



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-01-066

SUBJECT: OSHA Authority Over Vessels and Facilities on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS)

DIRECTORATE: Directorate of Enforcement Programs

SIGNATURE DATE: October 17, 2024

EFFECTIVE DATE: November 13, 2024

ABSTRACT

Purpose: To provide current policy information and guidance with respect to OSHA authority over persons working on vessels and facilities on or adjacent to U.S. navigable waters and on the Outer Continental Shelf (OCS).

Scope: OSHA-wide.

References: See References section.

Cancellations: OSHA Instruction CPL 02-01-047, February 22, 2010.
OSHA Instruction STD 03-13-002, July 15, 1982.

State Impact: No Impact.

Action Offices: National, Regional, and Area Offices.

Originating Office: Directorate of Enforcement Programs.

Contact: Director, Office of Maritime Enforcement
200 Constitution Avenue, N.W., Room N-3610
Washington, D.C. 20210
(202) 693-2399

By and Under the Authority of

DOUGLAS L. PARKER
Assistant Secretary

Executive Summary

This instruction provides current policy, information, and guidance to Occupational Safety and Health Administration (OSHA) national, regional, and area offices; industry parties; OSHA State programs; and federal agencies concerning OSHA's authority over persons working on vessels (inspected vessels, uninspected vessels, and commercial uninspected fishing industry vessels) and facilities on or adjacent to U.S. navigable waters and on the Outer Continental Shelf (OCS).

Significant Changes

This instruction has been revised and updated to include significant changes as follows:

- Provides policy guidance for the enforcement of the Occupational Safety and Health Act (OSH Act) with respect to towing vessels that were added by legislation ([Coast Guard and Marine Transportation Act of 2004](#)) to the list of vessels that are regarded as "inspected vessels" by the U.S. Coast Guard, codified at 46 U.S.C. 3301 . The latest date for compliance with the final rule on towing vessels was July 20, 2018. See 46 CFR § 136.172.
- Adds reference to Department of the Interior Policy Statement on Regulating Workplace Safety and Health Conditions on Renewable Energy Facilities on the Outer Continental Shelf, [84 FR 55861](#) (October 18, 2019).
- Provides guidance on marine construction in State Plans.
- Adds reference to revision of 46 CFR § 25.25, dealing with personal flotation devices labeling and standards, as well as other applicable standards in 46 CFR Chapter I, in **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels.**
- Cancels OSHA Instruction STD 03-13-002, 29 CFR § 1926.605(a)(1) as Applied to Marine Construction, July 15, 1982, as it was captured in **Appendix G: Questions and Answers Regarding OSHA Authority on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS)** under Marine Construction.

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I. Purpose.

This instruction provides current policy, information, and guidance with respect to OSHA authority over persons working on vessels (inspected vessels, uninspected vessels, commercial uninspected fishing industry vessels) and facilities on or adjacent to U.S. navigable waters and on the Outer Continental Shelf (OCS).

II. Scope.

This applies OSHA-wide.

III. References.

- A. [29 CFR Part 1910](#), General Industry Standards.
- B. [29 CFR Part 1915](#), Occupational Safety and Health Standards for Shipyard Employment.
- C. [29 CFR Part 1917](#), Marine Terminals.
- D. [29 CFR Part 1918](#), Safety and Health Regulations for Longshoring.
- E. [29 CFR Part 1926](#), Construction Industry Standards.
- F. [29 CFR Part 1960](#), Basic Program Elements for Federal Employee Occupational Safety and Health Program and Related Matters.
- G. [33 CFR Subpart S](#), Boating Safety
- H. [46 CFR Parts 24, 25, and 26](#), Uninspected Vessels.
- I. [46 CFR Part 28](#), Commercial Fishing Industry Vessel Regulations.
- J. [46 CFR § 136.105](#), Applicability to U.S. Flag Towing Vessels.
- K. [46 CFR Part 197, Subpart B](#), Commercial Diving Operations.
- L. [46 U.S.C. 30104](#), The Merchant Marine Act of 1920, also known as the “Jones Act.”
- M. [46 U.S.C. 3301](#), Vessels Subject to Inspection.
- N. [Occupational Safety and Health Act \(OSH Act\) of 1970](#), 29 U.S.C. 651 et seq.; section 5(a)(1), 29 U.S.C. 654(a)(1) (general duty clause); and 29 U.S.C. 653(b)(1) (preemption of OSHA authority by regulations of another federal agency).
- O. [43 U.S.C. Chapter 29](#), Submerged Lands Act of 1953.
- P. [46 U.S.C. 4501 et seq.](#), Commercial Fishing Industry Vessel Safety Act of 1988.
- Q. [MOU Between the U.S. Coast Guard and OSHA Concerning Occupational Safety and Health on Artificial Islands, Installations and Other Devices on the Outer Continental Shelf of the United States](#), December 19, 1979.
- R. [Memorandum of Understanding Between the U.S. Coast Guard and OSHA](#)

[Concerning the Health and Safety of Seamen on Inspected Vessels](#), 48 FR 11366, March 4, 1983, effective March 8, 1983.

- S. [OSHA Instruction CPL 02-00-051 \(Series\)](#), Enforcement Exemptions and Limitations Under the Current Appropriations Act, May 28, 1998.
- T. [OSHA Instruction CPL 02-00-154](#), Longshoring and Marine Terminals “Tool Shed” Directive, July 31, 2012.
- U. [OSHA Instruction CPL 02-00-162](#), Shipyard Employment “Tool Bag” Directive, May 22, 2019.
- V. [OSHA Instruction CPL 02-00-151](#), Commercial Diving Operations Directive, June 13, 2011.
- W. [OSHA Instruction CPL 02-01-055](#), Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification, September 30, 2013.
- X. [OSHA Instruction CSP 01-00-005](#), State Plan Policies and Procedures Manual, May 6, 2020.

IV. Cancellations.

This instruction cancels OSHA Instruction CPL 02-01-047, February 22, 2010, as well as OSHA Instruction STD 03-13-002, July 15, 1982.

V. Action Offices.

A. Responsible Office.

Directorate of Enforcement Programs, Office of Maritime Enforcement.

B. Action Office.

National, Regional, and Area Offices.

C. Information Offices.

None.

VI. Federal Program Change.

This instruction has limited applicability to the State Plans and does not require a response or adoption. This instruction establishes policies and provides guidance on OSHA’s coverage of employees on vessels and at facilities located on or adjacent to U.S. navigable waters and on the Outer Continental Shelf (OCS). It primarily addresses memoranda of understanding between OSHA and the U.S. Coast Guard and the application of OSHA general industry, shipyard employment, marine terminals, longshoring, and construction standards to these situations. (See section X of this Instruction, Geographical Considerations for more information on State Plan coverage over vessels.)

VII. Significant Changes.

- A. Provides policy guidance for the enforcement of the Occupational Safety and Health Act (OSH Act) with respect to towing vessels that were added by legislation ([Coast Guard and Marine Transportation Act of 2004](#)) to the list of vessels that are regarded as “inspected vessels” by the U.S. Coast Guard, codified at 46 U.S.C. 3301 . The latest date for compliance with the final rule on towing vessels was July 20, 2018. See 46 CFR § 136.172.
- B. Adds reference to Department of the Interior Policy Statement on Regulating Workplace Safety and Health Conditions on Renewable Energy Facilities on the Outer Continental Shelf, 84 FR 55861 (October 18, 2019).
- C. Provides guidance on marine construction in State Plans.
- D. Adds reference to revision of 46 CFR § 25.25, dealing with personal flotation devices labeling and standards, as well as other applicable standards in 46 CFR Chapter I, in **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels.**
- E. Cancels OSHA Instruction STD 03-13-002, 29 CFR § 1926.605(a)(1) as Applied to Marine Construction, July 15, 1982, as it was captured in **Appendix G: Questions and Answers Regarding OSHA Authority on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS) under Marine Construction.**

VIII. Definitions.

Most definitions related to this instruction are derived from longstanding statutory provisions enforced, and regulations issued, by the U.S. Coast Guard; the pertinent U.S. Coast Guard reference is provided within brackets where applicable. The following definitions are applicable to this instruction.

- A. Barge: A non-self-propelled vessel [[46 U.S.C. 2101](#)].
- B. Boundary Line: An identifiable line established under [46 U.S.C. 103](#). Generally, boundary lines follow the general trend of the seaward high-water shorelines and across entrances to small bays, inlets, and rivers. For specific descriptions of boundary lines refer to [46 CFR Part 7](#).
- C. Certificate of Inspection (COI): A U.S. Coast Guard document issued to United States vessels required to be 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 onboard, the total number of persons that may be carried, and the names of the owners and operators [[46 U.S.C. 3305](#) and [3309](#)].
- D. Commercial Fishing Industry Vessel: A fishing vessel, fish tender vessel, or a fish processing vessel [[46 CFR § 28.50](#)].
- E. Fish: Finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds [[46 U.S.C. 2101\(11\)](#)].

- F. Fish Processing Vessel: 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 U.S.C. 2101\(11b\)](#)].
- G. Fish Processing: As defined by OSHA, fish processing is a production function that 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 recognize that the definition of fish processing used by OSHA, based on North American Industry Classification System (NAICS) Code 31171 (Seafood Product Preparation and Packaging), is predicated on worker function, and therefore, may occur on vessels other than a U.S. Coast Guard classified Fish Processing Vessel (such as a Fish Tender Vessel or Fishing Vessel).
- H. Fish Tender Vessel: 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 vessel, fish tender vessel, fish processing vessel, or a fish processing facility [[46 U.S.C. 2101\(11c\)](#)].
- I. Fishing Vessel: 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 U.S.C. 2101\(11a\)](#)].
- J. Inspected Vessel: The U.S. Coast Guard under [46 U.S.C. 3301](#) are required to have a certificate of inspection (COI) issued by the U.S. Coast Guard.
NOTE 1: See Table 90.05-1(a) accompanying [46 CFR § 90.05-1](#), as well as the exceptions and other provisions in [46 CFR § 90.05](#), for descriptions of the categories of inspected vessels.
NOTE 2: The [U.S. Coast Guard Maritime Information Exchange Port State Information Exchange](#) provides information on whether a vessel has a COI. Area offices should consult with the local U.S. Coast Guard office to determine whether the vessel has a COI or is supposed to have a COI as required by [[46 CFR Part 2](#)]. U.S. Coast Guard office contact information can be found at: <https://homeport.uscg.mil/>.
- K. Navigable Waters of the United States (U.S. navigable waters): Includes State territorial waters and U.S. inland waters (i.e., all rivers, tributaries, lakes, bays, and sounds shoreward of the territorial sea baseline) that: are subject to tidal influence or have been used for interstate or foreign commerce [33 CFR Part 2.36]. (OSHA's coverage over navigable waters extends 3 nautical miles seaward from the general, except for Puerto Rico and the Gulf Coast of Florida and Texas, where OSHA's coverage extends for 9 nautical miles. See section X - Geographical Considerations for further information.
NOTE: The U.S. Coast Guard is the agency responsible for making any determination of whether a body of water is considered to be a U.S. navigable water. The Area Office can consult the local U.S. Coast Guard office (see contact information above). Several U.S. Coast Guard districts list the navigable waterways determinations on their websites, such as: [USCG Ninth](#)

- District; [USCG Thirteenth District](#); and [USCG Seventeenth District](#).
- L. Outer Continental Shelf (OCS) Lands: The submerged subsoil and seabed lying seaward and outside of the lands beneath navigable waters of the United States) subject to the jurisdiction of the United States and all artificial islands, and all installations and other devices permanently or temporarily attached to the seabed, which may be erected thereon to explore for, develop, or produce resources therefrom, or any installation or other device (other than a ship or vessel) to transport such resources. This definition does not include the waters above these lands (43 U.S.C. [1331\(a\)](#), [1332\(2\)](#), and [1333\(a\)\(1\)](#)). (See section X - Geographical Considerations for further information.)
- NOTE: [MarineCadastre.gov](#) is a joint Bureau of Ocean Energy Management (BOEM) and National Oceanic and Atmospheric Administration (NOAA) initiative that can be used to view the delineation between the Outer Continental Shelf and Federal/State Waters.
- M. Permanently Moored Craft (PMC): A craft of design and mooring arrangement such that it does not have a practical capability of being used as transportation on the water [U.S. Coast Guard Notice of Policy, **Craft Routinely Operated Dockside**, [74 FR 21814-21816 \(May 11, 2009\)](#)]. A craft classified as a PMC is not inspected or regulated by the U.S. Coast Guard (i.e., OSHA has authority).
- N. Seaman (pl., Seamen): An individual engaged or employed in any capacity aboard a vessel, and who has a substantial connection with a vessel or fleet of vessels, and who contributes to the function of the vessel or to the accomplishment of its mission [[46 U.S.C. 30104](#), “Jones Act”].
- NOTE: A seaman is an individual engaged or employed aboard a vessel who has a substantial connection with a vessel, or an identifiable group of vessels in navigation, and who contributes to the function of the vessel or to the accomplishment of its mission, including but not limited to the navigation of the vessel. The connection to the vessel or vessels must be substantial in terms of both its duration (30% or more of the seaman’s time) and its nature. (See the U.S. Supreme Court decision in [Chandris, Inc. v. Latsis, 515 U.S. 347 \(1995\)](#)).
- O. Towing Vessel: A commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside another vessel [[46 U.S.C. 2101\(40\)](#)].
- P. Uninspected Vessel: A vessel not subject to inspection under [46 U.S.C. 3301](#) and not a recreational vessel under [46 U.S.C. 2101\(43\)](#). A vessel classified as an uninspected vessel by the U.S. Coast Guard, (with the exception of commercial fishing industry vessels), is subject to limited U.S. Coast Guard inspection, including the following areas, among others: basic firefighting equipment, 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.
- NOTE: Uninspected commercial fishing industry vessels must comply with

U.S. Coast Guard regulations applicable to uninspected vessels, as well as a number of U.S. Coast Guard regulations [[46 U.S.C. 4502](#)]. See [46 CFR Part 28](#).

IX. Applicability of 29 CFR Parts 1910, 1915, 1917, 1918, 1919, and 1926 Standards to Vessels and Facilities on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS).

This section provides general guidance and information regarding which OSHA standards apply when OSHA has safety and health coverage over working conditions of employees on vessels and facilities on or adjacent to U.S. navigable waters and the OCS. The relevant provisions are as follows:

- 29 CFR Part 1915 for ship repair, shipbuilding, and shipbreaking (including 29 CFR Part 1910 requirements applicable to shipyards; see Appendix A of [OSHA's Shipyard Employment "Tool Bag" Directive](#));
- 29 CFR Part 1917 for marine terminal operations;
- 29 CFR Part 1918 for longshoring operations;
- 29 CFR Part 1919 for cargo handling gear as referenced under [29 CFR § 1915.115\(a\)\(1\)](#) shipyard employment requirements, [29 CFR § 1917.50](#) marine terminal requirements, and [29 CFR § 1918.11](#) longshoring requirements (Part 1919 is not a citable standard; cite violations for failure to certify cargo gear under the applicable Part 1915, Part 1917, or Part 1918 requirement);
- 29 CFR Part 1926 for marine construction activities;
- 29 CFR Part 1910 for general working conditions not otherwise regulated, such as the working conditions on uninspected vessels that are not addressed by U.S. Coast Guard regulations;
- Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act (OSH Act), for recognized hazards that are causing or are likely to cause death or serious physical harm to the employees of the employer to be cited, for which there are no specific OSHA standards or U.S. Coast Guard regulations.

