge rather than one per set of

of storing a PFD for each individual on board a barge, PFDs can be stored and maintained on another vessel so long as crewmembers wear the PFDs while on board the barge when they are at risk of falling overboard. For instance, uninspected commercial barges not carrying passengers for hire carry low-cost cargos in bulk and generally do not carry individuals on board. However, towing vessel personnel may be on board the barge to perform specific tasks such as securing the barge to other barges or the towing vessel, or providing lookout for the towing vessel.

While some firms that operate barges may also own them, for the purposes of this analysis, we treat barge owners and operators as different entities. We assume that the barge operators would be responsible for the PFDs because they are responsible for the safety of their crews and therefore they would store a sufficient number of PFDs for each crewmember on board the towing vessel. Under 46 CFR 25.25–9(c), a barge operator may comply with § 25.25–5(b) by storing PFDs elsewhere and ensuring that each individual dons the equipment before boarding the barge and keeps it on for as long as the individual remains on board, in lieu of maintaining PFDs on each barge. This would reduce costs by eliminating the need to install storage facilities on each barge, and would enable the typical industry practice of PFDs being worn to be substituted.<sup>11</sup> We also assume that the barge owners would then negotiate the PFD wear conditions with the barge operators. While most barge operators require the wearing of PFDs on board a barge, we received two comments that suggested that there may be a few barges that will store PFDs on board.

We also received one comment that our estimated affected population may be too low. In the NPRM, we had estimated a population of 35,568 barges (including currently inactive and new barges). We revisited the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database and estimate that there are 49,150 non-self propelled, uninspected vessels not carrying passengers for hire. We made this determination by removing a filter for “uninspected” vessels, as some vessels may not be listed as uninspected. We then included an

barges or around the perimeter of a set of barges. Towing vessels may transport barges from various barge owners and drop them off on a schedule, so having lifebuoys and sets of PFDs on a perimeter of a set of barges may not be feasible.

<sup>11</sup> Based on information from the American Waterways Operators (AWO), we believe that the prevailing practice is that crewmembers wear PFDs while on board a barge.

additional 13,090 vessels to account for currently inactive and new vessels, which increases our overall population to 62,240 vessels. Table 1 summarizes the affected population, costs, and benefits of this rule.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS AND BENEFITS

Category	Description
Applicability	Uninspected commercial vessels. Not propelled by machinery. Not carrying passengers for hire. 62,240 barges. (including new and currently inactive barges) 0 sailing vessels.
Costs	\$140,420 10-Year, undiscounted cost.
Benefits (Qualitative)	Improves regulatory efficiency by providing technical updates to the Code of Federal Regulations, aligning them to the U.S. Code and thereby reducing the potential for uncertainty and confusion. Reinforces existing company policy and current industry practice of PFD use.

Affected Population 49,150 uninspected, commercial barges.  
Based on the Coast Guard’s MISLE database, we determined that there are Table 2 provides the list of barges by type.

TABLE 2—AFFECTED POPULATION BY TYPE

Barge type	NPRM Barges	FR Barges
Covered Dry Bulk	85	191
Covered General Cargo	2	41
Derrick/Crane Barge	2	0
Flat Deck Barge	41	322
General	126	48,004
Open Dry Bulk	156	430
Open General Cargo	15	128
Pontoon Barge		6
Roll-on Roll-off		28
Unspecified	22,050	0
Work Platform	1	0
(blank)		
Subtotal	22,478	49,150
Currently Inactive	4,500	4,500
New	8,590	8,590
Total	35,568	62,240

We took the average number of newbuilds from Informal Economic from years 2006 to 2010 (859 newbuilds annually).<sup>12</sup> Based on information from Coast Guard subject matter experts, we also estimated an additional 450 barges are currently inactive, but could be added to the list of active barges in any given year. The number of newbuilds and currently inactive barges adds 1,309 barges to the population annually.

