

OREGON OCCUPATIONAL SAFETY AND HEALTH DIVISION
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

PROGRAM DIRECTIVE

Program Directive A-228
Issued Nov 8, 1996
Revised _____

SUBJECT: Jurisdiction: OSHA and U.S. Coast Guard Authority Over Vessels

PURPOSE: To inform OR-OSHA staff of the existence of a federal program directive.

BACKGROUND: This directive has not been adopted into State language because of its limited application, but is provided for staff information.

ACTION: This directive is to be followed to determine jurisdiction on board vessels.

EFFECTIVE This directive is effective immediately and will remain in effect
until

DATE: cancelled or superseded.

OSHA Instruction CPL 2-1.20

Directorate of Compliance Programs

SUBJECT: OSHA/U.S. Coast Guard Authority Over Vessels

PURPOSE: This instruction provides current policy, information and guidance with respect to OSHA/U.S. Coast Guard authority over inspected vessels, commercial uninspected fishing vessels, and commercial uninspected vessels in accordance with Section 4(b)(1) of the OSH Act, 29 U.S.C. Section 653(b)(1).

SCOPE: This instruction applies OSHA-wide.

REFERENCES:

1. OSHA Instruction STP 2.22A, CH-5, March 10, 1995, Changes to the State Plan Policies and Procedures Manual.
2. Memorandum of Understanding, U.S. Coast Guard and the Occupational Safety and Health Administration, 48 Federal Register 11366, March 17, 1983, effective date of March 8, 1983.
3. Public Law 100-424, enacted September 9, 1988, "Commercial Fishing Industry Vessel Safety Act of 1988," 46 U.S.C. 4501 et seq.
4. 46 CFR Part 28, "Commercial Fishing Industry Vessel Regulations," Final Rule.
5. 46 CFR Parts 24, 25, and 26 - "Uninspected Vessels."
6. Jones Act, 46 U.S.C. 688.
7. 46 CFR Part 197, Subpart B - "Commercial Diving Operations."
8. OSHA Instruction STD .2, November 4, 1985, Identification of General Industry Safety and Health Standards (29 CFR 1910) Applicable to Shipyard Work.
9. OSHA Instruction CPL 2-1.3B, June 14, 1982, Enforcement of

Cargo Gear Regulations and the Requirements for Gear Certification in the Maritime Program.

10. 29 CFR 1926, Construction Industry Standards.
11. 29 CFR 1910, General Industry Standards.
12. Occupational Safety and Health Act (OSH Act) of 1970, Section 5(a)(1) General Duty Clause, and Section 4(b)(1) preemption of OSHA authority by other Federal or State agencies.
13. OSHA Instruction CPL 2.51 (Series), Exemptions and Limitations Under the Current Appropriations Act.

CANCELLATION: The following guidance documents addressing OSHA and U.S. Coast Guard authority and enforcement with respect to vessels are canceled:

1. Memorandum from Thomas J. Shepich, Directorate of Compliance Programs, April 5, 1989, "OSHA/U.S. Coast Guard Jurisdiction."
2. Memorandum from Gerald P. Reidy, Office of Construction and Maritime Compliance Assistance, to Region X, November 1, 1990, "OSHA/U.S. Coast Guard Jurisdiction; Commercial Fishing Industry Vessels."
3. Memorandum from Gerald P. Reidy, Office of Construction and Maritime Compliance Assistance, to Region X, January 18, 1991, "OSHA/U.S. Coast Guard Jurisdiction, Commercial Fishing Vessels."
4. Memorandum from Patricia K. Clark, Directorate of Compliance Programs, to Region X, July 6, 1990, "OSHA/ U.S. Coast Guard Jurisdiction; Commercial Fishing Industry Vessels."

ACTION: OSHA Regional Administrators and Area Directors shall use the guidelines and procedures set forth in this instruction to determine OSHA's authority with respect to the enforcement of occupational safety and health violations on vessels.

FEDERAL PROGRAM CHANGE: This instruction describes a Federal Program Change which affects State plan coverage of public sector employees engaged in maritime employment and those States whose programs also cover portions of the private sector maritime issue. States which cover private sector maritime

employment and/or have public sector employees engaged in maritime operations are encouraged to follow the guidelines and jurisdictional limitations established by this instruction within the context of applicable State law, i.e., comparable to Section 4(b)(1) of the OSH Act.

1. The Regional Administrator shall ensure that this change is promptly forwarded to each State designee, using a format consistent with the Plan Change Two-Way Memorandum in Appendix P of the State Plan Policies and Procedures Manual (reference C.1., OSHA Instruction STP 2.22A).
2. The Regional Administrator shall explain to each State designee, as requested, the technical content of this change.
3. States which cover private sector maritime employment and/or have public sector employees engaged in maritime operations shall be asked to provide preliminary notification to the Regional Administrator within 30 days from the date of this instruction of their intent to adopt an identical or equivalent policy or not to adopt such jurisdictional limitations based on interpretations of differing provisions of State law.

