



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE **MBER:** CPL 2-1.39

EFFECTIVE DATE: March 24, 2003

S BJECT: Enforcement of Cargo Gear Regulations and the Requirements for Gear Certification in the Maritime Program

ABSTRACT

Purpose: To provide national, regional and area offices, interested industry groups, and state and federal agencies guidance concerning OSHA's policy and procedures on the enforcement of gear certification standards in the maritime industry.

Scope: OSHA-wide.

References: 29 CFR Part 1910, General Industry Standards.
29 CFR Part 1915, Shipyard Employment Standards.
29 CFR Part 1917, Marine Terminals Standards.
29 CFR Part 1918, Longshoring Standards.
29 CFR Part 1919, Gear Certification Standards.

Cancellations: OSHA Instruction CPL 2-1.3B, dated June 14, 1982.

State Impact: State adoption not required.

Action Offices: National, Regional, and Area Offices.

Originating Office: Directorate of Enforcement Programs.

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By and Under the Authority of
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Executive Summary:

This instruction provides guidance concerning OSHA's policy and procedures on the enforcement of cargo gear certification standards in the maritime industries to Occupational Safety and Health Administration (OSHA) national, regional and area offices, along with interested industry groups, state programs, and federal agencies. The revision of this instruction is made necessary by the July 25, 1997 revisions to the longshoring and marine terminals standards, and the June 30, 2000 amendments to these standards.

The enforcement of the cargo gear regulations requires precise technical knowledge of the roles and authority of OSHA, the U.S. Coast Guard, and foreign maritime nations, as well as an understanding of the requirements for cargo gear certification. The purpose of this instruction is to offer guidance regarding the application of the standards and the functional interrelationships between OSHA, the U.S. Coast Guard, and the governments of foreign maritime countries. This instruction incorporates the relevant standard revisions.

Significant Changes:

This instruction continues policy implemented by CPL 2-1.3B: *Enforcement of Cargo Gear Regulations and the Requirements for Gear Certification in the Maritime Program*, June 14, 1982. This instruction's significant changes from the previous instruction include:

- References to the longshoring and marine terminals standards which became final July 25, 1997, and the June 30, 2000 amendments to these standards were revised and updated.
- Changes in the instruction format necessitated by ADM 8-0.3 OSHA Directives System.
- Additional information and guidance were included regarding OSHA enforcement on foreign flag vessels.
- Additional information and guidance were included regarding the documentation requirements for maritime cargo gear.
- Internet links for information pertinent to maritime cargo gear including OSHA standards, OSHA directives, and useful industry web sites including the International Labor Organization (ILO).

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- I. Purpose. This instruction provides guidance concerning OSHA's policy and procedures on the enforcement of cargo gear certification standards in the maritime industries to Occupational Safety and Health Administration (OSHA) national, regional and area offices, along with interested industry groups, state programs, and federal agencies. The longshoring and marine terminals standards were revised July 25, 1997 and amended June 30, 2000; this instruction incorporates and addresses the relevant standard revisions.
- II. Scope. This instruction applies OSHA-wide to all programmed and un-programmed compliance inspections and consultation interventions in maritime operations.
- III. Cancellation. This instruction supercedes and cancels the following instructions, directives, directions, and notices:
 - A. CPL 2-1.3B, Enforcement of Cargo Gear Regulations and the Requirements for Gear Certification in the Maritime Program (June 14, 1982).
- IV. Significant Changes. This instruction updates the previous instruction (CPL 2-1.3B) and incorporates changes made to the standards by the July 25, 1997 revisions, and the June 30, 2002 amendments. It is designed to use electronic links to other relevant sites embedded in individual paragraphs. This document is intended as a resource for OSHA field offices, and interested industry, state and federal agencies engaged in the enforcement and application of gear certification standards in the maritime industry.
- V. References.
 - A. 29 CFR Part 1910, General Industry Standards.
http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1910.html
 - B. 29 CFR Part 1915, Shipyard Employment Standards.
http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1915.html
 - C. 29 CFR Part 1917, Marine Terminals Standards.
http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1917.html
 - D. 29 CFR Part 1918, Longshoring Standards.
http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1918.html
 - E. 29 CFR Part 1919, Gear Certification Standards.
http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1919.html