Cost

The majority of barge operators require the wearing of PFDs while on board the barge because it is a standard industry practice to wear one.<sup>13</sup> In 46 CFR 25.25–5, if a barge operator stores PFDs elsewhere and ensures that each

individual dons the equipment before boarding the barge and keeps it on for as long as the individual remains on board, they can use the PFDs stored on the towing vessel in lieu of maintaining a set on each barge. Presumably, a crewmember coming from a towing vessel would wear the PFD that was originally stored on the towing vessel, which discussions with industry show to be standard practice. Since this rule primarily deals with unmanned barges, we assume that the majority of persons on a commercial barge will wear PFDs while on board. However, based on two public comments, there may be a small number of barges that will have PFDs stored on board. As stated by the commenters, these may be for office or shop facilities located on a barge, crane and loader operators working on a barge, or barge cleaners working in the hopper of a barge.

We determined the likelihood of PFDs stored on board a barge by the barge

type; covered dry bulk, covered general cargo, and pontoon barges were considered the most likely to stow PFDs on board, due to clear perimeter deck area. Other barges tend to be built with open hoppers and configured such that, when loaded with cargo, quick access to PFDs on board may not be feasible. Based on this information, we estimate that at most 238 barges may need to provide 5 PFDs on board and store them to be readily accessible in a bin (\$60).<sup>14</sup> We also took the price of various PFDs and came up with an average cost of \$47 per PFD. We estimate the per-vessel cost to be \$295 for a set of PFDs and a storage bin (5 \* \$47 PFDs + \$60 storage

<sup>12</sup> “Barge Fleet Profile”, March 2012, Informal Economics.

<sup>13</sup> Based on information from the American Waterways Operators (AWO), we believe that the prevailing practice is that crewmembers wear PFDs while on board a barge.

<sup>14</sup> Costs range from \$20, \$40, \$120, depending on the type of storage. <http://www.amazon.com/KwikTek-T-Top-storage-holds-PFDs/dp/B0000AY25C>, <http://www.landfallnavigation.com/sj110.html>, <http://www.stowmate.com/shop/pc/Life-Jacket-PFD-Storage-c8.htm><http://www.stowmate.com/shop/pc/Life-Jacket-PFD-Storage-c8.htm>

bin). At the per-barge rate of \$295, we anticipate the first year cost to be \$70,210 (\$295 \* 238 barges.) We assume that all vessels comply in year one. Due to general deterioration, we estimate that the lifespan of a PFD is 5 years; therefore, vessels will need to periodically replace their PFDs. Table 3 provides the 10-year breakdown in cost.

TABLE 3—UNDISCOUNTED COST TO PROVIDE PFDs

Year	Undiscounted	Discount rates	
		7%	3%
Year 1	\$70,210	\$65,617	\$68,165
Year 2	0	0	0
Year 3	0	0	0
Year 4	0	0	0
Year 5	0	0	0
Year 6	70,210	46,784	58,800
Year 7	0	0	0
Year 8	0	0	0
Year 9	0	0	0
Year 10	0	0	0
Total	140,420	112,401	126,965
Annualized		16,003	14,884

Benefits

A benefit of this rule is the improvement in regulatory efficiency by providing technical updates to the Code of Federal Regulations, aligning them to the U.S. Code and thereby reducing the potential for regulatory uncertainty and confusion. Additionally, it reinforces existing company policy and current industry practice with regard to PFD use.

In the NPRM, we reviewed MISLE casualty cases from the years 2003 to 2010 that could have been impacted by this proposed rule. During this time, there were 49 reported casualties involving falls overboard from barges, an average of approximately four casualties a year. We reviewed these cases to see if the individual overboard wore a PFD (or had ready access to one) and whether the availability of such devices could have reduced the risk of death in a fall overboard. Of the casualties that we reviewed, we found only one instance where the individual did not wear a PFD (despite company policy requiring the use of a PFD). The casualty report noted that the failure to wear a PFD was a contributing factor to the fatality. In this case, this proposed regulation may have reinforced existing company policy of PFD use. Since the

publication of the NPRM, we reviewed additional MISLE casualty cases (2011 to 2012) for any additional cases related to this rule and did not find any other falls overboard.