BACKGROUND: The delineation of OSHA and the U.S. Coast Guard authority over inspected vessels has been unchanged since the signing of a Memorandum of Understanding (reference C.2.) in 1983. The Coast Guard has statutory authority to prescribe and enforce regulations affecting the safety and health of seamen on board vessels inspected and certificated by the agency, and has issued comprehensive standards for working conditions on inspected vessels. Therefore, OSHA may not enforce the OSH Act with respect to "seamen" on inspected vessels including the master, ship's officers and crew members.

The extent of the Coast Guard preemption of OSHA authority over commercial uninspected fishing vessels underwent significant changes in 1991. In response to Public Law 100-424 (reference C.3.), the U.S. Coast Guard developed and issued specific regulations (reference C.4.) for commercial uninspected fishing, fish processing, and fish tender vessels to improve the overall safety and health working conditions of commercial fishing industry vessels. OSHA authority over commercial uninspected vessels (other than uninspected fishing vessels) remains unchanged. The U.S. Coast Guard has published applicable regulations for uninspected vessels (See reference C.5.).

Due to the complexity of determining the extent to which the Coast Guard preempts OSHA authority over inspected vessels, uninspected fishing vessels, and uninspected vessels, additional clarification of OSHA and U.S. Coast Guard authority and enforcement activities on vessels is provided herein.

DEFINITIONS: Since most definitions related to this instruction are derived from longstanding U.S. Coast Guard rules, where applicable the pertinent U.S. Coast Guard reference is provided within brackets. The following definitions are applicable to this instruction.

1. Barge means a non-self propelled vessel. [46 USC Section 101(2)]
2. Boundary Line means a line of demarcation established under Section 2(b) of 33 U.S.C. 151. Generally, boundary lines follow the general trend of the shoreline and cross entrances to small bays, inlets and rivers. For specific descriptions of boundary lines refer to 46 CFR Part 7.
3. Certificate of Inspection means a U.S. Coast Guard document issued to United States vessels inspected by the U.S. Coast Guard and which contains, among other information: the description of the vessel, the route the vessel may travel, the minimum crew requirements, the safety equipment and appliances required to be on board, the total number of persons that may be carried, and the names of the owners and operators. [46 USC Section 3309]
4. Commercial Fishing Industry Vessel means a fishing vessel, fish tender vessel, or a fish processing vessel which is licensed or registered to engage in commercial fishing industry operations. [46 CFR Section 28.50]
5. Fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds. [46 USC Section 2101(11)]
6. Fish Processing Vessel is a U.S. Coast Guard classification for a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling. [46 USC Section 2101(11b)]
7. Fish Processing, as defined by OSHA, is a production function

which involves any preparation of a fish or fish product by a worker including gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling. It is important to note that the definition of fish processing, as defined by OSHA, is predicated on worker function and, therefore, may occur on vessels other than a U.S. Coast Guard classified "Fish Processing Vessel" (e.g.; "Fish Tender Vessel", "Fishing Vessel").

8. Fish Tender Vessel is a U.S. Coast Guard classification for a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility. [46 USC Section 2101(11b)]
9. Fishing Vessel is a U.S. Coast Guard classification for a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish. [46 USC Section 2101(11a)]
10. Inspected Vessel means a vessel subject to inspection by the U.S. Coast Guard under 46 U.S.C. 3301 and which is issued a Certificate of Inspection (COI) by the Coast Guard.
11. Navigable Waters includes all rivers, tributaries, lakes, bays, and sounds which in their natural and ordinary condition are accessible to and from the high seas by vessels. The U.S. Coast Guard is the agency responsible for making any determination of whether a body of water is considered to be "Navigable Waters."
12. Seaman is an individual engaged or employed in any capacity on board a vessel, and who has a more or less permanent connection with a vessel, and who contributes to the function of the vessel or to the accomplishment of its mission. [46 USC Section 10101(3)]
13. Uninspected Vessel means a vessel not subject to inspection under 46 USC Section 3301 and not a recreational vessel under 46 USC Section 2101(43). A vessel classified as an "uninspected vessel" by the U.S. Coast Guard is subject to limited Coast Guard inspection of the following areas only: safety check of basic fire fighting equipment, safety check of approved life jackets and lifesaving equipment, ventilation of engine bilges and fuel tank

compartments, and backfire traps/flame arresters on inboard engine carburetors using gasoline as a fuel.