Generally, the applicable OSHA standard depends on the work activity taking place. For example, a vessel may be loading and unloading cargo at a marine terminal while at the same time the vessel is undergoing ship repairs. The cargo handling work activity shore-side is regulated by the Marine Terminals Standards ([29 CFR Part 1917](#)) and cargo-related work done on the vessel (ship) is covered by the Longshoring Standards ([29 CFR Part 1918](#)) (to determine which Part applies see the NOTES, below). However, the work activity for the vessel repairs is regulated by the Shipyard Employment Standards ([29 CFR Part 1915](#)), even though the repairs are being conducted at a marine terminal instead of a shipyard facility.

The construction of a building in a marine terminal or a shipyard is regulated by the Construction Standards ([29 CFR Part 1926](#)). Likewise, marine construction activities, such as the construction or repair of bridges, piers, and docks; the installation of sewage outfalls; dredging; or the loading of a barge with equipment/materials for a marine

construction project; are regulated by the 29 CFR Part 1926 standards. The phrase “marine construction” refers to construction activities taking place in a marine or maritime setting.

In certain instances, OSHA General Industry Standards ([29 CFR Part 1910](#)) are applicable to the shipyard employment industry. To determine which general industry standards apply in shipyard employment, refer to Appendix A of [OSHA's Shipyard Employment "Tool Bag" Directive](#); this appendix lists the general industry standards in numerical order, notes whether the general industry standards apply to shipyard operations on the vessel and/or on the shore, and where the general industry standards do not apply, the applicable shipyard employment standards are provided under the Remarks/Comments column.

OSHA's general industry standards that are applicable in Marine Terminals ([29 CFR Part 1917](#)) and in Longshoring ([29 CFR Part 1918](#)) are listed in Subpart A of each of the respective standards. Additional information related to the application of standards in the marine cargo handling industry is available in [OSHA's Longshoring and Marine Terminals "Tool Shed" Directive](#).

NOTE: The longshoring standards apply to all activities related to cargo handling aboard a vessel, and the gangway is considered part of the vessel. Therefore, when an employee steps onto the foot of the gangway, 29 CFR Part 1918 applies. Conversely, when an employee steps onto the pier or dock from the gangway, 29 CFR Part 1917 applies. Cargo transfer accomplished with the use of shore-based material handling devices is covered by OSHA's 29 CFR Part 1917, Marine Terminals Standards.

(See Questions 8 and 9 in Appendix F of [OSHA's Longshoring and Marine Terminals "Tool Shed" Directive](#).)

Factory production operations (“fish processing” as defined in Definitions) and associated equipment operations, including cleaning, maintenance, and repair, are exclusively covered by the 29 CFR Part 1910 General Industry Standards. Repairs and maintenance to structural components of the vessel, and mechanical, electrical, and other systems that are not directly associated with the factory production operations, are covered by the 29 CFR Part 1915 Shipyard Employment Standards. Such repairs and maintenance covered by 29 CFR Part 1915 would include repairs and maintenance of bulkheads, decks, and overheads of the factory area, and any systems in the factory area that are not related to the factory production operations and not covered by U.S. Coast Guard regulations.

NOTE 1: If the workplace being inspected or the principal office of the employer is in the 3rd, 5th, 9th, or 11th Circuit, there is case law that may affect the applicability of 29 CFR Part 1915. For clarification regarding applicable case law, consult [OSHA's Shipyard Employment "Tool Bag" Directive](#) and contact the appropriate Regional Solicitor's Office.

NOTE 2: For additional information regarding applicability, see **Appendix G: Questions and Answers Regarding OSHA Authority on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS)** of this instruction.

X. Geographical Considerations.

OSHA's authority is limited to employment performed within the geographical limits covered by the [OSH Act](#) (See section 4(a), 29 U.S.C. 653(a)). This provision, as modified by later 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 (OCS) Lands defined in the OCS Act. For the purposes of this instruction, the term "State" means each of the jurisdictions previously mentioned, except the Outer Continental Shelf Lands. The above includes all U.S. navigable waters, as defined above. Although OSHA may have geographical coverage of facilities and structures that are permanently or temporarily affixed to the seabed of the OCS, OSHA does not have authority over vessels operating on the Outer Continental Shelf. For waters within a State that are not U.S. navigable waters, OSHA's authority over vessels is the same as for any other workplace within that State (i.e., in State Plan states, the State has authority to enforce, and in Federal coverage States, OSHA has the authority to enforce). Finally, there is no geographic limitation of OSHA's coverage of Executive Branch federal civilian employees under 29 CFR Part 1960.

A. Coastal States

OSHA's coverage extends 3 nautical miles seaward from the general coastline (i.e., Boundary Lines), except for Puerto Rico and the Gulf Coast of Florida and Texas, where OSHA's coverage extends for 9 nautical miles. OSHA refers to these areas as "State territorial waters" (i.e. waters within the territory of a state). "Coastline" is defined as the line of ordinary high-water line along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of U.S. inland waters.

NOTE 1: A nautical mile is 6,080 feet, which is 1 minute of latitude on a nautical chart (a statute mile is 5,280 feet).

NOTE 2: The U.S. Coast Guard is the agency responsible for making any determination of whether a body of water is considered U.S. navigable waters. The term, U.S. navigable waters, includes U.S. inland waters (such as rivers, tributaries, lakes, bays, and sounds).

B. For States Bordering the Great Lakes and the St. Lawrence River and Seaway

All waters in the Great Lakes and associated rivers up to the international boundary line with Canada are U.S. inland waters.

C. **Other Geographical Considerations**

1. Oil and gas rigs in State territorial waters or U.S. inland waters. OSHA covers occupational safety and health on oil and gas rigs that are located on U.S. navigable waters. Both the U.S. Coast Guard and the Bureau of Safety and Environmental Enforcement (BSEE) have advised OSHA by letter that they do not provide such coverage.
2. Shipyard Employment on a Vessel in a Graving Dock, on a Marine Railway, Drydock or Shiplift. Graving docks, marine railways, drydocks and shiplifts are part of the navigable waters of the United States. Consequently, OSHA has safety and health coverage of shipyard workers working on a vessel (such as a ship or a barge) that is in a graving dock, or on a marine railway, drydock or shiplift in all States, including States with State Plans.
3. Mines with pier and dock facilities. Mines include lands, structures, facilities, and equipment that are used in the extraction, preparation, or milling of coal or other minerals. The Mine Safety and Health Administration (MSHA) has authority over the loading/unloading of coal or other minerals into/out of barges or vessels, including associated pier or dock facilities, when such transfer is integral to the extraction, preparation, or milling process. MSHA does not have authority once the vessel is loaded/unloaded and is underway. MSHA authority extends to barges and vessels used in mineral dredging operations, such as mining sand and gravel from underwater deposits, and includes the loading/unloading of such barges/vessels. Mineral dredging does not include harbor or ship channel dredging or the mere placement of dredge spoils, and MSHA does not have authority over these activities.
4. Federal property in a State Plan, located on or adjacent to U.S. navigable waters. Federal property (such as a military base) located on or adjacent to U.S. navigable waters may or may not be covered by OSHA for purposes of safety and health. In States without a State Plan, OSHA provides safety and health coverage for private – sector employees. In State Plans coverage of employee safety and health for land-side operations, such as marine cargo handling operations or shipyard employment, varies and is dependent upon the specifics of the State Plan. Questions regarding such coverage should be directed to the respective OSHA Regional Administrator and the Director, Office of State Programs.
5. Maritime employment, including marine construction, in States with State Plans. The majority of State Plan with private sector coverage exclude maritime employment.

- a. Only [California](#), [Minnesota](#), [Vermont](#), and [Washington](#) currently assert safety and health authority over some aspects of private-sector employment for shipyards and marine terminals. Such State Plan authority is limited to shore-based activities.
- b. All State Plans located adjacent to navigable waterways are expected to provide coverage to any non-federal public-sector employees engaged in maritime work (such as State Port Authority employees).
- c. For the most part, State Plans have not asserted authority over vessels or workplaces on or adjacent to U.S. navigable waterways, which includes graving docks, floating dry docks, shiplifts, and marine railways.
- d. The following State Plans have expressly retained authority over marine construction: California (on bridges and on shore); Hawaii (marine construction not on vessels or other floating structures); Michigan (all marine construction); Oregon (shore-side marine construction); Tennessee (all marine construction).
- e. For more information on State Plan coverage, see the State Plans section of <http://www.osha.gov/stateplans>.

D. **Determining Maritime Employment**

Determining whether an activity is maritime employment can be critical in determining if OSHA or a State Plan has coverage over the work activity. Sections 2(3) and 3(a) of the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. §§ 902(3), 903(a), which, along with the OSH Act, authorizes the OSHA maritime standards, rely in part on the term "maritime employment" to determine LHWCA coverage. In turn, OSHA relies on the interpretation of "maritime employment" under the LHWCA in determining whether it has coverage over such work in a State Plan. The Department of Labor's [Longshore Deskbook](#) contains examples and case law on [maritime employment](#). There are many different scenarios, and each one should be considered on a case-by-case basis. Questions regarding such coverage should be directed to the respective OSHA Regional Administrator; the Director, Office of State Programs; and the Director, Office of Maritime Enforcement. Below are some scenarios that are often encountered.

1. **U.S. Navigable Waters.** The Supreme Court held that a worker who is injured on actual navigable waters in the course of his employment and who would have been covered by the LHWCA before 1972 is "engaged in maritime employment" and is covered by the LHWCA. Director, OWCP v.

Perini North River Associates, 459 U.S. 297, 15 (1983). (Prior to 1972, the LHWCA only included work directly taking place from navigable waters, or from vessels floating on navigable waters; the 1972 amendments extended the zone of coverage to include certain adjacent areas used for loading, unloading, repairing, or building vessels.) However, work on structures on the waters (e.g., oil and gas drilling rigs) is not considered maritime employment for LHWCA coverage purposes (see [Herb's Welding, Inc. v. Gray, 470 U.S. 414 \(1985\)](#))

2. Bridge Construction. One activity which may be marine construction is bridge construction. Since the 1972 Amendments to the LHWCA were enacted, it has generally been held that employees engaged in bridge construction are covered by the LHWCA only if their duties include working aboard, or loading or unloading materials from, vessels on navigable waters or include working on a particular bridge construction project which will aid navigation. *LeMelle v. B. F. Diamond Const. Co.*, 674 F.2d 296 (4th Cir. 1982) (bridge worker engaged in maritime employment because a major purpose of project was to aid navigation); *Gilliam v. Wiley N. Jackson Co.*, 659 F.2d 54 (5th Cir. 1981); *Gonzalez v. Tutor Saliba*, 39 BRBS 80 (2005); *Crapanzano v. Rice Mohawk, U.S. Constr. Co., Ltd.*, 30 BRBS 81 (1996); *Kennedy v. American Bridge Co.*, 30 BRBS 1 (1996); *Pulkoski v. Hendrickson Bros., Inc.*, 28 BRBS 298 (1994); *Johnsen v. Orfanos Contractors, Inc.*, 25 BRBS 329 (1992). Thus, as a general rule, in most cases where the employee is working from a fixed structure, such as the bridge itself, such an employee is not engaged in maritime employment. Therefore, State Plans generally cover construction work done from a bridge. On this issue, the advice of the OSHA Regional Administrator; the Director, Office of State Programs; and the Director, Office of Maritime Enforcement, should be sought.
3. Renewable Energy On the Outer Continental Shelf (OCS). Published on October 18, 2019, is the [Department of Interior \(DOI\) Policy Statement on Regulating Workplace Safety and Health Conditions on Renewable Energy Facilities on the Outer Continental Shelf](#). The Policy Statement provides that DOI's Bureau of Safety and Environmental Enforcement will act as the principal Federal agency for the enforcement of safety and health requirements for OCS renewable energy facilities by creating a Safety Management System (SMS) which addresses risks associated with construction, operation, maintenance, and decommissioning of renewable energy facilities. DOI considers its regulatory program to occupy the field of workplace renewable energy facilities, and to preempt the applicability of the OSHA requirements, including recordkeeping and reporting regulations. See 29 [U.S.C. 653\(b\)\(1\)](#). Therefore, OSHA does not have coverage over occupational safety and health issues for such work. In carrying out its responsibilities on the OCS, DOI will collaborate and consult with OSHA (which serves in a non-regulatory role) on workplace

safety and health matters for the offshore wind industry and other offshore renewable energy industries.

4. Renewable Energy on U.S. Navigable waters. OSHA coverage of occupational safety and health has not been preempted by any other federal agency regarding renewable energy facilities that are located on U.S. navigable waters.

XI. Background on Delineation of Coverage over Vessels between OSHA and U.S. Coast Guard.

Under section 4(b)(1) of the OSH Act, 29 U.S.C. 653(b)(1), does not apply to working conditions with respect to which another federal agency has statutory authority and prescribes and enforces a standard or regulation affecting occupational safety or health. The U.S. Coast Guard has statutory authority to prescribe and enforce regulations affecting the safety and health of seamen aboard inspected vessels (See [46 CFR § 2.01-7](#) and [46 CFR § 90.05-1](#), including Table 2.01-7(a) and 90.05-1(a) for descriptions of the categories of inspected vessels). The U.S. Coast Guard has issued comprehensive regulations for the working conditions of seamen on inspected vessels. Therefore, OSHA may not enforce the OSH Act (except for regulations dealing with recordkeeping as discussed in detail below) with respect to any working conditions of seamen on inspected vessels. In most circumstances, OSHA does have authority over employers for the working conditions of their employees, other than seamen, who are exposed to occupational hazards while working on inspected vessels. These employers include shipyard employers engaged in shipbuilding, ship repairing, shipbreaking, and related employments, and stevedoring companies with longshoremen working aboard inspected vessels, as well as certain other employers, such as construction employers (e.g., those on pipe-laying barges) who are working on the vessel. The delineation of OSHA and U.S. Coast Guard authority over inspected vessels is set forth in a 1983 [Memorandum of Understanding](#) implementing section 4(b)(1) of the OSH Act, 29 U.S.C. 653(b)(1).

The extent of the U.S. Coast Guard preemption of OSHA authority over commercial uninspected fishing industry vessels underwent significant changes in 1988. In response to [46 U.S.C. 4501](#) et seq., the U.S. Coast Guard issued specific regulations for commercial uninspected fishing, fish tender, and fish processing vessels to improve the overall safety and health conditions on commercial uninspected fishing industry vessels. (See **Appendix A: Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement**, and **Appendix B: Applicable U.S. Coast Guard Regulations for Commercial Uninspected Fishing Industry Vessels**)

The U.S. Coast Guard has published applicable regulations for uninspected vessels (See **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels**).