Alternatives

We examine four alternatives for this regulation.

*Adopted Alternative—Store and maintain enough PFDs for all persons on board. The PFD can be worn in lieu of storage:* This alternative was chosen because it meets the statutory requirement at a minimal additional cost. Furthermore, this requirement would be more in line with existing PFD requirements for other vessels and provides regulatory flexibility in the option of storage or wearing of PFDs. Uninspected vessels (such as towing vessels) must store and maintain a sufficient number of PFDs for every individual on board the vessel in accordance with 46 CFR 25.25–5. In lieu of storing PFDs, companies can require individuals to wear a PFD or work vest. Companies have the option of either instituting a policy of wearing PFDs while on board (which discussions with industry and reviews of their casualty data show to be the case on the majority of vessels) or otherwise making PFDs readily accessible. Compared to other

listed alternatives, this alternative provides the greatest flexibility and safety, at a minimal cost.

*Alternative 1—No action* Current industry practice is to require the wearing of PFDs while on board a barge. However, some may not follow that practice and would need to store the PFD on board. Furthermore, the Act directs the Secretary of DHS to carry out specific regulatory actions; therefore if no action is taken, the Coast Guard, having been delegated this rulemaking authority by the Secretary, will not fulfill its Congressional mandate. This will further cause a conflict between U.S. Code and the Code of Federal Regulations, resulting in regulatory uncertainty and confusion.

*Alternative 2—Require that all vessels have a ring buoy, and store a sufficient number of PFDs on board. In lieu of storing PFDs, persons can wear PFDs.* This alternative is similar to the proposed alternative in that it requires the wearing or storing of PFDs (which we estimate to be no additional cost), but owners would also need to install a ring buoy on board barges at an estimated cost of \$267 per vessel (barge) every 5 years.<sup>15</sup> Table 4 provides the breakdown of labor and material costs to install a ring buoy on board a barge.

TABLE 4—COST TO INSTALL A RING BUOY ON A BARGE

Per barge cost	Labor hours (welder)	Wage rate	Ring buoy	Brackets	Stanchion
\$267	4	\$27	\$71	\$46	\$42

<sup>15</sup> Welder: 4 hours (Coast Guard subject matter expert)\*\$27 per hour (<http://www.bls.gov/oes/2011/>

[may/oes514121.htm](http://www.bls.gov/oes/2011/may/oes514121.htm)) \* load factor of 1.49. Therefore

the welder's loaded wage rate is \$27.22 = (\$18.23 wage rate \* 1.49 load rate).

Table 5 provides the raw material cost to install a ring buoy. The averages of the cost points were used.