**GEOGRAPHICAL
CONSIDERATIONS
FOR ALL VESSELS:**
later

The authority of OSHA over any vessel is limited to employment performed within a jurisdiction covered by the OSH Act (See Section 4(a), 29 U.S.C. 653(a)). This provision, as modified by international agreements, states that the OSH Act applies to employment performed in a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Northern Mariana Islands, Wake Island, Johnston Island, and the Outer Continental Shelf Lands defined in the Outer Continental Shelf Lands Act. For the purposes of this instruction, the term "State" means each of the jurisdictions previously mentioned, except the Outer Continental Shelf Lands. OSHA only has authority over vessels when they are operating within the limits of State territorial waters.

1. For coastal States, the State territorial waters extend 3 nautical miles seaward from the coast line, except for the Gulf Coast of Florida, Texas and Puerto Rico where the territorial waters extend for 3 marine leagues (approximately 9 nautical miles). "Coast line" is defined as the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters.
2. For States bordering the Great Lakes and St. Lawrence River, all waters in the Great Lakes and associated rivers up to the international boundary line with Canada are State territorial waters.

**AUTHORITY
OVER INSPECTED
VESSELS:**
With

The U.S. Coast Guard exercises full authority over the safety and health of seamen on board vessels which are inspected and certificated by the U.S. Coast Guard; i.e., "inspected" vessels. With respect to inspected vessels, OSHA refers all safety and health complaints regarding the working conditions of seamen to the U.S. Coast Guard for its consideration to determine whether the events complained of constitute hazardous conditions. OSHA retains authority with respect to record keeping requirements for seamen on inspected vessels.

1. OSHA may exercise authority over the working conditions of employees, other than seamen, who are exposed to occupational hazards while working on inspected vessels. This includes employees engaged in long shoring operations, and employees engaged in shipbuilding, ship repair, or shipbreaking operations. This authority also includes other employees, such as construction workers (e.g., those on pipe-laying barges) who are not permanent members of the vessel. However, with respect to employees who are not seamen, OSHA may not cite an owner, operator or master of an inspected vessel for hazards specifically addressed by Coast Guard regulations.
2. The following guidance is provided with respect to making a determination as to whether a worker is a "seaman". A seaman is an employee who:
 - a. Is engaged or employed in any capacity on board a vessel and has a more or less permanent connection with the vessel, and
 - b. Contributes to the function of the vessel or to the accomplishment of its mission. To be a seaman one need not aid in navigation or contribute to the transportation of the vessel, but one must do the ship's work. Land-based maritime workers are not seamen (e.g., shipyard employees, longshoremen).
3. In making a determination of whether an individual or group of individuals would be classified as a "seaman", the vessel's "Certificate of Inspection" (COI) should be reviewed since it will provide relevant information on the crew. However, this document is not absolutely determinative.
4. The COI may specifically indicate crew member billets which would, thereby, classify members of the officer rating by a license, and seamen by the issuance of a Merchant Mariners Documents. This is commonly referred to as a "MMD" (Merchant Mariners Document) or "Z-Card" (identification number starts with the letter Z). However, other individuals may be seamen if they meet the above noted two-part test. (See J.2.a. and b.) Any

individual who can be determined to be subject to the Jones Act (reference C.6.), would be classified as a "seaman". Local U.S. Coast Guard offices and staff are willing and helpful in those situations where it is difficult to determine whether an individual or group of individuals would be defined as a "seaman." In situations where a dispute or disagreement arises, or a question remains, the OSHA National Office, Office of General Industry Compliance Assistance (Maritime Division), shall be contacted through the respective OSHA Regional Office before any violation is cited.

**U.S. COAST GUARD
INSPECTED VESSEL
REGULATIONS:**

The U.S. Coast Guard regulates safety and health working conditions for seamen on inspected vessels through the issuance of standards which are contained in 46 CFR Chapter I. The enforcement of the U.S. Coast Guard requirements is set forth in their Marine Safety Manual and Navigation and Vessel Inspection Circulars. The U.S. Coast Guard also regulates commercial diving conducted from inspected vessels per 46 CFR Part 197, Subpart B regulations. (See reference C.7.)

1. The types of inspected vessels are set forth in 46 U.S.C. 3301. They are freight vessels, nautical school vessels, off-shore supply vessels, passenger vessels, sailing school vessels, seagoing barges, seagoing motor vessels, small passenger vessels, steam vessels, tank vessels, fish processing vessels of more than 5,000 gross tons, and fish tender vessels of more than 500 gross tons.
2. Inspected vessels must carry a valid "Certificate of Inspection" issued by the U.S. Coast Guard.