F. 29 CFR Part 1926, Construction Standards.

http://www.osha-slc.gov/OshStd_toc/OSHA_Std_toc_1926.html

G. OSHA Directives.

CPL 2-1.20, OSHA/U.S. Coast Guard Authority Over Vessels (November 8, 1996).

http://www.osha-slc.gov/OshDoc/Directive_data/CPL_2-1_120.html

STD 2-1.9, Hazard Alert - Use of 4 x 29 Wire Rope as Cargo Runner (Hoisting Wire) (October 1, 1990).

http://www.osha-slc.gov/OshDoc/Directive_data/STD_2-1_9.html

STD 2.1, Application of the Hazard Communication Standard to the Shipyard Employment Industry (January 20, 1987).

http://www.osha-slc.gov/OshDoc/Directive_data/STD_2_1.html

STD 3-13.2, 29 CFR 1926.605(a)(1) as Applied to Marine Construction (July 15, 1982).

http://www.osha-slc.gov/OshDoc/Directive_data/STD_3-13_2.html

STP 2.11, Maritime Jurisdiction in State Plan States (October 30, 1978).

http://www.osha-slc.gov/OshDoc/Directive_data/STP_2_11.html

TED 8-0.2, OSHA Strategic Partnerships for Worker Safety and Health (November 13, 1998).

http://www.osha-slc.gov/OshDoc/Directive_data/TED_8-0_2.html

H. Maritime Cargo Gear Accreditation and Certification Program Guidance. This page includes an explanation of the maritime cargo gear accreditation and certification program, provides guidance on the use of the OSHA-71 and OSHA-72 forms, and provides a list of the agencies accredited by OSHA pursuant to 29 CFR Part 1919.

<http://www.osha.gov/dts/maritime/compliance/cranes.html>

- VI. Expiration Date. This instruction will remain in effect until suspended or cancelled by instruction or notice.
- VII. Federal Program Change. This instruction describes a federal program change for which state adoption is not required.

NOTE: Guidance to compliance staff is necessary to effectively enforce safety and health standards. Therefore, although adoption of this instruction is not required, states are expected to have enforcement policies and procedures which are at least as effective as those of federal OSHA. In the interest of national maritime policy, those states that cover activities at shipyards and marine terminals, as well as those with public sector employees engaged in these activities, are encouraged to follow the provisions in this instruction.

- VIII. Action Information.
- A. Responsible Office. Directorate of Enforcement Programs (DEP), Office of Maritime Enforcement (OME).
 - B. Action Offices. National, Regional and Area Offices.
 - C. Information Offices. State Plan States.
- IX. Action. The policies and procedures set forth in this instruction are effective immediately and will remain in effect until canceled by proper authority. OSHA Regional Administrators, Area Directors, and National Office Directors must ensure that the policies and procedures set forth in this instruction are followed. Regional Administrators must also ensure that State Plan State Designees and Consultation Program Managers in their Regions are informed of the requirements of this instruction. Regional Administrators are to encourage the involvement of Consultation Programs in this Agency-wide effort.
- X. Federal Agencies. This instruction describes a change that may affect federal agencies. It is the responsibility of the head of each federal agency to establish and maintain an effective and comprehensive safety and health program. Executive Order 12196, Section 1-201, and 29 CFR 1960.16 maintain that federal agencies must also follow the enforcement policy and procedures contained in this instruction.
- XI. Definitions.
- A. Accredited Person: An individual approved by the U.S. Department of Labor (OSHA) under the provisions of 29 CFR Part 1919, *Gear Certification*, for the purpose of certificating vessels' cargo gear and shore-based material handling devices.