Due to the complexity of determining the extent to which the U.S. Coast Guard preempts OSHA authority over inspected, uninspected, and commercial uninspected fishing industry vessels, additional clarification of OSHA and U.S. Coast Guard authority and enforcement activities on vessels is provided herein. A U.S. Supreme Court decision, [Chao v. Mallard Bay Drilling, Inc., 534 U.S. 235](#) (2002), affirmed OSHA's authority over the working conditions of seamen on uninspected vessels which are not addressed by U.S. Coast Guard regulations.

On August 9, 2004, Congress gave the U.S. Coast Guard authority to regulate towing vessels as inspected vessels under 46 U.S.C. 3301; as a general rule, such vessels were previously classified as uninspected vessels. The U.S. Coast Guard began exercising this authority with respect to certain towing vessels in 2018 (see 46 CFR § 136.105 for applicability).

XII. Inspected Vessels.

A. Authority Over Inspected Vessels

The U.S. Coast Guard exercises full authority over the safety and health of seamen (See Definitions) aboard vessels which are required to be inspected and certificated by the U.S. Coast Guard (i.e., inspected vessels). The working conditions of seamen on inspected vessels are regulated by the U.S. Coast Guard through the issuance of [46 CFR Chapter I](#) regulations. Interpretations of U.S. Coast Guard requirements and enforcement procedures are set forth in the [Marine Safety Manual](#) and by [Navigation and Vessel Inspection Circulars](#). 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. (See 1983 MOU between the U.S. Coast Guard and OSHA, **Appendix D: Memorandum of Understanding (MOU) Between the U.S. Coast Guard and OSHA Concerning the Health and Safety of Seamen on Inspected Vessels**)

1. Types of inspected vessels. The types of inspected vessels are generally set forth in [46 U.S.C. 3301](#). Section 3301 lists freight vessels, nautical school vessels, offshore supply vessels, passenger vessels, sailing school vessels, seagoing barges, seagoing motor vessels, small passenger vessels, steam vessels, tank vessels, fish processing vessels (more than 5,000 gross tons; see 46 U.S.C. 3302(c)(1)), fish tender vessels (more than 500 gross tons; see 46 CFR U.S.C. 3302(c)(2)(A)), Great Lakes barges, oil spill response vessels, and towing vessels. Exemptions are set forth in [46 U.S.C. 3302](#). To make a definitive determination regarding whether a vessel is inspected, the Area Office must consult with the local U.S. Coast Guard office. (See <https://homeport.uscg.mil/>)

Towing vessels (except as discussed below) are inspected vessels and the OSH Act does not apply to the working conditions of seamen aboard those vessels. The following towing vessels are not “inspected vessels” and continue to be classified as “uninspected vessels”:

- a. A vessel less than 26 feet (7.92 meters) in length measured from end to end over the deck (excluding the sheer), unless that vessel is pushing, pulling, or hauling a barge that is carrying oil or hazardous material in bulk;
- b. Vessel engaged in one or more of the following:
 1. Assistance towing as defined in §136.110;
 2. Towing recreational vessels for salvage; or
 3. Transporting or assisting the navigation of recreational vessels within and between marinas and marina facilities, within a limited geographic area, as determined by the local Captain of the Port (COTP);
- c. A workboat operating exclusively within a worksite and performing intermittent towing within the worksite;
- d. A propulsion unit used for the purpose of propelling or controlling the direction of a barge where the unit is controlled from the barge, is not normally manned, and is not utilized as an independent vessel.

NOTE 1: The U.S. Coast Guard is required by [46 CFR § 4.07-1](#) to conduct an investigation of all marine casualties or accidents, as defined in [46 CFR § 4.03-1](#), to ascertain the cause of the casualty or accident. The mere fact that the U.S. Coast Guard is authorized to investigate a marine casualty or accident, or investigates one, does not mean that OSHA is preempted from exercising its authority pertaining to occupational safety and health.

NOTE 2: Federal employees who are considered seamen on inspected vessels (i.e., Military Sealift Command (MSC) civilian service mariners (CIVMARs), NOAA mariners, and Maritime Administration Ready Reserve fleet mariners) are still covered under OSHA’s authority for the federal safety program (Executive Order 12196) unless they are performing uniquely military operations as defined in [29 CFR § 1960.2\(i\)](#).

2. Certificates of inspection (COIs). Inspected vessels are required to carry a certificate of inspection (COI) issued by the U.S. Coast Guard. If a vessel

has or is required to have a COI, OSHA may not issue a citation with respect to any working conditions of seamen. To determine whether a vessel is an inspected vessel, the owner(s) or master of the vessel should be able to provide the Compliance Safety and Health Officer (CSHO) with a copy of the COI. In the event that the owner(s) or master is not able to provide a copy of the COI, but still claims that the vessel is an inspected vessel, the Area Office can look up on the USCG Maritime Information Exchange [Port State Information Exchange](#) website to determine if the vessel has a COI and should consult with the local U.S. Coast Guard office to determine if it has a COI or if it is required to have a COI by 46 CFR Part 2. If the vessel does have a COI or the U.S. Coast Guard verifies that the vessel is required to have a COI, OSHA may not issue any citations with respect to the working conditions of seamen, except citations for recordkeeping violations under 29 CFR 1904 (see discussion of application of recordkeeping requirements below). U.S. Coast Guard regulations do not preempt OSHA from enforcing recordkeeping requirements. (See additional discussion below.)

3. Authority over employees other than seamen on inspected vessels. In most circumstances, OSHA has authority over employers for the working conditions of their employees, other than seamen, who are exposed to occupational hazards while working on inspected vessels. These employers include those engaged in longshoring, shipbuilding, ship repair, shipbreaking, general industry, or construction operations.

However, pursuant to section 4(b)(1) of the OSH Act, citations may not be issued to persons subject to U.S. Coast Guard enforcement, i.e., owners, charterers, managing operators, agents, masters, or individuals in charge of an inspected vessel, for the exposures of non-seamen individually employed by such persons to working conditions which have been specifically addressed by U.S. Coast Guard regulations. To determine whether a specific Coast Guard regulation applies to a working condition, i.e., a hazard, check the regulations in [Chapter 1 of Title 46](#) of the Code of Federal Regulations, except Subchapters A, B, and C, and consult with the local Coast Guard Office.

4. Determining whether an employee is a seaman. For the definition of seamen see Definitions, section VIII of this Instruction. To determine whether an individual is a seaman, OSHA personnel should review the vessel's COI since it will provide relevant information about the crew. The COI may specifically indicate vessel crew member billets which would, thereby, classify members of the officer rating by a license, and other crew members by the issuance of a Merchant Mariners Document.

However, the COI is not absolutely determinative; other individuals may be seamen if they meet the definition in section VIII.

5. Application examples. The following examples, which are not all inclusive, address some previously encountered situations:
 - a. “Inspected” barge is being used for marine construction activities but the COI lists no crew members. Inspected barges may be used for marine construction activities, but the COI lists no crewmembers (listed on the COI as “0” or “None”). If the employer of the construction worker(s) is not a U.S. Coast Guard-covered entity (i.e., the vessel’s owner or operator or other person subject to the inspected vessel laws enforced by the U.S. Coast Guard), section 4(b)(1) of the OSH Act does not bar OSHA from citing that employer. If the employer of the construction worker is a U.S. Coast Guard-covered entity, OSHA must determine whether the construction workers are seamen. If they are seamen, OSHA may not cite for hazards affecting these workers. If they are not seamen, OSHA may cite for any such hazard, unless the hazard is specifically addressed by a U.S. Coast Guard regulation.
 - b. Fish processors over 5,000 gross tons. The U.S. Coast Guard classifies fish processors over 5,000 gross tons as inspected vessels (i.e., COI); currently, there is only one such vessel, the Ocean Phoenix. The safety and health of workers that meet the definition of seamen on such vessels are covered by the U.S. Coast Guard and not OSHA. All other fish processors are 5,000 gross tons or less and are classified as Commercial Uninspected Fish Processing Vessels. (See **Appendix A: Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement**; and **Appendix B: Applicable U.S. Coast Guard Regulations for Commercial Uninspected Fishing Industry Vessels.**)
 - c. Maintenance personnel that service inspected vessels. There are situations where maintenance personnel, who would otherwise be considered shore-based workers, will be considered seamen. If the employer can show that such maintenance personnel spend 30% or more of their time (includes transit time to and from the vessels) performing maintenance on an inspected vessel or an identifiable group of inspected vessels (such as company ships or floating offshore rigs), then these personnel meet the definition

of seamen. (See the U.S. Supreme Court case, [Chandris, Inc. v. Latsis](#), 515 U.S. 347 (1995).)

- d. Gaming or entertainment vessels and craft. There are several hundred gaming or entertainment vessels and craft (such as floating casinos, sightseeing vessels, and dinner cruise vessels) that operate in the United States. If they routinely get underway, then they are classified as vessels, as defined in [1 U.S.C. 3](#), and they are considered inspected vessels and will have, or are required to have, a certificate of inspection (COI).

NOTE 1: A gaming or entertainment vessel that is inspected will have personnel that are U.S. Coast Guard-licensed or documented (such as masters, mates, engineers, and crew) and personnel that are not licensed or documented (such as card dealers, entertainers, musicians, bartenders, and restaurant employees). Since the work of the inspected vessel includes gaming or entertainment, all personnel aboard whose work includes gaming or entertainment are considered to be seamen and are covered by the U.S. Coast Guard for purposes of safety and health.

NOTE 2: Gaming or entertainment craft that are not “inspected vessels” within the meaning of the U.S. Coast Guard statutes are classified by the U.S. Coast Guard as permanently moored craft (PMC). On gaming or entertainment craft that are classified as PMC, OSHA retains safety and health coverage for all employees; this includes U.S. Coast Guard-licensed officers and documented Merchant Mariners that may be assigned to work on the PMC. See Permanently Moored Craft, below, for additional guidance.

- e. Seamen of an inspected vessel rigging an uninspected vessel for towing. Seamen that are assigned to an inspected vessel sometimes will be required to rig an uninspected vessel or barge for tow, and also may be required to serve as the riding crew on the uninspected vessel when it is towed. Since such seamen are performing the work of the inspected vessel, which is to tow the uninspected vessel, they retain their status as seamen when performing work activities on the uninspected vessel. As a matter of policy, these seamen are covered by the U.S. Coast Guard for purposes of safety and health and OSHA will not issue citations with respect to the working conditions of these seamen.

- f. Commercial diving from an inspected vessel. The U.S. Coast Guard regulates commercial diving conducted from an inspected vessel as per 46 CFR, Chapter I, Part 197, [Subpart B](#) regulations (i.e., the dive location is on the inspected vessel; see [OSHA Instruction CPL 02-00-151](#), 29 CFR Part 1910, Subpart T – Commercial Diving Operations, June 13, 2011).
- g. Longshoring operations on Military Sealift Command (MSC) vessels. OSHA has authority under the OSH Act over longshoring operations aboard U.S. Navy vessels and within a marine terminal at a U.S. Navy facility when the work is performed by a contractor. U.S. Navy civilian personnel are covered under [Executive Order 12196](#), implemented by [29 CFR Part 1960](#). There are no geographic limitations of OSHA's coverage for federal Executive Branch civilian employees as defined in [29 CFR § 1960.2\(i\)](#). Therefore, OSHA's authority extends to all federal civil service mariners (CIVMARs) in the U.S. Navy's Military Sealift Command (MSC).

NOTE: OSHA does not cover Armed Forces personnel (uniformed military both active and reserve) such as: U.S. Navy (including MSC military department (MILDEPT)), U.S. Army, U.S. Air Force, U.S. Space Force, U.S. Marine Corps, and U.S. Coast Guard. However, under Executive Order 12196 OSHA does cover the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA) and the Public Health Service.

- 6. Local U.S. Coast Guard Offices. U.S. Coast Guard offices can help in those situations where it is difficult to determine whether an individual would be defined as a seaman (the following link will provide contact information for local U.S. Coast Guard offices: <https://homeport.uscg.mil/>). In situations where a disagreement arises or a question remains, the OSHA National Office, [Office of Maritime Enforcement](#), should be contacted through the respective [OSHA Regional Office](#) before any violation is cited.

B. **OSHA Requirements Enforceable on Inspected Vessels**

As noted above, in most circumstances OSHA may exercise its authority to cite employers (other than the owners, operators, agents or masters of inspected vessels employing only seamen) for all violations of working conditions on a vessel when such violations occur within OSHA's geographical authority. Employers under OSHA authority typically include those that conduct marine cargo handling (marine terminals and longshoring), and/or employ workers engaged in ship repairing, shipbuilding, shipbreaking, or construction.

1. OSHA authority over non-seamen. An owner, operator, agent, or master of an inspected vessel may be cited for exposure of non-seamen that it employs to a hazard that is not regulated by the U.S. Coast Guard.
2. Recordkeeping requirements. In addition, as previously noted, OSHA's position is that U.S. Coast Guard regulations do not preempt OSHA from enforcing recordkeeping requirements on vessels (both inspected and uninspected vessels), regardless of whether only seamen are employed. The recording of occupational injuries and illnesses by employers is required for all situations where OSHA has geographical coverage over the working conditions of vessels (see section X of this Instruction, Geographical Considerations). Although the Occupational Safety and Health Review Commission has ruled that OSHA regulations requiring the recording of injuries are preempted by U.S. Coast Guard injury reporting regulations, *Tidewater Pacific, Inc.*, 1997 WL 138287 at *6-*7 (No. 93-2529 1997), that ruling was reversed by the 9th Circuit in *Herman v. Tidewater Pacific, Inc.*, 160 F.3rd 1239, 1246-47 (9th Cir. 1998). The agency follows the 9th Circuit decision. However, as a matter of policy, OSHA will not cite the owner, operator, agent, or master of an inspected vessel for failure to report the death of a seaman or any other injury to a seaman covered by 29 CFR § 1904.39.
3. Other applicable OSHA requirements. OSHA requirements which remain enforceable on inspected vessels against employers of employees other than seamen are as follows:
 - a. [29 CFR Part 1915](#) for ship repair, shipbuilding, and shipbreaking (including applicable 29 CFR Part 1910 requirements; see [OSHA's Shipyard Employment "Tool Bag" Directive](#), Appendix A);
 - b. [29 CFR Part 1918](#) for longshoring operations;
 - c. [29 CFR Part 1919](#) for cargo handling gear as referenced under [29 CFR § 1915.115\(a\)\(1\)](#) shipyard employment requirements, and [29 CFR § 1918.11](#) longshoring requirements (Part 1919 is not a citable standard; cite violations of failure to certificate cargo gear under the applicable Part 1915 or Part 1918 requirement);
 - d. [29 CFR Part 1926](#) for marine construction activities;
 - e. [29 CFR Part 1910](#) for general working conditions not otherwise regulated; and
 - f. Section 5(a)(1), the general duty clause of the Occupational Safety and Health Act (OSH Act), for recognized hazardous situations that are causing or are likely to cause death or serious physical harm to

the employees of the employer to be cited, for which there are no specific OSHA standards or U.S. Coast Guard regulations.

NOTE: Situations will occur during enforcement activities where OSHA is not preempted but the vessel hazard is regulated by the U.S. Coast Guard. Such a situation may arise when OSHA is inspecting a shipyard or longshoring employer. A common example is the height of guardrails – OSHA requires a 42-inch minimum top rail, but the U.S. Coast Guard allows various heights that are not specifically allowed in the OSHA standards. In such cases involving vessel or hardware design specifications, OSHA, as a matter of policy, shall not cite the employer for the condition if it complies with U.S. Coast Guard requirements. However, if a shipyard or longshoring employee was exposed to a fall into a hatch because an installed guardrail or lifeline was missing or had been taken down, then OSHA shall cite the violation.