**OSHA
REQUIREMENTS
ENFORCEABLE ON
INSPECTED VESSELS:**

OSHA may exercise its authority to cite employers (other than the owners, operators, agents or masters of inspected vessels employing only "seamen") for all violative working conditions on a vessel when such violations occur within OSHA's geographical jurisdiction. Primarily these employers are those who employ longshoremen and workers engaged in ship repairing, shipbuilding, and shipbreaking.

1. An owner, operator, agent or master of an inspected vessel may be cited for hazards to which non-seamen it employs are exposed if the hazard is not specifically subject to a particular regulation of the U.S. Coast Guard. The reporting of accidents by employers to OSHA is required for all situations where OSHA has geographical jurisdiction in accordance with 29 CFR Section 1904.8.

2. OSHA requirements which remain enforceable on inspected vessels for employees other than seamen are as follows:
 - a. 29 CFR 1915 for ship repair, shipbuilding and shipbreaking (including applicable 29 CFR 1910 requirements. (See reference C.8.)

 - b. 29 CFR 1918 for long shoring operations.

 - c. 29 CFR 1919 for cargo handling operations as referenced under 29 CFR 1918 longshoring requirements. (See reference C.9.)

 - d. 29 CFR 1926 for marine construction activities. (See reference C.10.)

 - e. 29 CFR 1910 for general working conditions not otherwise regulated. (See reference C.11.)

 - f. Identified recognized hazardous situations that are causing or are likely to cause death or serious physical harm for which there are no specific OSHA or U.S. Coast Guard standards will be cited under the provisions of Section 5(a)(1) of the Occupational Safety and Health Act (OSH Act). (See reference C.12.)

NOTE 1: Situations will occur where the employee is covered by OSHA, but the vessel hazard is regulated by the U.S. Coast Guard. A common example is the height of guardrails--OSHA requires 42 inches, but the U.S. Coast Guard allows various heights not specifically allowed in the OSHA standards. In such cases involving hardware design specifications, OSHA compliance officers shall not cite the

employer for the condition if it complies with the Coast Guard requirements. However, if a longshoring employee were exposed to a fall into a hatch because an installed guard-rail or lifeline was missing or had been taken down, then OSHA compliance officers shall cite the violation.

NOTE 2: Inspected vessels in an immobile status which have been determined to be substantially a land structure are issued a "Certificate of Permanently Moored" by the Army Corps of Engineers and, thereby, lose status as a vessel (i.e., prior U.S. Coast Guard COI is invalid). A "Certificate of Permanently Moored" may include prior vessels being used as a theater, hotel, restaurant, museum, factory, etc. OSHA may exercise its authority to cite employers for all violative working conditions on such prior vessels. If there is any question, call the National Office, Office of General Industry Compliance Assistance (Maritime Division) for guidance.

NOTE 3: Inspected vessels used as gambling boats, tour boats and similar vessels are subject to the 1983 MOU between the Coast Guard and OSHA (reference C.2.). If the worker is determined to be a "seaman" per paragraph J. of this instruction, then the U.S. Coast Guard regulates the working conditions.

**OSHA Authority
Over Commercial
Uninspected Fishing
Vessels:
working**

Authority over commercial uninspected fishing vessels is shared by the U.S. Coast Guard and OSHA, with the Coast Guard being the lead agency. OSHA is precluded under Section 4(b)(1) of the OSH Act (reference C.12.) from enforcement with respect to conditions regulated by other Federal agencies. Therefore, the promulgation of 46 CFR Part 28 (reference C.4.) by the U.S. Coast Guard has expanded the extent of the Coast Guard's regulations over "commercial" uninspected fishing vessels, and preempts OSHA with respect to those working conditions specifically addressed by Coast Guard regulations.

1. OSHA will continue to regulate working conditions on uninspected fishing vessels that are not otherwise covered by U.S. Coast Guard standards, within the geographical limits specified in section I for the protection of all employees including seamen. A list of enforceable OSHA

requirements is provided in Appendix A of this instruction.

2. Pursuant to 29 C.F.R. 1910.6(a)(3), OSHA deems it necessary to assure the presence of Coast Guard personnel during OSHA inspections of fishing vessels, as a general rule. Therefore, when practical and feasible, the OSHA Area Director will advise the Coast Guard in advance of inspections to be conducted aboard fishing vessels, and OSHA compliance officers will allow U.S. Coast Guard personnel to accompany them at the option of the Coast Guard.
 - a. OSHA shall advise the Coast Guard on a case-by-case basis of OSHA's requirement that vessel owners and employers are not given advance notice of the inspection.
 - b. Specific occupational hazards noted by OSHA compliance officers which are addressed by U.S. Coast Guard regulations will be referred to the local U.S. Coast Guard District Office in writing through the use of the OSHA 90 Form with a cover letter. This procedure will allow Integrated Management Information System queries to be conducted on referrals submitted to the U. S. Coast Guard by OSHA. Otherwise, the violations will be cited by OSHA compliance officers under OSHA procedures and regulations.
3. Pursuant to appropriations limitations, OSHA is currently precluded from conducting "programmed" safety inspections of worksites in the fishing industry with 10 or fewer employees. Field personnel are reminded to review OSHA Instruction CPL 2.51 (reference C.13.) for any applicable limitations placed on OSHA activities by the Congress in the law providing appropriations for the Department of Labor.