<http://www.osha.gov/dts/maritime/compliance/cranes.html>

- B. Cargo Handling: The transfer or movement of cargo, materials, or equipment into, in, on, or out of a vessel, or within a marine terminal.
- C. Designated Person: A person who possesses specialized abilities in a specific area and is assigned by the employer to perform a specific task in that area.
- D. Examination: Applied to material handling devices that must be certified. This means a comprehensive survey following the criteria outlined in 29 CFR Part 1919 or International Labor Organization (ILO) Convention No. 152, Article 23, or other recognized authority (e.g., U.S. Coast Guard).
- E. House Falls: Span beams and supporting members, winches, blocks, and standing and running rigging forming part of a marine terminal cargo shed and used with a vessel's cargo gear to load or unload by means of married falls.
- F. Inspected Vessel: A United States vessel subject to inspection by the U.S. Coast Guard under 46 U.S.C. 3301 and which is issued a Certificate of Inspection (COI) by the Coast Guard.
- G. Inspection: As applied to material handling devices required to be certificated (29 CFR Part 1919), means a complete visual examination of all visible parts of the device.
- H. Longshoring Operation: The loading, unloading, moving, or handling of cargo, ship's stores, gear, or any other material, into, in, on, or out of any vessel.
- I. Marine Terminal: Wharves, bulkheads, quays, piers, docks, and other berthing locations and adjacent storage or adjacent areas and structures associated with the primary movement of cargo or materials from vessel to shore or shore to vessel. This definition includes structures which are devoted to receiving, handling, consolidating and loading or delivery of waterborne shipments or passengers. This includes areas devoted to maintenance of the terminal or equipment.

NOTE: A "marine terminal" does not include production or manufacturing areas nor does the term include storage facilities directly associated with those production or manufacturing areas. Production or manufacturing areas and associated storage facilities are covered by general industry standards.

- J. Ship Repair: Any repair of a vessel, including, but not restricted to, alterations, conversions, installations, cleaning, painting, and maintenance work.

- K. Shipbreaking: Any breaking down of a vessel's structure for the purpose of scrapping or disposing of the vessel, including the removal of gear, equipment, or any component of the vessel.
- L. Shipbuilding: The construction of a vessel, including the installation of machinery and equipment.
- M. Shipyard: A facility in which vessels are constructed and fitted out. This term also applies to a ship repair yard or a shipbreaking facility.
- N. Ship's Stores: Materials which are aboard a vessel for the upkeep, maintenance, safety, operation, or navigation of the vessel; or for the safety or comfort of the vessel's passengers or crew. (See 46 CFR Chapter I, Part 147)
- O. Shore-Based Cargo Handling Gear: Material handling devices located shore-side that are used to move cargo, materials, or equipment to/from vessels or within a marine terminal and are required to meet the certification requirements of 29 CFR 1917.50. These devices include cranes, derricks, bulk cargo spouts and suckers, vertical pocket or bucket conveyors, house fall cargo-handling gear, special stevedoring gear, and spreaders. Pursuant to 1917.50(j), the certification requirements do not apply to small industrial crane trucks, small straddle trucks, and gear used only for handling or holding hoses, ship's stores, or the gangway.
- P. Uninspected Vessel: A vessel not subject to inspection by the U.S. Coast Guard 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" is subject to Coast Guard inspection of the following areas only: safety checks of basic fire fighting equipment, approved life jackets, lifesaving equipment, ventilation of engine bilges and fuel tank compartments, and backfire traps/flame arresters on inboard engine carburetors using gasoline as a fuel.
- Q. Vessel: Every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, including special purpose floating structures not primarily designed for, or used as a means of, transportation on water.
- R. Vessel's Cargo Handling Gear: All stationary or mobile cargo handling appliances used aboard ship to suspend, raise, or lower loads or move them from one position to another. This includes derricks, cranes, winches, forklifts, elevators, and any other powered equipment used to handle cargo that is carried by the vessel.
- S. Visibly Unsafe Gear: Gear or equipment which can be determined by visual means to have a condition which exposes, or potentially exposes, employees to a hazard during

its use – e.g., safety device malfunctioning or missing; air or hydraulic system leaks; cracked or deformed hooks, pins, shackles; improper rope reeving; excessive sheave damage or wear; crane structure/boom dented, deformed, cracked, or excessively corroded; loose, missing, or excessively corroded bolts, rivets, or other connections; load indicating devices not installed when required; no load rating chart; operating controls not marked or improperly marked; safety guards removed; excessive broken wires, wear, corrosion or other visual defects in wire rope.