4. Permanently Moored Craft

- a. Crafts that do not have a practical capability of being used as transportation on the water are classified by the U.S. Coast Guard as permanently moored crafts (PMC) and are not vessels as defined by [1 U.S.C. 3](#). This change was announced in the U.S. Coast Guard Notice of Policy, **Craft Routinely Operated Dockside**, [74 FR 21814-21816 \(May 11, 2009\)](#), and became effective on May 11, 2009. Such crafts are not subject to U.S. Coast Guard inspection or any U.S. Coast Guard regulations; thus, OSHA is not preempted by the U.S. Coast Guard. Typically, a PMC is a vessel being used as a theater, hotel, restaurant, museum, factory, gaming casino, chapel, storage facility, or similar type of use. The criteria for determining whether a craft has a practical capability of being used as transportation on water shall be determined by the Officer in Charge, Marine Inspection (OCMI), for the area where the facility is located as set forth in the U.S. Coast Guard Notice of Policy. OSHA may exercise its authority to cite employers for violations of working conditions to which their employees are exposed on such crafts. If there are any questions, contact the OSHA National Office, [Office of Maritime Enforcement](#).
- b. For the purpose of determining which OSHA standards apply, consider the work/task that is being done. These craft are

considered vessels as defined by [29 CFR § 1915.4\(f\)](#). This includes special purpose floating structures not primarily designed for or used as a means of transportation on water. Thus, 29 CFR Part 1915 standards can also apply to PMCs.

XIII. Commercial Uninspected Fishing Industry Vessels.

A. Authority over Commercial Uninspected Fishing Industry Vessels

Authority over working conditions (hazards) on commercial uninspected fishing industry vessels is shared by the U.S. Coast Guard and OSHA, with the U.S. Coast Guard being the lead agency. OSHA is precluded under section 4(b)(1) of the OSH Act from enforcing requirements pertaining to working conditions regulated by another federal agency. Applicable U.S. Coast Guard regulations in force that preempt OSHA for commercial uninspected fishing industry vessels are set forth in 46 CFR Part 28 and are summarized in **Appendix B: Applicable U.S. Coast Guard Regulations for Commercial Uninspected Fishing Industry Vessels** of this instruction. These vessels (fish processors 5,000 gross tons and less, fish tenders 500 gross tons and less, and all fishing vessels; see Definitions) are also subject to the general regulations for uninspected vessels summarized in **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels**.

1. OSHA will continue to issue citations to the owners, charterers, managing operators, or agents in charge of commercial uninspected fishing industry vessels for working conditions that are not specifically covered by U.S. Coast Guard regulations within the geographical limits as specified in this instruction, for the protection of all employees, including seamen. A list of the most common enforceable OSHA requirements for commercial uninspected fishing industry vessels is provided in **Appendix A: Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement**. As in the case of inspected vessels, U.S. Coast Guard regulations do not preempt OSHA from citing shipyard and longshoring employers whose employees are exposed to hazards when working on these vessels.
2. Under [29 CFR § 1903.6\(a\)\(3\)](#) OSHA is allowed to give advance notice to appropriate personnel needed to aid in an inspection. It is sometimes desirable to have U.S. Coast Guard personnel present during OSHA inspections of commercial uninspected fishing industry vessels. Therefore, when practical and feasible, the OSHA Area Director will advise the U.S. Coast Guard in advance of inspections to be conducted aboard these vessels, and OSHA compliance officers will allow U.S. Coast

Guard personnel to accompany them at the option of the U.S. Coast Guard.

- a. OSHA shall advise the U.S. 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 safety & health officers (CSHOs) that are addressed by U.S. Coast Guard regulations will be referred to the local U.S. Coast Guard office in writing through the use of a completed unprogrammed activity (UPA) self-referral within the OSHA Information System (OIS). First, the CSHO completes the UPA referral information. Next, within the "Assign/Transfer" section, under the "Transfer Information" and "Transfer to Category", the CSHO selects "Other Federal Agency" from the drop-down menu. Third, the CSHO enters "United States Coast Guard" in the text box for "Federal Agency Name". Lastly, the CSHO or supervisor enters the transfer date and can transmit the UPA along with the appropriate cover letter. The CSHO or supervisor also have the option to enter the name of the person to whom the UPA referral is being transferred. This procedure allows the OIS to have specific and special data for referrals to the United States Coast Guard. Otherwise, the violations will be cited by OSHA compliance officers under OSHA procedures.

B. OSHA Requirements Enforceable on Commercial Uninspected Fishing Industry Vessels

OSHA may exercise its authority to cite employers of commercial uninspected fishing industry vessels for all violative working conditions on a vessel when such exist within OSHA's geographical authority, and when such violations are not specifically addressed by U.S. Coast Guard regulations. Primarily these employers are those who employ fishing industry employees (primarily processing line workers) An employer who is an owner, charterer, managing operator, or agent in charge of a commercial uninspected fishing industry vessel may be cited for hazards to which any of their employees, including seamen, are exposed if the hazard is not regulated by the U.S. Coast Guard. As in the case of inspected vessels, U.S. Coast Guard regulations do not preempt OSHA from citing shipyard and longshoring employers whose employees are exposed to hazards when working on these vessels.

1. OSHA compliance officers may cite for violations of [29 CFR Part 1910](#) standards except where [29 CFR Part 1915](#) standards apply to ship repair, shipbuilding, and shipbreaking; and where [29 CFR Part 1918](#) standards apply to longshoring operations. [OSHA's Shipyard Employment "Tool](#)

[Bag” Directive](#), Appendix A, has a complete listing of those 29 CFR Part 1910 standards that can be applied in a ship repair situation. See **Appendix A: Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement** of this directive for specific conditions that are subject to OSHA enforcement.

NOTE: Factory production operations and associated equipment operations, including cleaning, maintenance, and repair are exclusively covered by the 29 CFR Part 1910 General Industry Standards (this includes Lock-Out and Tag-Out under 29 CFR § 1910.147). Repairs and maintenance to structural components of the vessel, and mechanical, electrical, and other systems that are not directly associated with the factory production operations are covered by the 29 CFR Part 1915 standards. Such repairs and maintenance covered by 29 CFR Part 1915 would include repairs and maintenance of bulkheads, decks, and overheads of the factory area and any systems in the factory area that are not related to the factory production operations and are not covered by U.S. Coast Guard regulations.

2. Recognized hazardous conditions that cause or are likely to cause death or serious physical harm to the employer’s employees for which there are no specific OSHA or U.S. Coast Guard regulations may be cited under section 5(a)(1) of the [OSH Act](#).
3. Employer reporting of fatalities and certain injuries and illnesses to OSHA under [29 CFR § 1904.39](#) are required on uninspected vessels, including uninspected fishing industry vessels for all situations where OSHA has geographical authority over the working condition(s). Section 4(b)(1) of the OSH Act does not apply to these reporting obligations, regardless of the existence of any U.S. Coast Guard accident reporting regulations.

XIV. Uninspected Vessels (Other than Commercial Uninspected Fishing Industry Vessels)

A. Authority over Uninspected Vessels (Other than Commercial Uninspected Fishing Industry Vessels)

The U.S. Coast Guard has regulations ([46 CFR Parts 24, 25, and 26](#)) for uninspected vessels that deal with and provide for limited equipment safety checks of the following: personal flotation devices, lifesaving equipment, fire extinguishing equipment, firefighting equipment, ventilation of engine bilges and fuel tank compartments, back-fire traps/flame arresters on inboard engine carburetors using gasoline as a fuel, cooking, heating, and lighting systems for passenger-carrying vessels and operational requirements (See **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels**). Additional regulations are found in 46 CFR Chapter I, Subchapters E ([Load Lines](#)), F ([Marine](#)

[Engineering](#)), J ([Electrical Engineering](#)), N ([Dangerous Cargoes](#)), S ([Subdivision and Stability](#)), and W ([Lifesaving Appliances and Arrangements](#)). All other working conditions aboard an uninspected vessel are subject to OSHA authority.

As provided in [46 CFR § 24.05-1\(a\)](#), U.S. Coast Guard regulations for uninspected vessels are not applicable to:

1. Any vessel in a State Plan state that is operating on waters which are not U.S. navigable waters. The nearest U.S. Coast Guard office <https://homeport.uscg.mil/> will provide a determination on the issue of navigability (i.e., whether the waters are or are not U.S. navigable waters) upon request. (See Section VIII, Definitions of this instruction for the definition of Navigable Waters of the United States);
2. Any vessel while laid up and dismantled and out of commission; and
3. Any vessel with title vested in the United States that is used for public purposes (e.g., NOAA vessels as defined in [46 U.S.C. 2101\(33\)](#)), except vessels of the U.S. Maritime Administration.

NOTE: U.S. Coast Guard regulations (46 CFR Parts 24, 25, and 26) shall be reviewed prior to conducting inspections of uninspected vessels, unless there is insufficient time due to an emergency, and prior to the issuance of citations for violations.

B. OSHA Requirements Enforceable on Uninspected Vessels (Other than Commercial Uninspected Fishing Industry Vessels)

OSHA may exercise its authority to cite employers for all violative working conditions affecting their employees on uninspected vessels when such violations exist within OSHA's geographical authority (i.e., U.S. inland waters, 3 nautical miles seaward from the general coastline (i.e. Boundary Lines), except for the Gulf Coast of Florida, Texas, and Puerto Rico where OSHA's coverage extends for 9 nautical miles, and waters that are not U.S. navigable waters in States covered by OSHA) and when such violations are not specifically addressed by U.S. Coast Guard regulations.

1. An employer who is an owner, charterer, managing operator, or agent in charge of an uninspected vessel may be cited for hazards to which any of their employees, including seamen, are exposed if the hazard is not regulated by the U.S. Coast Guard.
 - a. OSHA compliance officers have the authority to inspect for possible violations of [29 CFR Part 1910](#) standards except where [29 CFR Part 1915](#) standards apply for ship repair, shipbuilding, and shipbreaking (See [OSHA's Shipyard Employment "Tool Bag" Directive](#), Appendix A); where [29 CFR Part 1918](#) standards apply

for longshoring operations; and where [29 CFR Part 1926](#) standards apply for marine construction activities. See **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels** of this instruction for specific conditions that are subject to OSHA enforcement.

- b. Recognized hazardous conditions that are causing or are likely to cause death or serious physical harm to employees of the employer, for which there are no specific OSHA standards or U.S. Coast Guard regulations, may be cited under the provisions of section 5(a)(1) of the [OSH Act](#).
- c. A list of the hazards regulated aboard uninspected vessels by the U.S. Coast Guard is provided in **Appendix C: Applicable U.S. Coast Guard Regulations for Uninspected Vessels**. Noted violations of these U.S. Coast Guard regulations shall be referred to the nearest U.S. Coast Guard office.

- 2. The reporting of fatalities and multiple hospitalization incidents under [29 CFR § 1904.39](#) by employers to OSHA is required for all situations where OSHA has geographical authority (i.e., U.S. inland waters, 3 nautical miles seaward from the general coastline (i.e. Boundary Lines), except for the Gulf Coast of Florida, Texas, and Puerto Rico where OSHA's coverage extends for 9 nautical miles, and waters that are not U.S. navigable waters in States covered by federal OSHA) over the working condition(s). Section 4(b)(1) of the OSH Act does not apply to the reporting of accidents, regardless of the existence of any U.S. Coast Guard accident reporting regulations). See **Appendix A: Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement** of this instruction for specific conditions that are subject to OSHA enforcement.

XV. Requirements Enforceable on Outer Continental Shelf (OCS) Lands, Facilities, and Structures Engaged in Oil, Natural Gas, or Sulfur Drilling.

The OSH Act covers the OCS Lands (Section 4(a), 29 U.S.C. 653(a)). The OCS Lands, as defined in 43 U.S.C. 1331(a), are all submerged lands lying seaward and outside of State boundaries within U.S. jurisdiction (i.e., out to the continental slope). Such jurisdiction extends to submarine areas underwater 200 meters deep or, beyond that limit, to where the depth of the water allows the exploitation of natural resources (Convention on the Continental Shelf, T.I.A.S. No. 5578, 15 U.S.T. 471).

NOTE: OSHA requirements, including recordkeeping and reporting regulations, do not apply to renewable energy facilities (e.g., wind facilities) on the OCS.

A. **General Information**

The OCS Lands Act, enacted in 1953, granted the U.S. Coast Guard principal safety and health authority on the Outer Continental Shelf. The OCS Lands Act Amendments of 1978 expanded the U.S. Coast Guard's role for occupational safety and health on the OCS. By these amendments, Congress authorized the U.S. Coast Guard to regulate matters of safety and health on the OCS. The U.S. Coast Guard, within the Department of Homeland Security (DHS), regulates the safety of life and property and the safety of navigation and protection of the environment for OCS activities. In addition, the U.S. Coast Guard regulates workplace safety and health, as well as enforces requirements related to personnel, workplace activities, conditions, and equipment for OCS activities. The U.S. Coast Guard is responsible for oil spill preparedness and response and conducts research related to these mission requirements.

Since its formation in 2010, the Bureau of Safety and Environmental Enforcement (BSEE) of the Department of the Interior regulates well operations for OCS activities, including drilling, completions, workover, production, and decommissioning, and reviews and approves these facilities' oil spill response plans. BSEE exercises safety and environmental enforcement authority (e.g., - requiring Safety and Environmental Management Systems (SEMS)), permitting OCS operations, conducting inspections and investigations, enforcing regulatory requirements, assessing penalties, and conducting research. See BSEE's [interagency coordination](#) to assist with determining regulatory responsibilities.

1. Section 4(b)(1) of the OSH Act, 29 U.S.C. 653(b)(1), precludes the application of the OSH Act to working conditions addressed by another agency's regulations or standards.
2. While BSEE's SEMS regulations are quite broad, there may be gaps in what is covered by BSEE regulations and an individual SEMS program. OSHA may have authority to regulate working conditions that fall into those gaps. For further information CSHOs should review the Region 10 memo concerning Coverage of Operation on Northstar Island, AK.
3. [43 U.S.C. 1347\(d\)](#) expressly preserves the applicability of the OSH Act to all hazardous working conditions on the OCS, except those addressed by other federal agencies' regulations. It states, "Nothing in this subchapter shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health."
4. The U.S. Coast Guard has promulgated regulations on many occupational safety and health issues on the OCS (such as PPE, housekeeping, guarding of deck openings, lock out tag out (LOTO), means of escape, lifesaving appliances, firefighting equipment, emergency equipment, work vests,

alarm systems, emergency evacuation plans, and safety zones, [33 CFR § 140.1](#) et seq.), as well as on commercial diving, [46 CFR Part 197, Subpart B](#) et seq. (the U.S. Coast Guard diving regulations also cover diving in other locations such as diving conducted from an inspected vessel). BSEE also has some safety and health regulations, primarily dealing with fire and explosion hazards, [30 CFR § 250.106](#) et seq. However, OSHA, in accordance with section 4(b)(1), still has responsibility for any hazardous working condition for which the U.S. Coast Guard or BSEE has not yet promulgated a regulation (see [Chao v. Mallard Bay Drilling, Inc., 534 U.S. 235](#) (2002)). As the U.S. Coast Guard or BSEE promulgate additional worker safety and health regulations, OSHA's application to OCS workplaces will diminish.