TABLE 5—COST SOURCES FOR RING BUOYS

Item	Cost	Source	Date Accessed
Ring buoy (24 inch) .....	\$71.00	Average cost.	.....
Low .....	64.99	<a href="http://store.poolcenter.com/ring-buoy—uscg-approved-ring-buoy-24in-diameter-w-rope-p169873.aspx">http://store.poolcenter.com/ring-buoy—uscg-approved-ring-buoy-24in-diameter-w-rope-p169873.aspx</a> .	02–Apr–14
High .....	77.99	<a href="http://www.westmarine.com/webapp/wcs/stores/servlet/Product_11151_10001_39507_-1?cid=chanintel_google&amp;ci_src=14110944&amp;ci_sku=39507">http://www.westmarine.com/webapp/wcs/stores/servlet/Product_11151_10001_39507_-1?cid=chanintel_google&amp;ci_src=14110944&amp;ci_sku=39507</a> .	02–Apr–14
Brackets .....	46.00	Average cost. Cost includes 3 brackets for mounting.	
Low .....	6.99	<a href="http://www.boatbandit.com/ring-buoy-bracket-4344.aspx?gclid=CMukr8D-wb0CFUYV7AodbVAAaQ">http://www.boatbandit.com/ring-buoy-bracket-4344.aspx?gclid=CMukr8D-wb0CFUYV7AodbVAAaQ</a> .	02–Apr–14
High .....	23.98	<a href="http://www.rakuten.com/prod/whitecap-ss-ring-buoy-bracket/258723308.html?listingId=335700363&amp;scid=pla_google_elmart&amp;adid=18178&amp;gclid=CK2yqef-wb0CFQ5gMgod5hUAZQ">http://www.rakuten.com/prod/whitecap-ss-ring-buoy-bracket/258723308.html?listingId=335700363&amp;scid=pla_google_elmart&amp;adid=18178&amp;gclid=CK2yqef-wb0CFQ5gMgod5hUAZQ</a> .	02–Apr–14
Stanchion .....	42.00	2" x 2" of 1/4 inch thickness, 10 feet long .....	
	42.00	<a href="http://www.discountsteel.com/items/A36_Hot_Rolled_Steel_Equal_Leg_Angle.cfm?item_id=183&amp;size_no=19&amp;sku_no=74&amp;pieceLength=cut&amp;len_ft=8&amp;frmGS=true">http://www.discountsteel.com/items/A36_Hot_Rolled_Steel_Equal_Leg_Angle.cfm?item_id=183&amp;size_no=19&amp;sku_no=74&amp;pieceLength=cut&amp;len_ft=8&amp;frmGS=true</a> .	02–Apr–14

We anticipate that the 10-year undiscounted cost would be \$31.6 million for this alternative. This alternative was not chosen because it would cost more and not provide

additional benefit as the ring buoy would provide protection redundant to the PFD, and in most cases, there would be no one available to deploy it. We estimate that all existing, new, and

currently inactive barges would need to install ring buoys. Table 6 provides the breakdown in population and undiscounted costs by year.

TABLE 6—UNDISCOUNTED COST TO INSTALL RING BUOYS

Year	Population	Replacement	Per vessel cost	Undiscounted cost
Year 1 .....	50459	0	\$267	\$13,472,553
Year 2 .....	1309	0	267	349,503
Year 3 .....	1309	0	267	349,503
Year 4 .....	1309	0	267	349,503
Year 5 .....	1309	0	267	349,503
Year 6 .....	1309	50459	267	13,822,056
Year 7 .....	1309	1309	267	699,006
Year 8 .....	1309	1309	267	699,006
Year 9 .....	1309	1309	267	699,006
Year 10 .....	1309	1309	267	699,006
Total .....	62240	55,695	.....	31,488,645

In addition to the cost to install ring buoys, barge owners would also need to provide PFDs. The cost to provide PFDs was illustrated in Table 3, which was

\$70,210 in years 1 and 6. Table 7 combines the undiscounted cost from Tables 3 and 6, and provides the 10-year breakdown in cost for this final rule.

The cost includes the cost to provide PFDs as well as the cost to install ring buoys.

TABLE 7—10-YEAR COST FOR PFDs AND RING BUOYS

Year	Undiscounted	Discount rates	
		7%	3%
Year 1 .....	\$13,542,763	\$12,656,788	\$13,148,314
Year 2 .....	349,503	305,269	329,440
Year 3 .....	349,503	285,299	319,845
Year 4 .....	349,503	266,634	310,529
Year 5 .....	349,503	249,191	301,484
Year 6 .....	13,892,266	9,257,003	11,634,554
Year 7 .....	699,006	435,306	568,356
Year 8 .....	699,006	406,828	551,802
Year 9 .....	699,006	380,213	535,730
Year 10 .....	699,006	355,339	520,126