- XII. Application. This instruction applies OSHA-wide when enforcing gear certification standards in the maritime industries. This instruction also applies to OSHA outreach efforts, including compliance assistance, training, education, and violation abatement assistance.
- XIII. Background. Optimal worker protection is the hallmark of OSHA's enforcement and consultation policies. OSHA has determined that this instruction is needed because of the July 25, 1997 revisions and June 30, 2000 amendments to the longshoring and marine terminals standards. One of OSHA's strategies to achieve outcome-oriented results is to link OSHA's compliance assistance and enforcement strategies, including the OSHA consultation program, to reduce hazards in industries as targeted by OSHA's performance goals.
- XIV. Guidelines and Procedures.
- A. Regulations, Responsibility for Compliance. The OSHA standards that require the certification of lifting devices aboard vessels, certain designated shore-side lifting devices, and special stevedoring gear are to be enforced as promulgated and apply only to the lifting devices named, and under the conditions stated, in the standards. Regardless of whether an employer owns a piece of equipment which requires certification, the employer whose employees use such equipment may use it only if the equipment has current and valid certification.

The standards listed in the following paragraphs are enforced by OSHA. Persons or agencies accredited, approved, or accepted by OSHA, the U.S. Coast Guard, or foreign countries, as appropriate, carry out their certification functions in accordance with 29 CFR Part 1919, other national or agency rules acceptable to OSHA (e.g., U.S. Coast Guard rules), approved state maritime standards (e.g., California, Washington), or the recommendations of International Labor Organization (ILO) Convention No. 152, Article 23 (Cargo Gear).

1. Shipyards - 29 CFR 1915.115(a)(1).

http://www.osha-slc.gov/OshStd_data/1915_0115.html

This standard, 29 CFR 1915.115(a)(1), requires the certification of cranes and derricks that are part of, or regularly placed aboard, barges or other vessels, or on the wingwalls of floating drydocks (i.e., cranes which are located on a vessel), and are used to transfer materials or equipment from or to a vessel or drydock.

- a. U.S. flag vessels with a current and valid “Certificate of Inspection” (COI) issued by the U.S. Coast Guard (i.e., “inspected vessels”) are deemed to meet the crane and derrick certification requirements.
- b. Foreign flag vessels must have cargo handling gear, cranes, and derricks thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 5 years in accordance with ILO Convention No. 152 requirements. The results of the tests and examinations for cargo handling gear, cranes, and derricks must be recorded in a *Ship’s Register* (ILO Form 1) and supporting documents which are maintained aboard the vessel.
- c. Permanently installed cranes and derricks on vessels classified as “uninspected vessels” or “commercial uninspected fishing vessels” (46 CFR Part 28) by the U.S. Coast Guard must be certified by OSHA-accredited persons. All cranes and derricks permanently installed on these vessels must be thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 4 years in accordance with 29 CFR Part 1919 requirements. The certification of cranes and derricks on “uninspected vessels” are documented with an OSHA-71 form(s). The certification of cranes and derricks on “commercial uninspected fishing vessels” should be documented with a *Ship’s Register*, however, a current and valid certification on an OSHA-71 form(s) will be accepted as meeting the intent of the standard.
- d. Mobile cranes that are placed on barges and used for purposes of shipyard employment must be certified by OSHA-accredited persons. These cranes must be thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 4 years in accordance with 29 CFR Part 1919 requirements. Particular attention for these inspections must be given to 1919.28(e) which requires the examination and testing of the crane to comply with 1919.71 requirements, and 1919.29 which addresses stability and/or structural competence of the barge.
- e. Shore-based cranes and derricks located at a shipyard facility are covered by the 29 CFR Part 1910 standards; 29 CFR 1915.115(a)(1) does not require them to be tested and certified in accordance with the standards provided in 29