5. Both U.S. Coast Guard marine inspectors and inspectors of the BSEE, under the direction of the U.S. Coast Guard Officer in Charge, Marine Inspection, conduct safety and health inspections on the OCS ([33 CFR § 140.101\(c\)](#), [30 CFR § 250.130](#)). These investigations alone do not relieve OSHA of its responsibilities. Working conditions may exist on offshore oil/gas rigs which are addressed by OSHA standards applicable to general industry and the construction industry, for which neither the U.S. Coast Guard nor the BSEE has promulgated regulations.
6. **Appendix E: Memorandum of Understanding Between the U.S. Coast Guard and OSHA Concerning Occupational Safety and Health on the Outer Continental Shelf (OCS)** signed by OSHA and the U.S. Coast Guard sets forth procedures intended to avoid duplication regarding the issuance of citations for violations and regulatory overlap, while still retaining the agencies' mutual responsibilities.

NOTE 1: Contact the nearest U.S. Coast Guard office for assistance in determining what constitutes the OCS and what U.S. Coast Guard regulations may apply. (See <https://homeport.uscg.mil/>)

NOTE 2: OSHA provides employee safety and health coverage on oil and gas rigs within 3 nautical miles seaward from the general coastline (i.e. Boundary Lines), except for Puerto Rico and the Gulf Coast of Florida and Texas where OSHA's coverage extends for 9 nautical miles and U.S. inland waters. OSHA coverage of occupational safety and health has not been preempted by any other federal agency regarding oil and gas rigs that are located on U.S. navigable waters. Both the U.S. Coast Guard and the BSEE have advised OSHA by letter that they do not regulate in those areas.

- B. **Requirements of the MOU between the U.S. Coast Guard and OSHA on the Outer Continental Shelf (OCS) (see Appendix E).**

1. Sections I, II, and III of the MOU provide a general description of the purpose of the MOU, a definition of the working conditions on the OCS, and an outline of each agency's responsibilities.
2. Section IV.A of the MOU enumerates five areas pertaining to standards development and promulgation which will be the responsibility of the headquarters staff of both agencies.
3. Section IV.B of the MOU includes the statements of authorities, procedures, and specifics to be followed in carrying out the intent of the MOU as follows:
 - a. Routine enforcement activities (Section IV.B.1.c.), where the U.S. Coast Guard does not exercise statutory authority to prescribe or enforce regulations affecting occupational safety and health on the OCS, shall not be conducted by the concerned OSHA field office prior to discussion with the local U.S. Coast Guard office as to the procedures the OSHA office intends to follow.
 - b. General schedule inspections, in the absence of a request by the U.S. Coast Guard, shall be conducted by the Area Office only after permission is obtained from the Regional Administrator.
 - c. Complaints regarding violations of occupational safety or health requirements or other unsafe conditions shall be referred to the commander or officer-in-charge of the local U.S. Coast Guard office for action. U.S. Coast Guard office contact information can be found at: <https://homeport.uscg.mil/>.
 - The complainant shall be informed of the above action and also will be provided the office address and telephone number of the appropriate U.S. Coast Guard office;
 - The OSHA office receiving the complaints shall maintain a record of complaints and shall periodically monitor and record the actions taken by the U.S. Coast Guard;
 - Written and oral complaints shall be forwarded to the U.S. Coast Guard. Additionally, oral complaints shall be transcribed and forwarded to the U.S. Coast Guard for confirmation purposes; and
 - If the U.S. Coast Guard requests assistance for disposition of the complaints, OSHA will assist accordingly.
4. Accident investigations on the OCS shall be conducted by the U.S. Coast Guard in accordance with the regulations issued under its authority.

- a. The U.S. Coast Guard has agreed to cooperate with OSHA with respect to identifying violations of applicable OSHA standards related to death, injury, or other casualty/accident by:
 - Inviting OSHA to formal U.S. Coast Guard hearings;
 - Developing lines of inquiry suggested by OSHA; and
 - Making investigation information available to OSHA.
 - b. The U.S. Coast Guard has agreed to notify OSHA where an investigation identifies an apparent violation of any applicable OSHA requirement and will cooperate with any subsequent OSHA enforcement action.
5. When the U.S. Coast Guard requests an OSHA office to assist in complaint inspections, accident investigations, or routine enforcement activities, or to conduct an inspection that office shall:
 - a. Inform the National Office, [Directorate of Enforcement Programs](#), via the Regional Administrator, and
 - b. Consult with the pertinent U.S. Coast Guard office regarding the inspection, and, when required, the availability of transportation.
 6. The implementation of Section V of the MOU shall be the responsibility of the Directorate of Training and Education.
 7. The OSHA designated representative for coordinating OCS implementation provisions, as required by Section VI of the MOU, shall be the Director, Office of Maritime Enforcement.

C. Retaliation

CSHOS should be familiar with two anti-retaliation (whistleblower) statutes enforced by OSHA which protect maritime workers. One is the Seaman's Protection Act, 46 U.S.C. §2114 (SPA). It prohibits discharging or otherwise discriminating against a seaman for reporting violations of safety regulations to the Coast Guard, OSHA, and other federal agencies and to supervisors and for engaging in other activities related to maritime safety. Any complaint of such retaliation must be filed with OSHA within 180 days of the discharge or other investigation. OSHA investigates the case and if merit is found OSHA issues a preliminary order usually requiring reinstatement with back pay and sometimes other relief. Objections to the preliminary orders are heard by DOL administrative law judges, whose decisions may be reviewed by the DOL Administrative Review Board, the Secretary (in rare cases), and the appropriate U. S. court of appeals. During the interview of non-managerial seamen, the CSHO shall inform them that OSHA has the right to interview them in private and of the protections afforded by SPA. For more information go to

whistleblowers.gov. Under Resources the CSHO can review SPA and its regulations, desk aid, and fact sheet.

The other whistleblower statute is section 11(c) of the OSH Act. In maritime employment, section 11(c) can protect longshore and harbor workers and seamen on uninspected vessels suffering retaliation for complaints and other activity related to violations of OSHA standards and requirements.

XVI. Summary Matrix Table of Safety and Health Coverage on U.S. Inland Waters, State Territorial Waters, and the Outer Continental Shelf.

The matrix table on the next page is provided to assist with making determinations of safety and health coverage on U.S. inland waters, State territorial waters, and the Outer Continental Shelf. This matrix provides the most important information and does not detail every aspect of coverage. For more complete information the applicable sections of this instruction should be consulted.

Summary Table of Safety and Health Coverage for Vessels and Structures on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS)

Type of Vessel or Structure	U.S. Inland Waters	State Territorial Waters	Outer Continental Shelf (OCS)
Inspected Vessel	U.S. Coast Guard for Seamen OSHA for Employees other than Seamen	U.S. Coast Guard for Seamen OSHA for Employees other than Seamen	U.S. Coast Guard for Seamen OSHA (No coverage)
Uninspected Vessel	U.S. Coast Guard for certain requirements (See Appendix C) OSHA for Employees including Seamen, except as noted in Appendix C	U.S. Coast Guard for certain requirements (See Appendix C) OSHA for Employees including Seamen, except as noted in Appendix C	U.S. Coast Guard for certain requirements (See Appendix C) OSHA (No coverage)
Commercial Uninspected Fishing Industry Vessel	U.S. Coast Guard for Seamen and Other Employees (See Appendix B) OSHA for Employees, including Seamen (See Appendix A)	U.S. Coast Guard for Seamen and Other Employees (See Appendix B) OSHA for Employees, including Seamen (See Appendix A)	U.S. Coast Guard for Seamen and Other Employees (See Appendix B) OSHA (No coverage)
Facility or Structure	U.S. Coast Guard (No coverage) OSHA provides exclusive coverage	U.S. Coast Guard (No coverage) OSHA provides exclusive coverage up to 3 nautical miles (nm) from general coastline, except 9 nm for Puerto Rico and the Gulf Coast of Florida and Texas.	U.S. Coast Guard and Bureau of Safety and Environmental Enforcement (BSEE) OSHA for safety and health hazards not covered by other agency regulations for oil, natural gas, and sulfur drilling; no OSHA authority over renewable energy facilities, e.g., wind facilities.

Appendix A – Specific Conditions on Commercial Uninspected Fishing Industry Vessels Subject to OSHA Enforcement

General Note Regarding this Appendix

This appendix lists several specific conditions on commercial uninspected fishing industry vessels which are subject to OSHA enforcement and not preempted by U.S. Coast Guard requirements, as well as the relevant OSHA standards or other regulations which would apply to those conditions. However, this is not an exhaustive list of conditions that may be subject to OSHA enforcement. CSHOs must carefully review U.S. Coast Guard regulations (see Appendix B) and consult with the U.S. Coast Guard inspection staff to establish whether an identified hazard is covered by the U.S. Coast Guard. Also, as discussed in detail in section IX of this Instruction, the owners and operators of certain fish processing vessels may not be cited for conditions covered by the survey and classification requirements prescribed by the organization which classed their vessels. [See U.S. Coast Guard fish processing vessel survey and classification requirements 46 CFR § 28.720.]

1. Onboard cranes and their maintenance and use [[29 CFR Part 1910, Subpart N](#); [29 CFR Part 1915, Subpart G](#); [29 CFR Part 1918, Subpart B, E, G, and H](#)].

NOTE: Some cranes used to support ship repair and all cranes used in longshoring operations (i.e., the transfer of cargo to or from a vessel) require certification by an agency accredited under 29 CFR Part 1919. (See [OSHA Instruction CPL 02-01-055](#), Maritime Cargo Gear Standards and 29 CFR 1919 Certification, September 30, 2013)

2. Chains, hooks, and slings [[29 CFR Part 1910, Subpart N](#); [29 CFR Part 1915, Subpart G](#); [29 CFR 1918, Subparts F, G, and H](#)].
3. Ropes (wire, manila, and synthetic) [[29 CFR Part 1910, Subpart N](#); [29 CFR Part 1918, Subpart G](#); [29 CFR 1918, Subpart G](#)].
4. Powered vehicles onboard [[29 CFR § 1910.178](#); [29 CFR § 1918.65](#)].
5. Maintenance and repair (painting, lockout/tagout, deck holes) [[29 CFR Part 1915, Subparts B, C, E, and J](#)]; for factory production areas of fish processing vessels, [29 CFR Part 1910](#), including [1910.147](#)].
6. Open-sided floors and platforms, as a general rule [[29 CFR Part 1910, Subpart D](#); [29 CFR Part 1915, Subpart E](#); [29 CFR Part 1918, Subpart D](#)].
7. Tools and portable equipment [[29 CFR Part 1910, Subpart P](#); [29 CFR § 1910.215](#); [29 CFR Part 1915, Subpart H](#)].
8. Warning signs and labeling of control switches [[29 CFR § 1910.147](#); [29 CFR § 1910.335](#); [29 CFR](#)

[Part 1915, Subpart J](#)].

9. Temporary electric cords (use, maintenance, and material construction) [Section 5(a)(1) of the OSH Act, 29 U.S.C. 654(a)(1); [29 CFR § 1915.82](#); [29 CFR § 1915.83\(c\) and \(d\)](#); [29 CFR § 1910.334\(a\)](#)].

NOTE: CSHOs shall verify with the U.S. Coast Guard that 46 CFR Part 28 regulations do not apply (see Appendix B).

10. Electrical circuits and distribution boards, including those related to factory processing equipment. Section 5(a)(1) of the OSH Act, 29 U.S.C. 654(a)(1), where there are no applicable standards; [29 CFR § 1915.157\(c\)](#); [29 CFR § 1915.181](#); [29 CFR § 1910.331](#); [29 CFR § 1910.332](#); [29 CFR § 1910.333](#); [29 CFR § 1910.334\(b\), \(c\), and \(d\)](#); and [29 CFR § 1910.335](#)].

NOTE 1: CSHOs shall verify with the U.S. Coast Guard that 46 CFR Part 28 regulations do not apply (see Appendix B).

NOTE 2: 1910.331-.335 apply on shore for both qualified persons (those who have training in avoiding the electrical hazards of working on or near exposed energized parts) and unqualified persons (those with little or no such training). On vessels, these provisions cover all electrical safety-related work practices for unqualified persons, including temporary electrical systems and the vessels permanently installed electrical systems. On vessels, these provisions apply to electrical safety-related work practices for qualified persons when shore-based electrical installations provide power for use onboard vessels; these provisions do not apply to qualified persons working on the vessel's permanently installed electrical system. There are additional electrical requirements in [1915.132](#), Portable electric tools; [1915.152](#), (PPE) General requirements; [1915.155\(a\)\(2\)](#), Head protection; [1915.157\(c\)](#), Hand and body protection; and [1915.181](#), Electrical circuits and distribution boards.

11. Steam hose use and fittings [[29 CFR § 1915.83](#)].
12. Working around radar and radio emission devices [[29 CFR § 1915.85](#)].
13. Illumination of work areas [[29 CFR § 1915.82](#)].
14. Washing, bathing, toilet, and clothes drying facilities [[29 CFR § 1910.141](#); [29 CFR § 1915.88](#)].
15. Noise [[29 CFR § 1910.95](#)].
16. Elevators and dumbwaiters [[29 CFR § 1910.212](#); Section 5(a)(1) of the OSH Act, 29 U.S.C.

654(a)(1), where there are no applicable standards].

NOTE: For vessels classified by the U.S. Coast Guard as *Fish Processing Vessels*, the hazardous conditions of elevators and dumbwaiters, which are identified by OSHA, are referred to the U.S. Coast Guard for appropriate action.

17. Vessel access (gangways) [[29 CFR Part 1915, Subpart E](#); [29 CFR Part 1918, Subpart C](#)].
18. Gas cylinder storage (use and compatibility) [[29 CFR Part 1910, Subpart H](#); [29 CFR § 1915.55](#)].
19. Sources of ignition (prevention and control), including smoking (e.g., tobacco), except as covered by [46 CFR § 28.385](#) [[29 CFR Part 1915, Subpart B](#) and [P](#)].
20. Testing of oxygen-deficient atmospheres [[29 CFR Part 1915, Subpart B](#)].
21. Cutting and welding permits, testing prior to work, and competent persons in these areas [[29 CFR Part 1915, Subpart B](#)].
22. Confined spaces [[29 CFR Part 1915, Subpart B](#)].
23. Personal protective equipment (including PFDs), except as noted in **Appendix C**, paragraph I; and in [46 CFR Part 28](#), Subparts C and D, vessels equipment dealing with refrigerant ammonia and the protection of certain firefighters [[29 CFR Part 1910, Subpart I](#); [29 CFR Part 1915, Subpart I](#); [29 CFR Part 1918, Subpart J](#)].
24. Gas masks and canisters, except for owners and operators of [46 CFR Part 28](#), Subparts C and D vessels equipment dealing with ammonia used as a refrigerant and equipment for certain firefighters [[29 CFR § 1910.134](#); [29 CFR § 1915.152](#)].
25. Respiratory protective programs and respirator checks, except for owners and operators of [46 CFR Part 28](#), Subparts C and D vessels equipment dealing with ammonia used as a refrigerant and equipment for certain firefighters [[29 CFR § 1910.134](#); [29 CFR § 1915.152](#)].
26. Asbestos and other chemical exposures, except with respect to owners and operators of commercial uninspected fishing industry vessels ammonia refrigerant and chemicals to which certain firefighters are exposed on [46 CFR Part 28](#), Subparts C and D vessels [[29 CFR Part 1910, Subpart Z](#); [29 CFR Part 1915, Subpart Z](#)].
27. Materials handling and storage [[29 CFR Part 1910, Subpart N](#); [29 CFR Part 1915, Subpart G](#); [29 CFR Part 1918, Subpart H](#)].
28. Hazard communication [[29 CFR § 1910.1200](#); [29 CFR § 1915.1200](#)].