TABLE 7—10-YEAR COST FOR PFDs AND RING BUOYS—Continued

Year	Undiscounted	Discount rates	
		7%	3%
Total .....	31,629,065	24,597,870	28,220,179
Annualized .....	.....	3,502,183	3,308,266

*Alternative 3—Require that all vessels have a ring buoy only.* This change would have the effect of requiring one ring buoy on board each vessel (barge). The ring buoy would need to be installed (and replaced as needed) at an estimated cost to barge owners of \$267 per vessel (barge) every 5 years. At an estimated 62,240 active, inactive, and new barges, we anticipate that this alternative would cost \$31.5 million overall, undiscounted. As mentioned above, the ring buoy would provide protection redundant to the PFD, and in most cases, there would be no one available to deploy it. Table 8 provides the undiscounted and discounted costs for this alternative.

TABLE 8—10-YEAR COST TO INSTALL RING BUOYS

Year	Undiscounted	Discount rates	
		7%	3%
Year 1 .....	\$13,472,553	\$12,591,171	\$13,080,149
Year 2 .....	349,503	305,269	329,440
Year 3 .....	349,503	285,299	319,845
Year 4 .....	349,503	266,634	310,529
Year 5 .....	349,503	249,191	301,484
Year 6 .....	13,822,056	9,210,220	11,575,754
Year 7 .....	699,006	435,306	568,356
Year 8 .....	699,006	406,828	551,802
Year 9 .....	699,006	380,213	535,730
Year 10 .....	699,006	355,339	520,126
Total .....	31,488,645	24,485,469	28,093,215
Annualized .....	.....	3,486,180	3,293,382

This alternative was not chosen because it would not provide the lowest cost with the maximum benefits.

**B. Small Entities**

Pursuant to the Regulatory Flexibility Act,<sup>16</sup> we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises 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.

We conducted a final regulatory flexibility analysis based on the updated

population numbers resulting from a comment received in the NPRM. Using those updated population numbers, we can determine there are approximately 2,893 owners of 49,151 barges. From the 2,893 owners, we researched 276 randomly selected small entities to determine if they fell below or exceeded the threshold for a small entity, as determined by the U.S. Small Business Association (SBA). To establish whether an entity was below the threshold or above the threshold, we used the North American Industry Classification System (NAICS) code for each industry and the small entity qualifying definitions for each NAICS code

established by the SBA for businesses. The following provides a breakdown of the size determination for the entities:

- 2 Government or non-profit exceeding the threshold
- 0 Government or non-profit below the threshold
- 32 businesses exceeding the threshold
- 94 businesses below the threshold
- 148 unknown and therefore considered small

Based on this analysis, 88 percent of the sample is small entities.

Table 3 provides a description of the most-prevalent NAICS for the small entities.

NAICS	Industry	% of small entities	SBA size threshold (less than threshold small)	SBA size standard type	Number of entities
238910 .....	Site Preparation Contractors .....	7.45	\$15,000,000	Revenue .....	7
336611 .....	Ship Building and Repairing .....	7.45	1000	Employees .....	7
236115 .....	New Single-family Housing Construction (Except For-Sale Builders).	6.38	\$36,500,000	Revenue .....	6
237110 .....	Water and Sewer Line and Related Structures Construction.	5.32	\$36,500,000	Revenue .....	5

<sup>16</sup> 5 U.S.C. 601–612.

NAICS	Industry	% of small entities	SBA size threshold (less than threshold small)	SBA size standard type	Number of entities
441222	Boat Dealers	4.26	\$32,500,000	Revenue	4
483211	Inland Water Freight Transportation	4.26	500	Employees	4
488330	Navigational Services to Shipping	4.26	\$38,500,000	Revenue	4
236220	Commercial and Institutional Building Construction	3.19	\$36,500,000	Revenue	3
237310	Highway, Street, and Bridge Construction	3.19	\$36,500,000	Revenue	3
237990	Other Heavy and Civil Engineering Construction	3.19	\$36,500,000	Revenue	3
423320	Brick, Stone, and Related Construction Material Merchant Wholesalers	3.19	100	Employees	3
541330	Engineering Services	3.19	\$15,000,000	Revenue	3
	All others	44.68			42
	<b>Total</b>	<b>100</b>			<b>94</b>

Company revenue for businesses below the threshold, as established by the SBA, ranges from \$42,000 to \$12.5 billion. The per company cost ranges

from \$295 for one vessel to \$6,195 for 21 barges. We anticipate that 99 percent of the affected entities will have an impact of less than 1 percent of revenue.