CFR Part 1919. However, certification of such cranes and derricks by an OSHA-accredited agency is permitted and encouraged. CSHOs will continue to promote the maritime certification program for shore-based cranes and derricks in use at shipyard facilities. Employers covered by 29 CFR Part 1915 that voluntarily certificate shore-based cranes and derricks used at shipyard facilities are considered to be demonstrating good faith in providing a safe and healthful workplace for their employees. Such employers, if cited for other violations, may be eligible for a “good faith” penalty reduction.

NOTE: Should a shore-based or floating crane/derrick located at a shipyard facility be used in a longshoring operation (other than only handling/holding hoses, the gangway, or ship’s stores), then the crane or derrick must be certificated in accordance with the requirements of 1917.50 or 1918.11. Any crane or derrick used in a longshoring operation is subject to the certification requirements of 1917.50 or 1918.11, in addition to any other requirements of use, such as the Part 1910 general industry standards or the Part 1926 construction standards (See STD 3-13.2, *29 CFR 1926.605(a)(1) as Applied to Marine Construction*).

2. Marine Terminals - 29 CFR 1917.50.

http://www.osha-slc.gov/OshStd_data/1917_0050.html

Shore-based material handling devices used to load/discharge vessels and move cargo within marine terminals are required by 29 CFR 1917.50 to be certified. The examination, testing, and certification of these devices must be performed in accordance with the standards provided in 29 CFR Part 1919, Subpart H. The employer must not use any material handling device that is required to be certified by 1917.50(c) unless a valid certificate(s) (OSHA-71 form) has been issued. Additional requirements for cranes and derricks used in marine terminals are addressed by Sections 1917.45 (Cranes and derricks) and 1917.46 (Load indicating devices). Material handling devices which are used at a marine terminal exclusively for purposes other than the movement/handling of cargo (e.g., overhead cranes and chain hoists which are located in maintenance shops, and cranes and derricks engaged in construction projects) are not required to be certified. The following shore-based material handling devices require certification:

- a. Shore-based cranes and derricks are required by 29 CFR 1917.50(b) and (c)(1) to be thoroughly examined and proof load tested before being put into service initially (initial examination and proof load test), thoroughly examined every 12 months (annual examination), and thoroughly examined and retested at least every 4 years (quadrennial examination and proof load test). Also, shore-

based cranes and derricks are required to be thoroughly examined and proof load tested after important alterations and renewals, and after repairs due to failure of, or damage to, major components.

- b. Shore-based bulk cargo spouts and suckers, and vertical pocket or bucket conveyors are required by 29 CFR 1917.50(c)(2) and (3) to be thoroughly examined and annually certificated, but not to be proof load tested.
- c. Shore-based house fall cargo-handling gear is required by 29 CFR 1917.50(c)(4) to be thoroughly examined annually and proof load tested as a unit to 125% of the rated safe working load upon initial certification and every fourth year thereafter.
- d. Special stevedoring gear, intermodal container spreaders, and wire rope and loose gear used with certified shore-based material handling devices must be inspected and tested in accordance with 29 CFR 1917.50(c)(5) and (6), and Appendix I of 29 CFR Part 1917 as follows:
 - Special stevedoring gear that has a Safe Working Load (SWL) greater than 10,000 pounds must be inspected and tested as a unit before initial use and prior to reuse after structural damage/repair by a 29 CFR Part 1919 “Accredited Person,” and, thereafter, inspected and tested every four years by a Part 1919 “Accredited Person” or “Designated Person.”
 - Special stevedoring gear that has a SWL of 10,000 pounds or less shall be inspected and tested as a unit before initial use by a Part 1919 “Accredited Person” or “Designated Person.”
 - Intermodal container handling spreaders must be inspected and tested before initial use and prior to reuse after structural damage/repair by a Part 1919 “Accredited Person”; and, thereafter inspected and tested every four years by a Part 1919 “Accredited Person” or “Designated Person.”
 - Wire rope and loose gear obtained after October 3, 1983, must be tested and certificated by the manufacturer (i.e., wire rope test certificate) or a Part 1919 “Accredited Person” when placed in service.
- e. Exceptions. The certification requirements of 29 CFR 1917.50 do not apply to the following equipment:
 - Small industrial crane trucks as described on page 8 and illustrated on page 13 of the American Society of Mechanical Engineers, ASME B56.1,