29. Process safety management if the vessel is carrying more than the threshold quantity of any of the toxic hazardous chemicals including [\[29 CFR § 1910.119\]](#):
 - a. More than 10,000 pounds of ammonia; or
 - b. More than 1,500 pounds of chlorine.
30. Lockout/tagout [\[29 CFR § 1910.147\]](#) for factory “fish processing” operations (See NOTE in Section XIII.B.1. of this instruction); [29 CFR Part 1915, Subpart J](#) and [L](#) for ship repair and shipbuilding].
31. Bloodborne pathogens [\[29 CFR § 1910.1030; 29 CFR § 1915.1030\]](#).
32. Emergency response, including spill cleanup [\[29 CFR § 1910.120\]](#).
33. Reporting fatalities and multiple hospitalization incidents to OSHA [\[29 CFR § 1904.39\]](#).

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. Reportable incidents, which occur within OSHA's geographical authority, are required to be reported to OSHA. (See section X of this Instruction, Geographical Considerations, for further information.).

34. Recording of illnesses and injuries [\[29 CFR Part 1904\]](#).

NOTE: As noted above, section 4(b)(1) of the OSH Act does not apply to recordkeeping; therefore, OSHA and the U.S. Coast Guard may enforce their own rules and OSHA recording requirements will apply wherever OSHA has geographic coverage. (See section X of this Instruction, Geographical Considerations, for further information.)

Appendix B – Applicable U.S. Coast Guard Regulations for Commercial Uninspected Fishing Industry Vessels

General Note Regarding this Appendix

The regulations below are not exhaustive. In addition to these regulations, all commercial uninspected fishing industry vessels must meet the requirements of Parts 24, 25, and 26 of Chapter I of Title 46 of the CFR.

- I. U.S. Coast Guard requirements that apply to all commercial uninspected fishing industry vessels [[46 CFR Part 28](#)].
 - A. General lifesaving equipment.
 1. Personal flotation devices (PFDs) 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 § 28.140](#)].
 - B. Distress signals [[46 CFR § 28.145](#)].
 - C. Emergency Position Indicating Radio 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 § 28.160](#)].
 - F. Injury placard [[46 CFR § 28.165](#)].
 - G. Casualty reporting [[46 CFR § 4.05](#)].
 - H. Injury reporting [[46 CFR § 4.05](#)].
- II. Additional U.S. Coast Guard requirements that apply to documented commercial fishing industry vessels that operate beyond the boundary lines or with 16 or more individuals aboard [[46 CFR Part 28](#)].

- A. Fireman's outfit and self-contained breathing apparatus (SCBA). Each vessel with 49 or more individuals aboard must have two such outfits. Each vessel that uses ammonia as a refrigerant must have two approved SCBAs, each with a spare bottle [[46 CFR § 28.205](#)].
- B. First aid equipment and training [[46 CFR § 28.210](#)].
- 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 onboard a vessel must meet the requirements of this section.
 - 2. Suitable hand covers, guards, or railings 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 § 28.255](#)].
- K. Electronic position fixing devices [[46 CFR § 28.260](#)].
- L. Emergency instructions, training, drills, and safety orientation [[46 CFR § 28.265](#); [46 CFR § 28.270](#)].
 - 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 self-contained breathing apparatus (SCBA), making a voice radio distress call and using visual distress signals, activating the general alarm and reporting inoperative alarm system(s) and fire detection system(s).
 3. Drills and vessel safety orientation.
- III. In addition to the aforementioned regulations, commercial fishing industry vessels that 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 aboard must comply with the following U.S. Coast Guard requirements [[46 CFR Part 28](#)]:
- 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 and depth sounding devices [[46 CFR § 28.400](#)].
 6. Deck rails, lifelines, storm rails, and hand grabs [[46 CFR § 28.410](#)].
 - B. Fire Protection, Electrical, and 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 § 28.325](#)].
 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 standards for vessels less 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 § 28.360](#)].
 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 aboard [[46 CFR § 28.385](#)].
 16. Hydraulic equipment [[46 CFR § 28.405](#)].
- IV. Stability requirements that apply to certain documented commercial fishing industry vessels 79 feet or more in length [[46 CFR Part 28, Subpart E](#)].
- V. Requirements that apply to fish processing vessels [[46 CFR Part 28, Subpart F](#)].
- VI. Requirements that apply to certain fish tender vessels engaged in the Aleutian trade [[46 CFR Part 28, Subpart G](#)].

Appendix C – Applicable U.S. Coast Guard Regulations for Uninspected Vessels

General Note Regarding this Appendix

The U.S. Coast Guard has regulations (46 CFR Parts 24, 25, and 26) for uninspected vessels that deal with and provide for limited equipment safety checks of the following: personal flotation devices; lifesaving equipment; fire protection and fire extinguishing equipment; firefighting equipment; ventilation of engine bilges and fuel tank compartments; back-fire traps/flame arresters on inboard engine carburetors using gasoline as a fuel; emergency position-indicating radio beacons; and cooking, heating, and lighting systems, as detailed below. The Coast Guard also has regulations on operations.

NOTE: 46 CFR Chapter I, Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), N (Dangerous Cargoes), S (Subdivision and Stability), and W (Lifesaving Appliances and Arrangements) may also be applicable under certain conditions. All other working conditions aboard an uninspected vessel are subject to OSHA authority.

- I. Personal Flotation Devices (PFDs) and Other Lifesaving Equipment [[46 CFR § 25.25](#)].
 - A. An approved and readily available PFD is required to be onboard the vessel for each individual aboard. An immersion suit is considered to be an acceptable substitute for a PFD only for vessels not carrying passengers for hire. 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 that 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: labeled for use on commercial vessels and used in accordance with the owner's manual.
 - D. An approved light is required for PFDs and immersion suits. Also, PFDs must have approved retroreflective material installed.

NOTE: The U.S. Coast Guard modified the [46 CFR Part 160](#) PFD requirements to remove references to Type codes for describing PFDs. Instead, PFDs will be described as either “throwable” or “wearable” and referenced by specific approval categories (e.g., Model 3, 52, etc.) that correlate with the section number from [46 CFR Part 160](#). The new labeling requirements will not affect existing PFDs, and PFDs so marked by Type are acceptable and will continue to meet the requirements of 29 CFR § 1915.158, 1917.26(f), 1918.97(e), and 1926.605(d)(2) and (3). Conversely, PFDs manufactured according to the new Coast Guard specifications are acceptable for compliance with OSHA standards.

II. Fire Extinguishing Equipment and Fire Protection [[46 CFR § 25.30](#) and [46 CFR Part 27](#)].

- A. Portable fire extinguishers and semi-portable fire extinguishing systems must be of the “B” type as referenced by Underwriters Laboratory (UL) rating (i.e., suitable for extinguishing fires involving flammable liquids, greases, etc.).
- B. 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 if they were manufactured prior to 01/01/1965.
- D. The minimum number of “5-B” hand-portable fire extinguishers, as referenced by Underwriters Laboratory (UL) ratings, required to be onboard motor vessels is in the following table ([46 CFR § 25.30](#)):

Table 25.30-20(a)(1)

Minimum number of 5-B portable fire fire extinguishers required

Length, feet	No fixed fire extinguishing system in machinery space	Fixed fire extinguishing system in machinery space
Under 16	1	0
16 and over, but under 26	1	0
26 and over, but under 40	2	1
40 and over, but not over 65	3	2

- E. The minimum number of “20-B” portable fire extinguishers, as referenced by Underwriters Laboratory (UL) ratings, required to be onboard motor vessels is: one if 50 tons or less, two if over 50 and not over 100 tons, three if over 100 and not over 500 tons, six if over 500 and not over 1,000 tons, and eight if over 1,000 tons.
- F. Fixed fire extinguishing systems must be approved or accepted by the Commandant (CG-ENG-4) or Commanding Officer. U.S. Coast Guard Marine Safety Center (G-MS-C) [[46 CFR § 25.30-15](#)]. Carbon-dioxide systems must follow [46 CFR § 76.15-20](#) (Passenger Vessels).
- G. There are regulations for fire protection and fire suppression equipment for the limited types of towing vessels which remain uninspected vessels in, [46 CFR Part 27](#).

III. Backfire Flame Control [[46 CFR § 25.35](#)].

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

IV. 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, shall be provided with adequate ventilation to remove explosive or flammable gases from the fuel tank compartments and bilges.

V. Emergency Position Indicating Radio Beacons [[46 CFR § 25.26](#)]

Uninspected vessels more than three miles from the shore must have EPRBs.

VI. Cooking, Heating, and Lighting Systems [[46 CFR § 25.45](#)]

Only prescribed fuels may be used for cooking, heating, and lighting. They must be used only under the conditions set forth in the regulations.

VII. Operations [[46 CFR § 26](#)]

There are a number of requirements for operations. For example, 46 CFR § 26.03-2 requires the posting of an emergency checklist.

Appendix D – Memorandum of Understanding (MOU) Between the U.S. Coast Guard and OSHA Concerning the Health and Safety of Seamen on Inspected Vessels

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES COAST GUARD U.S. DEPARTMENT OF TRANSPORTATION [NOTE: THE U.S. COAST GUARD IS NOW UNDER THE DEPARTMENT OF HOMELAND SECURITY] AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION U.S. DEPARTMENT OF LABOR CONCERNING THEIR AUTHORITY TO PRESCRIBE AND ENFORCE STANDARDS OR REGULATIONS AFFECTING THE OCCUPATIONAL SAFETY AND HEALTH OF SEAMEN ABOARD VESSELS INSPECTED AND CERTIFICATED BY THE UNITED STATES COAST GUARD.

PURPOSE.

It is the purpose of this memorandum of understanding (MOU) to set forth clearly the boundaries of the authority of the United States Coast Guard (Coast Guard) of the U.S. Department of Transportation [NOTE: U.S. Coast Guard is currently under the Department of Homeland Security] and the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor in prescribing and enforcing standards or regulations affecting the occupational safety and health of seamen aboard vessels inspected and certificated by the Coast Guard (hereinafter “inspected vessels”). This MOU is intended to eliminate confusion among members of the public with regard to the relative authorities of the two agencies. Nothing in this MOU pertains to uninspected vessels. The Coast Guard and OSHA agree to work together to fulfill their respective authorities.

AUTHORITY OF THE COAST GUARD.

The Coast Guard is the dominant federal agency with the statutory authority to prescribe and enforce standards or regulations affecting the occupational safety and health of seamen aboard inspected vessels. Under the Vessel Inspection Laws of the United States, the Coast Guard has issued comprehensive standards and regulations concerning the working conditions of seamen aboard inspected vessels.

These comprehensive standards and regulations include extensive specific regulations governing the working conditions of seamen aboard inspected vessels as well as ample general authority regulations to cover these seamen with respect to all other working conditions that are not addressed by the specific regulations. These standards and regulations are generally set forth at 46 C.F.R. Chapter 1, and in the Coast Guard's Marine Safety Manual and its Navigation and Vessel Inspection Circulars.

AUTHORITY OF OSHA.

OSHA has a general statutory authority to assure safe and healthful working conditions for working men and women under the Occupational Safety and Health (OSH) Act of 1970. Section 4(b)(1) of the OSH Act defines the relationship between OSHA and the other federal agencies whose exercise of statutory responsibilities may affect occupational

safety and health. Based on OSHA's interpretation of section 4(b)(1), and as a result of the Coast Guard's exercise of its authority, described above, OSHA has concluded that it may not enforce the OSH Act with respect to the working conditions of seamen aboard inspected vessels. Nonetheless, OSHA retains the following responsibilities.

OSHA retains its authority under section 11(c) of the OSH Act, which forbids discrimination in any manner against employees who have exercised any right afforded them under the OSH Act. Pursuant to this provision, OSHA has the authority to require vessel owners to post a notice that informs employees of their right to complain about working conditions to the Coast Guard, OSHA, or the employer and to be free from retaliatory discrimination. OSHA has concluded that its exercise of authority under section 11(c) is not precluded by the scope of section 4(b)(1) of the OSH Act.

OSHA agrees to refer to the Coast Guard, for its consideration, any complaints, other than section 11(c) discrimination complaints, OSHA receives from seamen working aboard inspected vessels. However, the Coast Guard, consistent with the statement of its authority above, has the sole discretion to determine, under its applicable standards and regulations, whether the events complained of constitute hazardous conditions and the extent of any remedy that may be required.

RECORDKEEPING.

OSHA and the Coast Guard will continue to discuss the extent of their respective jurisdictions to require owners of inspected vessels to keep records concerning occupational injuries and illnesses. This MOU does not resolve any issues concerning recordkeeping obligations.

EFFECTIVE DATE AND PUBLICATION.

This MOU shall take effect upon signature by the parties. It shall be promptly published in the Federal Register.

Commandant
United States Coast Guard
U.S. Department of
Transportation Date: March 8,
1983

[Note: U.S. Coast Guard is currently under the Department of Homeland Security]

Assistant Secretary for
Occupational Safety and Health
U.S. Department of Labor Date:
March 4, 1983

Appendix E – Memorandum of Understanding Between the U.S. Coast Guard and OSHA Concerning Occupational Safety and Health on the Outer Continental Shelf (OCS)

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES COAST GUARD, THE DEPARTMENT OF TRANSPORTATION [NOTE: THE U.S. COAST GUARD IS NOW UNDER THE DEPARTMENT OF HOMELAND SECURITY] AND THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, THE DEPARTMENT OF LABOR CONCERNING OCCUPATIONAL SAFETY AND HEALTH ON ARTIFICIAL ISLANDS, INSTALLATIONS AND OTHER DEVICES ON THE OUTER CONTINENTAL SHELF OF THE UNITED STATES.

PURPOSE - The purpose of this Memorandum of Understanding is to establish procedures to increase consultation and coordination between the United States Coast Guard (USCG) and Occupational Safety and Health Administration (OSHA) with respect to matters affecting the occupational safety and health of personnel working on the Outer Continental Shelf of the United States.

DEFINITION - For purposes of the Memorandum, the following definition applies:

Working Conditions on the Outer Continental Shelf of the United States.

Working Conditions related to activities, including diving, taking place on or from, on the waters adjacent to, or otherwise associated with artificial islands, installations, or other devices permanently or temporarily attached to the seabed and exploring for, developing or producing resources from the Outer Continental Shelf of the United States, or any device (other than a ship or vessel) used for the purpose of transporting such resources (43 U.S.C. 1333(a)(1)).