Only one percent will have an impact of between 1 and 3 percent.

Impact range	Number of entities	Percentage
0% ≤ Impact < 1%	93	98.94
1% ≤ Impact < 3%	1	1.06
Impact > 5%	0	0.00
<b>Total</b>	<b>94</b>	

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

**C. Assistance for Small Entities**

As required by section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996,<sup>17</sup> we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. At this time no requests for assistance by small entities have been submitted to the Coast Guard. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

**D. Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995.<sup>18</sup>

**E. Federalism**

A rule has implications for federalism under E.O. 13132 (“Federalism”) if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on

them. We have analyzed this rule under E.O. 13132 and have determined that it has the following implications for federalism.

Before passage of the Act, the lifesaving device requirements found in 46 U.S.C. § 4102(b) did not apply to certain uninspected vessels not carrying passengers for hire. By passing the Act, Congress expressly intended existing Coast Guard regulations to apply to these vessels that were previously exempted. Therefore, existing State or local laws or regulations that regulate the “installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels” are preempted, but only insofar as a State or local law or regulation conflicts with the federal regulation.

Given our analysis, the Coast Guard recognizes the key role State and local governments may have in making regulatory determinations. Additionally, Sections 4 and 6 of E.O. 13132 require that for any rules with preemptive effect, the Coast Guard shall provide elected officials of affected State and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, we

invited affected State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this notice; no such comments were received.

**F. Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995<sup>19</sup> requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**G. Taking of Private Property**

This rule will not cause a taking of private property or otherwise have taking implications under E.O. 12630 (“Governmental Actions and Interference with Constitutionally Protected Property Rights”).

**H. Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988

<sup>17</sup> Pub. L. 104–121.

<sup>18</sup> Codified at 44 U.S.C. 3501–3520.

<sup>19</sup> Codified at 2 U.S.C. 1531–1538.

(“Civil Justice Reform”), to minimize litigation, eliminate ambiguity, and reduce burden.

#### I. Protection of Children

We have analyzed this rule under E.O. 13045 (“Protection of Children from Environmental Health Risks and Safety Risks”). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### J. Indian Tribal Governments

This rule does not have tribal implications under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### K. Energy Effects

We have analyzed this rule under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

#### L. Technical Standards

The National Technology Transfer and Advancement Act<sup>20</sup> directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards<sup>21</sup> that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### M. Environment

We have analyzed this rule under DHS Management Directive 023.01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA),<sup>22</sup> and have concluded that this action is one of a category of actions, which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded under section 2.B.2, figure 2–1, paragraphs (34)(d) and (e) of the Instruction, and 6(a) of our 2002 **Federal Register** notice of categorical exclusions.<sup>23</sup> This rule involves regulations concerning equipping of vessels, equipment approval and carriage requirements and vessel operation safety standards.

#### List of Subjects

##### 46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

##### 46 CFR Part 24

Marine safety.

##### 46 CFR Part 25

Fire prevention, Marine safety, Reporting and recordkeeping requirements.

##### 46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

##### 46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

##### 46 CFR Part 90

Cargo vessels, Marine safety.

##### 46 CFR Part 188

Marine safety, Oceanographic research vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 2, 24, 25, 30, 70, 90, and 188 as follows:

#### PART 2—VESSEL INSPECTIONS

- 1. Revise the authority citation for part 2 to read as follows:

**Authority:** Sec. 622, Pub. L. 111–281; 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 2103, 2110, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(77), (90), (92)(a), (92)(b).