**U.S. COAST GUARD
COMMERCIAL
UNINSPECTED
FISHING VESSEL
REGULATIONS:**

The U.S. Coast Guard regulations for commercial "uninspected" fishing vessels (reference C.4.) are applicable to fish processors up to 5,000 gross tons, fish tenders up to and including 500 gross tons, and all commercial fishing vessels. Fish processors and fish tenders which exceed these limits are "inspected" vessels.

Currently, there is only one known vessel (fish processor) which exceeds these limits. The U.S. Coast Guard regulations are primarily performance-oriented requirements. Applicable U.S. Coast Guard regulations in force, which preempt OSHA for commercial uninspected fishing vessels, can be found in Appendix B.

**OSHA
REQUIREMENTS
ENFORCEABLE ON
COMMERCIAL
UNINSPECTED
FISHING VESSELS:**

OSHA may exercise its authority to cite employers using commercial uninspected fishing vessels for all violative working conditions on a vessel when such violations occur within OSHA's geographical jurisdiction, and when such violations are not specifically addressed by Coast Guard vessels. Primarily these employers are those who employ fishing industry employees (e.g., processing line workers), longshoremen and workers engaged in ship repairing, shipbuilding, and shipbreaking.

1. An owner, operator, agent or master of an uninspected fishing vessel may be cited for hazards to which any employee, including seamen, are exposed if the hazard is not regulated by the U.S. Coast Guard.
 - a. OSHA compliance officers will ensure compliance with 29 CFR 1910 standards except for ship repair, shipbuilding, and shipbreaking where 29 CFR 1915 standards apply; and cargo handling operations where 29 CFR 1918 standards apply.
 - b. Identified recognized hazardous situations that are causing or are likely to cause death or serious physical harm for which there are no specific OSHA or U.S. Coast Guard standards will be cited under Section 5(a)(1) of the OSH Act. (See reference C.12.)
 - c. The reporting of accidents by employers to OSHA is required for all situations where OSHA has geographical jurisdiction over the working condition(s). (See Appendix A for specific conditions that continue to be subject to OSHA enforcement.)

Authority Over

The U.S. Coast Guard conducts limited safety checks on

Commercial Uninspected Vessels (Other than Commercial Fishing Vessels):
fighting

"uninspected vessels." The Coast Guard has regulations dealing with, and conducts safety checks of, working conditions on commercial uninspected vessels involving personal flotation devices, lifesaving equipment, fire extinguishing equipment, fire equipment, ventilation of engine bilges and fuel tank compartments, and back-fire traps/flame arresters on inboard engine carburetors using gasoline as a fuel. Any other working condition on board a commercial uninspected vessel is subject to OSHA authority.

1. U.S. Coast Guard regulations for uninspected vessels are not applicable to:
 - a. Any vessel operating exclusively on inland waters which are not navigable waters. The nearest U.S. Coast Guard Marine Safety Office will provide a determination of navigable inland waters upon request. Any waters from which a vessel cannot access the high seas would generally not be considered navigable waters (e.g., a land locked lake, or a river/lake up-stream of a dam).
 - b. Any vessel while laid up and dismantled and out of commission.
 - c. Any vessel with title vested in the United States which is used for public purposes, except vessels of the U.S. Maritime Administration.
2. Towing vessels and tugboats are not listed by the U.S. Coast Guard as "Vessels Subject to Inspection" and are, therefore, uninspected vessels. The two exceptions are steam powered towing vessels and tugboats, and seagoing towing vessels and tugboats over 300 gross tons which operate beyond the Boundary Line and, thus, are inspected vessels.

NOTE: If the vessel always operates within U.S. inland waters then it is not required to be inspected.

**Uninspected Vessels
(Other than Commercial
Fishing Vessels)
Regulations:**

provide clarification of the extent of U.S. Coast Guard authority and enforcement in this area. Applicable U.S. Coast Guard regulations in force which preempt OSHA on uninspected vessels are summarized in Appendix C.

NOTE: U.S. Coast Guard regulations (reference C.5.) shall be reviewed prior to conducting inspections of uninspected vessels and prior to the issuance of citations for violations.