AGENCY RESPONSIBILITIES

A. United States Coast Guard.

The USCG has authority to promulgate and enforce Safety and Health Regulations for working conditions on the OCS of the United States. In carrying out this responsibility on the OCS the Coast Guard will cooperate with the Occupational Safety and Health Administration to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry. The USCG, consistent with its statutory authority:

1. Promulgates regulations and may modify any regulation, interim or final, applying to hazardous working conditions related to activities on the Outer Continental Shelf, and promulgates such other regulations as may be necessary to promote the safety of life and property on the OCS;
2. Promulgates regulations to provide for scheduled onsite inspection, at least once a year,

of each facility on the Outer Continental Shelf which is subject to any environmental, safety or health regulation promulgated by the Coast Guard pursuant to the OCS Act¹, and also provides for periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental, health or safety regulations;

3. Reviews any allegation from any person of the existence of a violation of a safety or health regulation or other unsafe working conditions;
4. Investigates and makes a public report on any death or serious injury occurring as a result of operations conducted pursuant to the OCS Act, and may investigate and report on other injuries, casualties or accidents; and
5. Initiates appropriate civil and criminal procedures and other action to enforce any provision of the OCS Act or any regulation issued under the Act.

B. Occupational Safety and Health Administration.

The Occupational Safety and Health Act (OSH Act) applies with respect to working conditions on Outer Continental Shelf Lands (29 U.S.C. 653(a)), but does not apply to working conditions with respect to which the Coast Guard or other Federal agencies exercise statutory authority to prescribe or enforce standards affecting occupational safety and health (29 U.S.C. 653(b)(1), Sec. 21(d) of the OCS Act). The Occupational Safety and Health Administration will cooperate with the Coast Guard to maximize the safety and health protection of employees, avoid duplication of effort, and avoid undue burdens on the maritime industry.

Consistent with its statutory authority under the Occupational Safety and Health Act, OSHA:

1. Prescribes occupational safety and health rules and regulations as necessary to carry out its responsibility under the OSH Act;
2. Inspects and investigates places of employment to insure compliance with any applicable OSHA requirements;
3. Responds to allegations of violations of applicable OSHA requirements and makes investigations where there are reasonable grounds to believe that a violation exists; and
4. Issues citations and initiates appropriate civil and criminal procedures against employers for violations of applicable OSHA requirements.

PROCEDURES

The two agencies agree, consistent with their statutory obligations, to observe the following procedures in carrying out their responsibilities to promote safe working conditions on the OCS:

A. Development and promulgation of standards.

The Coast Guard will develop and promulgate necessary regulations to assure safe and healthful working conditions on the OCS. OSHA will continue to promulgate general standards, which may apply to working conditions on the OCS not being regulated by the Coast Guard. In developing regulations and standards, the two agencies will cooperate to the maximum extent possible. Such cooperation will include, but will not be limited to the following:

1. Information and data availability. For the purposes of identifying work hazards, determining accident or illness cause, developing corrective measures, and assessing the impacts of new or revised regulations or standards, the two agencies will exchange data and study results to the extent permitted by law;
2. Standards research and development projects. The two agencies will jointly participate in standards research and development projects of mutual interest and benefit;
3. Review of existing regulations and standards. The two agencies will jointly review existing USCG and OSHA regulations and standards to help identify hazards that require priority attention in Coast Guard regulations development projects;
4. Exchange of technical expertise. Each agency will provide the other with technical support, where feasible, to assist in the review of particular hazards or the development of regulations; and
5. Early notice of rulemaking activities. The Coast Guard will provide for OSHA's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which relate to working conditions on the OCS. Likewise, OSHA will provide for the Coast Guard's review and consultation copies of drafts of advance notices of proposed rulemaking, notices of proposed rulemaking, and final rules, which have application to any working condition on the OCS. Publication of any rule, however, is not contingent upon receipt of comments.

B. Enforcement of regulations and standards.

While OSHA has statutory responsibilities with respect to workplaces on the OCS, the following provisions have been drafted to emphasize the Coast Guard's increasing role for safety and health on the OCS, as provided under the OCS Lands Act Amendments of 1978 (Pub. L 95-372). Through this Act, Congress expressed the expectation that the Coast Guard would be the principal Federal agency in matters of occupational safety and health on the OCS.

1. Routine enforcement activities:

- a. The Coast Guard will continue to enforce existing regulations issued under its authority which affect working conditions on the OCS;
- b. The Coast Guard will also enforce any new occupational safety and health regulations promulgated under its authority affecting working conditions on the OCS; and
- c. OSHA remains responsible for enforcing requirements adopted under the OSH Act which apply to working conditions on the OCS for which the Coast Guard or other Federal agencies have not exercised their statutory authority to prescribe or enforce standards affecting occupational safety and health. To minimize any duplication which may result from exercising this responsibility, OSHA will consult with the Coast Guard and seek to minimize the need for OSHA's routine inspection activity.

2. Investigation of accidents:

In accordance with regulations issued under its authority, the Coast Guard will investigate deaths, injuries and other casualties or accidents occurring as a result of operations conducted pursuant to the OCS Act. In the course of all such investigations, formal and informal, the Coast Guard will cooperate with OSHA with respect to identifying violations of applicable OSHA regulations related to the casualty or accident. Such cooperation will include: promptly making investigation information available to OSHA; inviting OSHA attendance at Coast Guard formal hearings; and developing lines of inquiry suggested by OSHA. Where a Coast Guard investigation identifies an apparent violation of an applicable OSHA regulation the Coast Guard will promptly notify OSHA and subsequently will cooperate with OSHA with respect to any enforcement action OSHA may undertake. This cooperation may include, but is not limited to, providing transportation, as available; provided, however, OSHA remains responsible for obtaining its own legal right of access to any facility.

3. Investigation of allegations:

The Coast Guard will review any allegation from any person of the existence of a violation of an occupational safety or health regulation or other unsafe working condition on the OCS and take appropriate action under the circumstances. Copies of complaints of occupational safety or health violations on the OCS received by OSHA will be referred to the appropriate Coast Guard district commander for action. The Coast Guard will notify OSHA as promptly as possible of the disposition of allegations forwarded by OSHA.

JOINT TRAINING PROGRAM

The two agencies will review the training needs of agency personnel with responsibilities for matters pertaining to safety and health on the OCS and will develop programs responsive to

these needs.

IMPLEMENTATION.

The Coast Guard and OSHA shall each designate a representative who shall be responsible for coordinating implementation of the provisions of this Memorandum.

EFFECTIVE DATE.

This Memorandum is effective upon signature by the parties. It may be amended at any time by mutual written agreement of the agencies and may be terminated by either agency upon thirty days written notice.

SAVINGS PROVISION.

Nothing in this Memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of the Coast Guard or OSHA.

Signed at Washington, DC this 19th day of December, 1979.

Commandant
United States Coast Guard
Department of Transportation

[Note: U.S. Coast Guard is currently under the Department of Homeland Security]

Assistant Secretary
Occupational Safety and Health
Department of Labor

NOTE: The original MOU had an Appendix B which listed all the OSHA and U.S. Coast Guard offices throughout the country with addresses and phone numbers. The list is outdated; therefore, OSHA and U.S. Coast Guard website links are provided for finding the current contact information for the appropriate OSHA office and U.S. Coast Guard Sector or Port. Those links are: OSHA and <https://homeport.uscg.mil/>.

Appendix F – Marine Operations in the Construction Industry

Construction activities, including marine construction activities, are covered by 29 CFR Part 1926, which includes general industry standards incorporated for construction activities, and section 5(a)(1) of the OSH Act, where there are no applicable standards. The following standards specifically refer to marine operations and equipment and are current as of the date of this instruction.

I. [1926.605\(a\)](#) - Material handling operations.

1926.605(a)(1)

Operations fitting the definition of “material handling” shall be performed in conformance with applicable requirements of Part 1918, “Safety and Health Regulations for Longshoring” of this chapter. The term “longshoring operations” means the loading, unloading, moving, or handling of construction materials, equipment, and supplies, etc. into, in, on, or out of any vessel from a fixed structure, or shore-to-vessel, vessel-to-shore or fixed structure, or vessel-to-vessel.

NOTE: As originally explained in OSHA Instruction STD 3-13.2 July 15, 1982, it was never intended that construction cranes or other construction lifting devices engaged in construction operations would be required to be tested and certificated in accordance with 29 CFR § 1915.115(a) or 1918.13(a). However, when the construction employer is using this equipment in a longshoring or shipyard operation as defined below, and the material being loaded or discharged is handled as "cargo", or "shipyard repair material"; then these cranes or lifting devices shall be certified as required by 29 CFR § 1915.115(a) and 1918.13(a).

Commission and administrative Law Judge cases have held that when material is loaded or discharged from vessels as "cargo" it becomes a longshoring operation and the longshore safety and health regulations apply. 29 CFR § 1926.605 applies to construction operations only. The definition of longshoring contained in 1926.605(a)(1) applies to construction operations carried out over the water. This has been confused with the original definition of longshoring contained in 29 CFR § 1918.3 and has resulted in attempts to apply 1918 standards to construction operations, especially 1918.13 - "Certification of Shore-Based Material Handling Devices," which does not cover construction operations.

II. [1926.605\(b\)](#) - Access to barges.

A. 1926.605(b)(1)

Ramps for access of vehicles to or between barges shall be of adequate strength, provided with side boards, well maintained, and properly secured.

- B. 1926.605(b)(2)
Unless employees can step safely to or from the wharf, float, barge, or river towboat, either a ramp, meeting the requirements of paragraph (b)(1) of this section, or a safe walkway, shall be provided.
- C. 1926.605(b)(3)
Jacob's ladders shall be of the double rung or flat tread type. They shall be well maintained and properly secured.
- D. 1926.605(b)(4)
A Jacob's ladder shall either hang without slack from its lashings or be pulled up entirely.
- E. 1926.605(b)(5)
When the upper end of the means of access rests on or is flush with the top of the bulwark, substantial steps properly secured and equipped with at least one substantial hand rail approximately 33 inches in height shall be provided between the top of the bulwark and the deck.
- F. 1926.605(b)(6)
Obstructions shall not be laid on or across the gangway.
- G. 1926.605(b)(7)
The means of access shall be adequately illuminated for its full length.
- H. 1926.605(b)(8)
Unless the structure makes it impossible, the means of access shall be so located that the load will not pass over employees.

III. [1926.605\(c\)](#) - Working surfaces of barges.

- A. 1926.605(c)(1)
Employees shall not be permitted to walk along the sides of covered lighters or barges with coamings more than 5 feet high, unless there is a 3-foot clear walkway, a grab rail, or a taut handline is provided.
- B. 1926.605(c)(2)
Decks and other working surfaces shall be maintained in a safe condition.
- C. 1926.605(c)(3)
Employees shall not be permitted to pass fore and aft, over, or around deckloads, unless there is a safe passage.
- D. 1926.605(c)(4)
Employees shall not be permitted to walk over deckloads from rail to coaming

unless there is a safe passage. If it is necessary to stand at the outboard or inboard edge of the deckload where less than 24 inches of bulwark, rail, coaming, or other protection exists, all employees shall be provided with a suitable means of protection against falling from the deckload.

IV. [1926.605\(d\)](#) - First-aid and lifesaving equipment.

A. 1926.605(d)(1)

Provisions for rendering first aid and medical assistance shall be in accordance with Subpart D of this part.

B. 1926.605(d)(2)

The employer shall ensure that there is in the vicinity of each barge in use at least one U.S. Coast Guard-approved 30-inch life ring with not less than 90 feet of line attached, and at least one portable or permanent ladder that will reach the top of the apron to the surface of the water. If the above equipment is not available at the pier, the employer shall furnish it during the time that he is working the barge.

C. 1926.605(d)(3)

Employees walking or working on the unguarded decks of barges shall be protected with U.S. Coast Guard-approved work vests or buoyant vests.

V. [1926.605\(e\)](#) - Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, 1910.401 through 1910.441, of this chapter. (29 CFR Part 1926, Subpart Y provisions reference the use of 29 CFR Part 1910, Subpart T).

Appendix G – Questions and Answers Regarding OSHA Authority on or Adjacent to U.S. Navigable Waters and on the Outer Continental Shelf (OCS)

This appendix consolidates OSHA interpretations related to OSHA authority over vessels, facilities, and structures on or adjacent to U.S. navigable waters) and on the Outer Continental Shelf (OCS) that have been issued and remain valid as of the date of this instruction. Interpretations previously issued by OSHA were reviewed to determine their current validity and accuracy. Interpretations for which standard references have changed were updated to reflect the current standard reference.

OSHA requirements are set by statute, standards, and regulations. Our interpretations explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. These responses constitute OSHA's interpretations of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at www.osha.gov.

A. 29 CFR PART 1904 – RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESS

The Directorate of Technical Support and Emergency Management (DTSEM), Office of Statistical Analysis, is responsible for the administration of the OSHA occupational injury and illness recordkeeping system nationwide. The office develops regulatory requirements defining what cases must be recorded and these records are the source documents used in the national Bureau of Labor Statistics (BLS) Annual Survey and the site-specific OSHA Data Initiative (ODI) Survey. OSHA's Recordkeeping web page provides a variety of valuable resources and links.

There are many maritime and marine scenarios in which employee injuries or illness may occur. Some are recordable and reportable. Although the following is not all inclusive, some scenarios where injuries or illness might occur are when there are:

- Employees who work on an offshore platform, live on a different platform, and travel back and forth by a vessel;
- Employees who are transferred to and from an offshore platform by means of a personnel basket. The transfer could be to and from a workboat or a vessel used for berthing workers;
- Employees who are engaged in traveling to a worksite that might include driving to a dock and then riding aboard a vessel; and
- Employees who are traveling by any means, including by vessel, to multiple worksites, including offshore worksites, from a permanent residence (e.g., a home onshore) or from a temporary residence (e.g., offshore platform, vessel, or onshore temporary residence).

The Standard Interpretations below answer questions about many of the scenarios listed above regarding reporting and recordkeeping requirements:

- [2007 - 02/06/2007](#) - Whether to record injuries that occur to employees who travel from an offshore manned platform complex or dock to other offshore platforms; and
- [2007 - 02/06/2007](#) - Whether to record injuries that occur to a contract employee when traveling from an offshore manned platform complex to other downfield fixed platforms.

For information concerning these two interpretation letters or any other recordkeeping issues not covered by these letters, please contact the Office of Statistical Analysis at 202-693-2300.

NOTE: OSHA recordkeeping regulations do not apply to renewable energy facilities (e.g., wind facilities) on the OCS.

B. 29 CFR PART 1910 – GENERAL INDUSTRY

Question 1: An uninspected vessel engaged in assistance towing is in the process of pushing an uninspected barge. Four crew members of the workboat are assisting with the pushing operations and two crewmembers are making repairs to some damaged vessel stairs. What standards are applicable to these six crew members?