##### § 2.01–7 [Amended]

- 2. Amend § 2.01–7 to remove the phrase “carrying passengers or passengers–for–hire” from Table 2.01–

7(a), column 5, rows 3 and 4, and remove the phrase “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6”.

#### PART 24—GENERAL PROVISIONS

- 3. Revise the authority citation for part 24 to read as follows:

**Authority:** 46 U.S.C. 2103, 2113, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(92)(a), (92)(b).

##### § 24.05–1 [Amended]

- 4. Amend § 24.05–1 to remove the phrase “carrying passengers or passengers–for–hire” from Table 24.05–1(a), column 5, rows 3 and 4, and remove the phrase “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6.”

#### PART 25—REQUIREMENTS

- 5. Revise the authority citation for part 25 to read as follows:

**Authority:** 33 U.S.C. 1903(b); 46 U.S.C. 2103, 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1(II)(77), (92)(a), 92(b).

##### § 25.25–1 [Amended]

- 6. Amend § 25.25–1 as follows:
  - a. In paragraph (a) following the text “noncommercial use;”, add the word “and”;
  - b. In paragraph (b) following the text “noncommercial use”, remove the semicolon, and add, in its place, a period; and
  - c. Remove paragraphs (c) and (d).
- 7. Revise § 25.25–3 to read as follows:

##### § 25.25–3 Definitions.

As used in this subpart:

(a) *Approval series* means the first six digits of a number assigned by the Coast Guard to approved equipment. Where approval is based on a subpart of subchapter Q of this chapter, the approval series corresponds to the number of the subpart. A listing of current and formerly approved equipment and materials may be found on the Internet at: <http://cgmix.uscg.mil/equipment>. Each OCMI may be contacted for information concerning approved equipment.

(b) *Approved* means approved under subchapter Q of this chapter.

(c) *Use* means operate, navigate, or employ.

- 8. Revise § 25.25–5 to read as follows:

<sup>20</sup> Codified as a note to 15 U.S.C. 272.

<sup>21</sup> For example, specifications of materials, performance, design, or operation; test methods; sampling procedures, and related management systems practices.

<sup>22</sup> Codified at 42 U.S.C. 4321–4370f.

<sup>23</sup> 67 FR 48243 (Jul. 23, 2002).

**§ 25.25–5 Life preservers and other lifesaving equipment required.**

(a) No person may operate a vessel to which this subpart applies unless it meets the requirements of this subpart.

(b) (1) Each vessel not carrying passengers for hire and less than 40 feet in length must have on board at least one wearable personal flotation device (PFD) approved under subchapter Q of this chapter, and of a suitable size for each person on board.

(2) Each vessel carrying passengers for hire, and each vessel not carrying passengers for hire and 40 feet in length or longer, must have at least one PFD approved under approval series 160.055, 160.155, or 160.176, and of a suitable size for each person on board.

(3) In addition to the equipment required by paragraphs (b)(1) and (b)(2) of this section, each vessel 26 feet in length or longer, except for a barge to which this subpart applies, must have at least one approved lifebuoy, and each uninspected passenger vessel of at least 100 gross tons must have at least three approved lifebuoys. Lifebuoys must be approved under approval series 160.050 or 160.150, except that a lifebuoy approved under former 46 CFR 160.009 prior to May 9, 1979 (see 46 CFR chapter I, revised as of October 1, 1979), may be used as long as it is in good and serviceable condition.

(c)(1) Each vessel not carrying passengers for hire may substitute an immersion suit approved under 46 CFR 160.171 for a wearable PFD required under paragraphs (b)(1) or (b)(2) of this section.

(2) On each vessel, regardless of length and regardless of whether carrying passengers for hire, an approved commercial hybrid PFD approved under approval series 160.077, may be substituted for a PFD approved under approval series 160.055, 160.155, or 160.176, if it is—

(i) Used in accordance with the conditions marked on the PFD and in the owner's manual; and

(ii) Labeled for use on commercial vessels.