**OSHA Requirements
Enforceable on
Uninspected Vessels
(Other than Commercial
Fishing Vessels)**

OSHA may exercise its authority to cite all employers for all violative working conditions affecting their employees on uninspected vessels when such violations occur within OSHA's geographical jurisdiction and when such violations are not specifically addressed by a Coast Guard regulation.

1. An owner, operator, agent or master of an uninspected vessel may be cited for hazards to which any employees, including seamen, are exposed if the hazard is not regulated by the U.S. Coast Guard.
 - a. OSHA compliance officers will ensure compliance with 29 CFR 1910 standards except for ship repair, shipbuilding, and shipbreaking where 29 CFR 1915 standards apply; longshoring and cargo handling operations where 29 CFR 1918 and 1919 standards apply; and marine construction activities where 29 CFR 1926 standards apply.
 - b. Identified recognized hazardous situations that are causing or are likely to cause death or serious physical harm for which there are no specific standards will be cited under the provisions of Section 5(a)(1) of the OH Act. (See reference C.12.)
 - c. A list of the hazards regulated onboard uninspected vessels by the Coast Guard is provided in Appendix C of this instruction.
2. The reporting of accidents by employers to OSHA is required for all situations where OSHA has geographical jurisdiction.

Appendix A

**SPECIFIC CONDITIONS ON UNINSPECTED FISHING VESSELS
SUBJECT TO OSHA ENFORCEMENT**

1. Onboard cranes and their maintenance and use. [29 CFR 1910 Subpart N; 29 CFR 1915 Subpart G; 29 CFR 1918 Subpart B, F, G, and H]

NOTE: Cranes used to support ship repair or longshoring operations (i.e., the transfer of cargo to or from a vessel) require certification by a recognized Federal OSHA agency accredited under 29 CFR 1919.

2. Chains, hooks, and slings. [29 CFR 1910 Subpart N; 29 CFR 1915 Subpart G; 29 CFR 1918 Subparts F, G and H]
3. Ropes (wire, manila, and synthetic). [29 CFR 1910 Subpart N; 29 CFR 1915 Subpart G; 29 CFR 1918 Subpart G]
4. Powered vehicles on board. [29 CFR 1910.178; 29 CFR 1918.73]
5. Maintenance and repair (painting, lockout/tagout, deck holes). [29 CFR 1915 Subparts B, C and E]
6. Open-sided floors and platforms. [29 CFR 1910 Subpart D; 29 CFR 1915 Subpart E; 29 CFR 1918 Subpart D]
7. Tools and portable equipment. [29 CFR 1910 Subpart P; 29 CFR 1915 Subpart H]
8. Warning signs and labeling of control switches. [29 CFR 1910.147 and .335; 29 CFR 1915 Subpart J]
9. Temporary cords (use, maintenance, and material construction). [Public Law 91-596 Section 5(a)(1), 29 CFR 1915.92]
10. Exposed electrical wiring related to factory processing equipment. [Public Law 91-596 Section 5(a)(1)]
11. Steam hose use and fittings. [29 CFR 1915.93]
12. Working around radar and other emission devices. [29 CFR 1915.95]
13. Illumination of work areas and accommodation spaces. [29 CFR 1915.92]
14. Washing, bathing, toilet, and clothes washing facilities. [29 CFR 1910.141]
15. Noise. [29 CFR 1910.95]
16. Elevators and dumbwaiters. [29 CFR 1910.212]

NOTE: For vessels classified by the Coast Guard as a "Fish Processing Vessel" hazardous conditions of elevators and dumbwaiters which are identified by OSHA are referred to the Coast Guard for appropriate action.

17. Vessel access (gangways). [29 CFR 1915 Subpart E, 29 CFR 1918 Subpart C]
18. Gas cylinder storage (use and compatibility). [29 CFR 1910 Subpart H, 29 CFR 1915.55]
19. Sources of ignition, including smoking (e.g., tobacco). [29 CFR 1915 Subpart B]
20. Testing of oxygen-deficient atmospheres. [29 CFR 1915, Subpart B]
21. Cutting and welding permits, testing prior to work, and competent persons in these areas. [29 CFR 1915, Subpart B]
22. Confined spaces. [29 CFR 1915, Subpart B]
23. Personal protective equipment, except lifesaving equipment, life preservers, immersion suits, exposure suits, other personal flotation devices; and on 46 CFR Part 28, Subparts C and D vessels, equipment dealing with refrigerant ammonia and the protection of firefighters. [29 CFR 1910 Subpart I; 29 CFR 1915 Subpart I; 29 CFR 1918 Subpart J]
24. Gas masks and canisters, except equipment dealing with ammonia used as a refrigerant; and on 46 CFR Part 28, Subparts C and D vessels, equipment for firefighters. [29 CFR 1910.134; 29 CFR 1915.152]
25. Respiratory protective programs and respirator checks, except ammonia used as a refrigerant; and on 46 CFR Part 28, Subparts C and D vessels, equipment for firefighters. [29 CFR 1910.134; 29 CFR 1915.152]
26. Asbestos and other chemical exposures, except refrigerant ammonia on 46 CFR Part 28, Subparts C and D vessels. [29 CFR 1910 Subpart Z; 29 CFR 1915 Subpart Z]
27. Materials handling and storage. [29 CFR 1910 Subpart N; 29 CFR 1915 Subpart G; 29 CFR 1918 Subpart H]
28. Hazard communication. [29 CFR 1910.1200, 29 CFR 1915.1200]
29. Bloodborne pathogens. [29 CFR 1910.1030, 29 CFR 1915.1030]
30. Emergency response and spill clean up. [29 CFR 1910.120]
31. Reporting of accidents and fatalities. [29 CFR 1904]