Answer: The four crew members that are assisting with the pushing operations are covered by OSHA's General Industry Standards (29 CFR Part 1910). The two crewmembers making repairs are covered by OSHA's Shipyard Employment Standards (29 CFR Part 1915). (See [OSHA's Shipyard Employment "Tool Bag" Directive](#), Appendix A, for specific standards' applicability since many 29 CFR Part 1910 standard provisions apply to ship repair work.)

Question 2: Does the Process Safety Management (PSM) Standard at 29 CFR § 1910.119 apply to oil or gas well drilling or servicing operations on U.S. navigable waters or Outer Continental Shelf production facilities?

Answer: The Process Safety Management (PSM) standard does not apply to oil or gas well drilling or servicing operations (29 CFR § 1910.119(a)(2)(ii)). This exclusion extends to those operations even if performed on an offshore platform located on U.S. navigable waters or the Outer Continental Shelf.

Question 3: In the fishing and fish processing industries, are Billy Pugh baskets an acceptable method for transferring personnel from one vessel to another vessel at sea when used properly?

Answer: Baskets such as the "Billy Pugh" used in the fishing and fish processing industries to

transport personnel from one vessel to another at sea are acceptable when each of the conditions detailed below exist. Baskets manufactured by entities other than the Billy Pugh Company, Inc., similarly may be used to transport personnel from one vessel to another vessel at sea, provided that such baskets have safety features equivalent to those on the Billy Pugh basket and are used in a manner consistent with each of the conditions detailed below. OSHA does not endorse individual products or manufacturers, and this response should not be construed as a recommendation for Billy Pugh Company, Inc. baskets over baskets manufactured by other entities.

Limiting the use of Billy Pugh baskets to situations in which each of the following conditions exist is consistent with OSHA standards, as well as established industry practice with respect to the use of personnel transfer devices.

1. The crane must have a positive acting device that prevents contact between the load block or overhead ball and the boom tip (anti-two blocking device), or a system that deactivates the hoisting action before damage occurs (two-block damage prevention feature). Hoisting actions include winching up, telescoping out, and booming down.
2. Employees must wear a U.S. Coast Guard-approved personal flotation device (PFD) during transfers.
3. Fall protection, such as a suitable positioning device system, must be installed and used by employees whenever employees are riding on the outside of the personnel lifting device and lifted higher than 10 feet above any surface, including water.

NOTE: The positioning device developed by the Billy Pugh Company, Inc. incorporates a quick release lanyard and is deemed to be suitable fall protection for use in conjunction with these personnel transfer devices. However, any positioning device system that meets the requirements of an existing OSHA standard (e.g., 29 CFR § 1926.502(e)) would be acceptable.

4. To ensure that the personnel transfer system is rigged properly and fully functional, at each operator change or path change an empty personnel transfer device must be lifted (trial lift) to each location at which the personnel platform is to be hoisted and positioned.
5. The maximum intended load of the personnel transfer device as specified by the manufacturer cannot be exceeded. The personnel transfer device must have a legible posted plate or other permanent marking that indicates the weight of the device and its rated load capacity (safe working load) or maximum intended load.
6. The total weight of the loaded personnel transfer device and related rigging cannot exceed 50 percent of the rated capacity for the radius and configuration of the crane or the lifting device.

7. Hoisting of personnel must be performed in a slow, controlled, cautious manner with no sudden movement of the crane or the personnel transfer device.
8. Load lines must be capable of supporting, without failure, at least seven times the maximum intended load, except that where rotation-resistant rope is used, the lines must be capable of supporting, without failure, at least ten times the maximum intended load.
9. Load lines must connect to the personnel transfer device by means of a positive locking hook.
10. Machines using live booms (i.e., booms in which lowering is controlled by a brake without aid from other devices that slow the lowering speeds) cannot be used to transfer employees from one vessel to another vessel at sea.
11. The personnel transfer device must be inspected, maintained, and rigged in the manner specified by the manufacturer.
12. A qualified person must administer an on-site competency-based orientation on the safe use of the personnel transfer device before employees unfamiliar with the device are loaded or lifted. At a minimum, the following elements must be included in this orientation: safe loading and unloading procedures; crane actions, movements, and signals; body positions, pinch points, and personnel stability; personnel baggage loading procedures; and personal protective equipment requirements. Employers must ascertain that each employee has sufficient knowledge to permit the employee to be transported safely between vessels before permitting the employee to use a personnel transfer device.
13. The operator of the crane must be trained to operate the crane safely and must be fully familiar with the on-site competency-based orientation elements discussed above.
14. A snag-resistant tag line(s) of sufficient length (at least 10 feet) must be used when necessary to control the personnel transfer device.
15. Personnel transfers at sea from one vessel to another vessel are to be conducted under conditions of adequate illumination, such as that present during the daylight hours, or when deck or bridge lights, spotlights, or other artificial lights are used to illuminate the transfer operation.
16. A personnel transfer device may not be used as a work platform. While personal baggage and mail bags may be transported in the personnel transfer device, they must be placed and/or secured to prevent them from falling and must be loaded and unloaded in a manner that will not damage the personnel transfer device.

Other acceptable methods for transferring personnel at sea from one vessel to another vessel include pilot ladders (not Jacob's ladders), pilot hoists, and accommodation ladders. The U.S. Coast Guard, Merchant Marine, and International Maritime Organization (IMO) recognize these methods as safe means for transferring personnel at sea. In extreme weather and high seas, personnel shall not be permitted to transfer at sea from one vessel to another vessel by any means, except in life-threatening emergencies.

C. 29 CFR PART 1915 – SHIPYARD EMPLOYMENT

Question 4: Can Lockout/Tagout violations be cited on floating fish processors?

Answer: Yes, OSHA has authority on commercial uninspected fishing industry vessels to cite for all violations of working conditions to which any employee, including a seaman, is exposed, when such violations occur within OSHA's geographical jurisdiction, and when the hazard is not regulated by the U.S. Coast Guard (See Appendix A and Appendix B). With respect to lockout/tagout on commercial fishing industry vessels, the U.S. Coast Guard has not prescribed any regulations in this area. The U.S. Coast Guard does have various material requirements on commercial fishing industry vessels, including electrical and hydraulic systems (46 CFR Part 28, Subparts B-G); however, the extent of those regulatory requirements does not address the hazards involved in the installation, maintenance, or repair of these systems. As a consequence, OSHA has authority to cite for lockout/tagout violations of working conditions on commercial uninspected fishing industry vessels.

Lockout/tagout functions on a vessel meet the definition of ship repair, defined by 29 CFR § 1915.4(j), as follows, "The terms SHIP REPAIR and SHIP REPAIRING mean any repair of a vessel including, but not restricted to, alterations, conversions, installations, cleaning, painting, and maintenance work." This definition is related to the vessel itself. Since the operations in the factory portion of a fish processing vessel are the same as those in shore-side processing factories, OSHA applies 29 CFR § 1910.147 to fish processing vessel factory production areas.

Violations of the lockout/tagout standards on commercial fishing industry vessels, except for the factory area(s) of fish processing vessels, may be cited under 29 CFR Part 1915, Subpart J or Subpart L, as applicable.

NOTE: If the workplace being inspected or the principal office of the employer is in the 3rd, 5th, 9th, or 11th Circuit, there is case law that may affect the applicability of 29 CFR Part 1915. For clarification regarding applicable case law, consult [OSHA's Shipyard Employment "Tool Bag" Directive and](#) contact the appropriate Regional Solicitor's Office.

Question 5: Are crew member living spaces on a fish processing vessel subject to OSHA standards?

Answer: As a general rule, no. The U.S. Coast Guard enforces requirements ([46 U.S.C. 11101](#)) for the accommodations of seamen on any vessel of 100 or more gross tons. The applicable

definition of seaman for this requirement is, “an individual (except scientific personnel, a sailing school instructor, or a sailing school student) engaged or employed in any capacity aboard a vessel” ([46 U.S.C. 10101](#)). Under section 4(b)(1) of the OSH Act, therefore, living spaces on fish processing vessels, including floor-space square footage and window requirements, are a matter under the cognizance of the U.S. Coast Guard.

Consistent with longstanding policy, OSHA's Temporary Labor Camp standard (29 CFR § 1910.142) does not apply to vessels (such as ships and barges). Any hazards noted by CSHOs related to living spaces on fish processing vessels will be referred in writing to the U.S. Coast Guard.

Question 6: Is a shipkeeper on an inspected vessel in a winter layup status subject to OSHA authority?

Answer: A shipkeeper is an employee assigned to monitor a vessel(s) while it is not in navigation status during the winter. The shipkeeper monitors the vessel to ensure its safety and security during the winter layup. The U.S. Coast Guard retains authority over the vessel and any seamen onboard since it is an inspected vessel. However, the shipkeeper, who is assigned by the vessel owner to monitor the vessel, is not a seaman and is not a position required by the U.S. Coast Guard on the certificate of inspection. Therefore, section 4(b)(1) of the OSH Act does not bar OSHA from issuing citations for working conditions, i.e., hazards, to which a shipkeeper is exposed, unless the condition is specifically addressed by a Coast Guard regulation.

If the vessel or equipment on the vessel is being repaired or overhauled, the shipkeeper would be subject to OSHA's Shipyard Employment standards under 29 CFR Part 1915. Shipyard employment is defined as ship repairing, shipbuilding, shipbreaking and related employments (see 1915.4(i)). Related employment is defined as any employment performed as an incident to or in conjunction with ship repairing, shipbuilding or shipbreaking work, including, but not restricted to, inspection, testing, and employment as a watchman (see 1915.4(m)). Therefore, the shipkeeper, who essentially serves as a watchman, becomes covered by OSHA requirements outlined in 29 CFR Part 1915. In situations where the shipkeeper is not covered by OSHA's Shipyard Employment standards under 29 CFR Part 1915, the shipkeeper would be covered by OSHA's General Industry standards under 29 CFR Part 1910. However, as stated above, those OSHA standards do not apply to the operators or owners of vessels if the hazard is addressed by a Coast Guard regulation.

D. 29 CFR PARTS 1917 AND 1918 – MARINE TERMINALS AND LONGSHORING

Question 7: Does 29 CFR 1917 apply to operations beyond the outer gate of the terminal?

Answer: 29 CFR Part 1917, the Marine Terminals Standards, may apply to areas outside the terminal gate provided that those adjacent areas and structures are associated with the primary movement of cargo or materials from vessel to shore, or shore to vessel. This applies to structures which are devoted to receiving, handling, holding, consolidation, and loading or

delivery of waterborne shipments or passengers. It also applies to areas devoted to the maintenance of the terminal or equipment used in the terminal. Production or manufacturing areas having their own docking facilities and located at a marine terminal are excluded from coverage, as are storage facilities directly associated with those production or manufacturing areas. (See [Empire Company, Inc. v. OSHRC](#), 136 F.3d 873 (1st Cir. 1998).)

Question 8: Who has authority at a “Designated Waterfront Facility” for the movement of cargo, the U.S. Coast Guard or OSHA?

Answer: Section 4(b)(1) of the OSH Act provides that OSHA has no authority over a working condition if another federal agency has a regulation dealing with that working condition. Pursuant to 33 U.S.C. 1231, a provision of the Ports and Waterways Safety Act, the U.S. Coast Guard has promulgated regulations ([33 CFR Part 126](#)) dealing with working conditions for the loading and discharging of vessels at designated waterfront facilities involving the handling and storage of dangerous cargo, designated dangerous cargo, or cargo of a particular hazard.

Furthermore, pursuant to this same section, the U.S. Coast Guard has promulgated regulations ([33 CFR Part 154](#)) for working conditions involving facilities capable of transferring oil or other hazardous materials, in bulk, as defined in 33 CFR § 154.105, to or from a vessel (See [29 CFR § 1917.1\(a\)\(1\)\(i\)](#) for the exemption). If the cargo handled at the designated waterfront facility is of the type specified in these U.S. Coast Guard regulations (33 CFR Parts 126 and 154), then OSHA authority is preempted with respect to those hazards addressed by those regulations (such as fire, explosion, and toxic hazards).

NOTE: Before making any determination concerning these coverage issues, OSHA field offices should consult with OSHA's National Office (Directorate of Enforcement Programs, [Office of Maritime Enforcement](#)). It is noted that OSHA is preempted at designated waterfront facilities used solely for operations involving the bulk storage, handling, and transfer of liquids and gases or cargo listed in 33 CFR Part 126 or Part 154; any other working conditions at the facility are subject to OSHA regulation (such as activities related to production, manufacturing, construction, ship repair including tank cleaning operations, and the movement of general cargo). Bulk is defined as 250 barrels or more, where a barrel holds 42 U.S. gallons (i.e., 250 barrels = 10,500 U.S. gallons).

E. 29 CFR PART 1926 – MARINE CONSTRUCTION

Question 9: Do cranes mounted on barges to be used for marine construction need to be certificated according to the Gear Certification Standards (29 CFR Part 1919)?

Answer: Construction employers engaged in marine construction operations are subject to the construction standards. Cranes and lifting devices used to move construction materials from shore to barge or from barge to the construction site are not required to be certificated. For example: A construction employer has a crane mounted on a barge and loads material from the shore to the barge. The barge is then towed to the middle of a river to a bridge pier and the crane

then hoists the material to the working site. This crane is not required to be certificated.

When it is determined that the employer is using shore-based cranes or other lifting devices to load or discharge material aboard vessels for transportation as "cargo for commerce" the cranes or other lifting devices fall under the requirements of 29 CFR 1917 – Marine Terminals Standards and shall be certificated as required by 29 CFR § 1917.50(a). For example: A construction company uses mobile crawler cranes to load barges at a West Coast port with construction material and equipment destined for the Alaska Pipe Line. Thus, the material and equipment is "cargo for commerce." The shore-based cranes must be certificated under 29 CFR § 1917.50(a).

When it is determined that the employer is using derricks and/or cranes which are a part of, or regularly placed aboard barges, other vessels, or on the wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or dry dock for the purpose of shipyard employment as defined under 29 CFR § 1915.4(i) then these lifting devices must be tested and certificated as required by 29 CFR § 1915.115(a). This is not intended to include incidental maintenance or normal upkeep performed on floating equipment during actual construction operations. It does cover major overhaul of floating equipment when such equipment is taken out of service and not being used for construction operations. For example: A construction employer is overhauling his barges during winter lay-up. He is using a crawler crane mounted on a barge to transfer repair material from shore to the barges. This is identified as a ship repair operation, and the barge mounted crane is required to be tested and certificated to the requirements of 29 CFR § 1915.115(a).

The requirements for testing and certificating shore-based and barge mounted cranes and other lifting devices are contained in [CPL 02-01-055](#) - Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification.

Question 10: What standards are applicable to a barge-mounted stiff-leg derrick engaged in the repair and maintenance of a dam site, while performing functions such as lifting structures (e.g., inlet screens, gate rollers) for repair and maintenance upkeep, and lifting accumulated debris? This derrick does not perform any longshoring activities such as cargo transfer from shore-to-vessel or vessel-to-vessel.

Answer: The operations associated with the use of this barge-mounted stiff-leg derrick fall under marine construction and, as a consequence, the applicable standards for this barge-mounted derrick application are 29 CFR § 1926, Subpart CC and 1926.605. Additionally, if the derrick is replaced with a barge-mounted land-based crane, the same standards would apply to a land-based crane temporarily mounted on a barge and performing the same functions at this site.