■ 9. Amend § 25.25–9, as follows:

■ a. In paragraph (a), remove the text “§ 25.25–5 (b), (c) and (e)” and add, in its place, the text “§ 25.25–5(b) and (c)”;

■ b. In paragraph (b), remove the text “§ 25.25–5(d)” and add, in its place, the text “§ 25.25–5(b)”;

■ c. Add a paragraph (c) to read as follows:

**§ 25.25–9 Storage.**

\* \* \* \* \*

(c) For a barge to which this subpart applies, the wearable lifesaving

equipment specified in § 25.25–5 need not be stored on board the barge if the barge's operator stores it elsewhere, and ensures that each individual dons the equipment or a work vest approved under 46 CFR 160.053 before boarding the barge and keeps it on for as long as the individual remains on board and at risk of falling overboard.

**PART 30—GENERAL PROVISIONS**

■ 10. Revise the authority citation for part 30 to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703; Department of Homeland Security Delegation No. 0170.1(II)(92)(a), (92)(b).

**§ 30.01–5 [Amended]**

■ 11. Amend § 30.01–5 to remove the phrase “carrying passengers or passengers–for–hire” from Table 30.01–5(d), column 5, rows 3 and 4, and remove the word “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6”.

**PART 70—GENERAL PROVISIONS**

■ 12. Revise the authority citation for part 70 to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(92)(a), (92)(b).

**§ 70.05–1 [Amended]**

■ 13. Amend § 70.05–1 to remove the phrase “carrying passengers or passengers–for–hire” from Table 70.05–1(a), column 5, rows 3 and 4, and remove the word “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6”.

**PART 90—GENERAL PROVISIONS**

■ 14. Revise the authority citation for part 90 to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(92)(a), (92)(b).

**§ 90.05–1 [Amended]**

■ 15. Amend § 90.05–1 to remove the phrase “carrying passengers or passengers–for–hire” from Table 90.05–1(a), column 5, rows 3 and 4, and remove the word “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6.”

**PART 188—GENERAL PROVISIONS**

■ 16. Revise the authority citation for part 188 to read as follows:

**Authority:** 46 U.S.C. 2103, 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, sec. 1–105; Department of Homeland Security Delegation No. 0170.1(II)(92)(a), (92)(b).

**§ 188.05–1 [Amended]**

■ 17. Amend § 188.05–1 to remove the phrase “carrying passengers or passengers–for–hire” from Table 188.05–1(a), column 5, rows 3 and 4, and remove the word “None” from column 5, row 6, adding in its place the phrase “All vessels not covered by columns 2, 3, 4, and 6.”

**J. G. Lantz,**

*Director of Commercial Regulations and Standards, U. S. Coast Guard.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 130722647–4403–02]

RIN 0648–XD448

**International Fisheries; Pacific Tuna Fisheries; 2014 Commercial Fishing for Pacific Bluefin Tuna Closed in the Eastern Pacific Ocean**

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

**ACTION:** Temporary rule; fishery closure.

**SUMMARY:** NMFS is closing commercial fishing for Pacific bluefin tuna in the eastern Pacific Ocean (EPO) because the catch limit is expected to be reached by the effective date of this action. This action is necessary per the intentions of the final rule (May 16, 2014), that implements the Inter-American Tropical Tuna Commission Resolution C–13–02 on conservation and management measures for Pacific bluefin tuna in the EPO.

**DATES:** Effective at 5 p.m. PDT, September 5, 2014 through December 31, 2014.

**FOR FURTHER INFORMATION CONTACT:** Mark Helvey, NMFS West Coast Region, 562–980–4040.

**SUPPLEMENTARY INFORMATION:** Commercial fishing for Pacific bluefin tuna in the eastern Pacific Ocean is