NOTE: Section 4(b)(1) of the OSH Act does not apply to reporting; therefore, OSHA and the U.S. Coast Guard may enforce their own rules. Accidents

and fatalities which occur within OSHA's geographical jurisdiction are required to be reported to OSHA in accordance with 29 CFR 1910.8.

32. Recording of illnesses and injuries. [29 CFR 1904]

NOTE: Section 4(b)(1) of the OSH Act does not apply to record keeping; therefore, OSHA and the U.S. Coast Guard may enforce their own rules.

APPENDIX B

APPLICABLE U.S. COAST GUARD REGULATIONS FOR COMMERCIAL UNINSPECTED FISHING VESSELS

1. U.S. Coast Guard requirements which apply to all commercial uninspected fishing vessels (46 CFR Part 28, Subpart B). (See reference C.4.)
 - a. General lifesaving equipment.

- (1) Personal floatation device (PFD) and immersion suits. [46 CFR 28.110]
 - (2) Ring life buoys. [46 CFR 28.115]
 - (3) Survival craft. [46 CFR 28.120]
 - (4) Stowage of survival craft. [46 CFR 28.125]
 - (5) Lifesaving equipment markings. [46 CFR 28.135]
 - (6) Readiness, maintenance and inspection of lifesaving equipment. [46 CFR 28.145]
 - b. Distress signals. [46 CFR 28.145]
 - c. Emergency Position Indicating Radar Beacons (EPIRBs). [46 CFR 28.150, 46 CFR 25.26].
 - d. Excess fire detection and protection equipment. [46 CFR 28.155].
 - e. Portable fire extinguishers. [46 CFR 28.155].
 - f. Injury placard. [46 CFR 28.165]
 - g. Casualty reporting. [46 CFR 4.05]
 - h. Injury reporting. [46 CFR 4.05]
2. Additional U.S. Coast Guard requirements which apply to documented commercial fishing vessels that operate beyond the Boundary Lines or with 16 or more individuals on board (reference C.4., Subpart C):
- a. Fireman's outfit and self-contained breathing apparatus (SCBA). Each vessel with 49 or more passengers onboard must have two such outfits. Each vessel that uses ammonia as a refrigerant must have two SCBAS, each with a spare bottle. [46 CFR 28.205]
 - b. First aid equipment and training. [46 CFR 28.215]
 - c. Guards for exposed hazards (including machine guarding). This includes, but is not limited to, factory processing equipment on fish processing vessels. [46 CFR 28.215]
 - (1) Each space on board a vessel must meet the requirements of this section.
 - (2) Suitable hand covers, guards, or railing must be installed in way of machinery

which can cause injury to personnel, such as gearing, chain or belt drives, and rotating shafting. This is not meant to restrict necessary access to fishing equipment such as winches, drums or gurdies.

(3) Each exhaust pipe from an internal combustion engine which is within reach of personnel must be insulated or otherwise guarded to prevent burns.

- d. Navigational information. [46 CFR 28.225]
- e. Compass with deviation table. [46 CFR 28.230]
- f. Anchors and radar reflectors. [46 CFR 28.235]
- g. General alarm system. [46 CFR 28.240]
- h. Communication equipment. [46 CFR 28.245]
- I. High water alarms. [46 CFR 28.250]
- j. Bilge pumps, bilge piping, and dewatering systems. [46 CFR 28.250 and .255]
- k. Electronic position fixing devices. [46 CFR 28.260]
- l. Emergency instructions, training, drills and safety orientation. [46 CFR 28.265 and .270]

(1) Abandoning the vessel, fighting fires, recovering an individual from the water, minimizing the effects of unintentional flooding, launching survival craft, recovering lifeboats and rescue boats;

(2) Donning a fireman's outfit and a SCBA, making a voice radio distress call and using visual distress signals, activating the general alarm and reporting inoperative alarm systems and fire detection system; and

(3) Drills, and vessel safety orientation.

3. In addition to the aforementioned regulations, commercial fishing vessels which have had their keel laid or are at a similar stage of construction or which undergo a major conversion completed on or after September 15, 1991, and that operate with more than 16 individuals on board must comply with the following U.S. Coast Guard requirements (reference C.4., Subpart D):

- a. Lifesaving/Deck Equipment.

(1) Lifesaving and signaling equipment. [46 CFR 28.305]

- (2) Launching survival craft. [46 CFR 28.310]
- (3) Means of escape. [46 CFR 28.390]
- (4) Embarkation stations. [46 CFR 28.395]
- (5) Radar & depth sounding devices. [46 CFR 28.400]
- (6) Deck rails, lifelines, storm rails and hand grabs. [46 CFR 28.410]

b. Fire Fighting/Engineering Equipment.

- (1) Fire pumps, mains, hydrants and hoses. [46 CFR 28.315]
- (2) Fixed gas fire extinguishing systems. [46 CFR 28.320]
- (3) Fire detection systems. [46 CFR 28.335]
- (4) Galley hood and other fire protection equipment. [46 CFR 28.330]
- (5) Fuel systems. [46 CFR 28.335]
- (6) Ventilation of enclosed engine and fuel tank spaces. [46 CFR 28.340]
- (7) Electrical standard for vessels greater than 79 feet in length. [46 CFR 28.345]
- (8) General requirements for electrical systems. [46 CFR 28.350]
- (9) Main source of electrical power. [46 CFR 28.355]
- (10) Electrical distribution systems. [46 CFR 360]
- (11) Overcurrent protection and switched circuits. [46 CFR 28.365]
- (12) Wiring methods and materials. [46 CFR 28.370]
- (13) Emergency source of electrical power. [46 CFR 28.375]
- (14) General structural fire protection. [46 CFR 28.380]
- (15) Structural fire protection for vessels with more than 49 individuals on board. [46 CFR 28.385]
- (16) Hydraulic equipment. [46 CFR 28.405]

4. Stability requirements which apply to documented commercial fishing industry vessels

greater than 79 feet (See reference C.4., Subpart E).

5. Requirements which apply to fish processing vessels (See reference C.4., Subpart F).
6. Requirements which apply to fish tender vessels engaged in the Aleutian Trade Act (See reference C.4., Subpart G).

APPENDIX C

U.S. COAST GUARD REGULATIONS FOR UNINSPECTED VESSELS

1. Personal Flotation Devices (PFD) and Other Lifesaving Equipment [46 CFR 25.25].
 - a. An approved and readily available PFD is required to be on board the vessel for each individual on board. An exposure suit is considered to be an acceptable substitute for a PFD. All lifesaving equipment designed to be worn is required to be readily available and in serviceable condition.
 - b. Each vessel 26 feet or longer must have at least one approved ring life buoy which is immediately available. All lifesaving equipment designed to be thrown into the water is required to be immediately available and in serviceable condition.
 - c. An approved commercial hybrid PFD is acceptable if worn when the vessel is underway and the intended wearer is not within an enclosed space; labeled for use on uninspected commercial vessels; and used as marked and in accordance with

the owner's manual.

- d. An approved light is required for all PFDs and exposure suits. Also, all PFDs must have approved retro-reflective material installed.

2. Fire Extinguishing Equipment [46 CFR 25.30].

- a. Hand-portable fire extinguishers and semi-portable fire extinguishing systems must be of the "B" type (i.e.; suitable for extinguishing fires involving flammable liquids, greases, etc.).
- b. Hand-portable fire extinguishers and semi-portable fire extinguishing systems must have a plate listing the name of the item, rated capacity (gallons, quarts or pounds), name and address of person/firm for whom approved, and manufacturer's identifying mark.
- c. Portable fire extinguishers must be inspected and weighed every 6 months.
- d. Minimum number of B-II hand portable fire extinguishers required to be on board motor vessels: one if less than 50 tons, two if 50-100 tons, three if 100-500 tons, six if 500-1000 tons, and eight if over 1000 tons.
- e. Fixed fire extinguishing systems must be an approved carbon dioxide type and must meet the U.S. Coast Guard requirements. (See reference C.5., Part 25.30-15.)

3. Backfire Flame Control [46 CFR 25.35].

Every gasoline engine installed after April 25, 1940, except outboard motors, must be equipped with an acceptable means of backfire flame control.

4. Ventilation of Tanks and Engine Spaces [46 CFR 25.40].

Fuel tanks and engine spaces, using fuel with a flashpoint of 110 degrees Fahrenheit or less, must be provided with adequate ventilation to remove explosive or flammable gases from the fuel tank compartment or bilges.