1959, "Safety Code for Powered Industrial Trucks," and powered industrial trucks.

- Any straddle truck not capable of straddling two or more intermodal containers 16 feet (4.88 m) in width.
- Gear used only for handling or holding hoses, ship's stores (see Paragraph XI - "Definitions") or the gangway.

3. Longshoring - 29 CFR 1918.11.

http://www.osha-slc.gov/OshStd_data/1918_0011.html

This standard, 29 CFR 1918.11, prohibits employers from using cargo handling gear on vessels until they ascertain that the vessel has a current and valid cargo gear register and certificates that are in accordance with ILO Convention No. 152. The employer whose employees use cargo handling gear may use it only if it has current and valid certification, regardless of whether the employer owns the piece of equipment (i.e., regardless of ownership, it is the employer's responsibility to verify that the cargo handling gear has a current and valid certification prior to employees using the equipment).

- a. U.S. flag vessels with a current and valid "Certificate of Inspection" (COI) issued by the U.S. Coast Guard (i.e., "inspected vessels") are deemed to meet the cargo handling gear certification requirements.
- b. Foreign flag vessels must have cargo handling gear, cranes, and derricks thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 5 years in accordance with ILO Convention No. 152 requirements. The results of the tests and examinations for cargo handling gear, cranes, and derricks must be recorded in a *Ship's Register* (ILO Form 1) and supporting documents which are maintained aboard the vessel.

NOTE: OSHA rules require compliance with ILO 152 requirements, regardless of whether the vessel's flag country is signatory to ILO 152.

- c. Permanently installed cranes and derricks on vessels classified as an "uninspected vessel" or "commercial uninspected fishing vessel" (46 CFR Part 28) by the U.S. Coast Guard must be certified by OSHA-accredited persons. All cranes and derricks permanently installed on these vessels must be thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 4 years in accordance with 29 CFR Part 1919 requirements. The

certification of cranes and derricks on “uninspected vessels” are documented with an OSHA-71 form(s). The certification of cranes and derricks on “commercial uninspected fishing vessels” should be documented with a *Ship’s Register*, however, a current and valid certification on an OSHA-71 form(s) will be accepted as meeting the intent of the standard.

- d. Mobile cranes that are placed on barges and require certification by 1918.11 must be certified by OSHA-accredited persons. These cranes must be thoroughly examined and tested before being put in service initially, thoroughly examined every 12 months, and thoroughly examined and retested at least every 4 years in accordance with 29 CFR Part 1919 requirements. Particular attention for these inspections must be given to 1919.28(e) which requires the examination and testing of the crane to comply with 1919.71 requirements, and 1919.29 which addresses stability and/or structural competence of the barge.
 - e. Special stevedoring gear, intermodal container spreaders, and wire rope and loose gear that are owned by an employer and used aboard ship need to be tested in accordance with 29 CFR 1918.61 and Appendix IV of 29 CFR Part 1918 as follows:
 - Special stevedoring gear that has a Safe Working Load (SWL) greater than 10,000 pounds must be inspected and tested as a unit before initial use and prior to reuse after structural damage/repair by a 29 CFR Part 1919 “Accredited Person,” and, thereafter, inspected and tested every four years by a Part 1919 “Accredited Person” or “Designated Person.”
 - Special stevedoring gear that has a SWL of 10,000 pounds or less must be inspected and tested as a unit before initial use by a Part 1919 “Accredited Person” or “Designated Person.”
 - Intermodal container handling spreaders must be inspected and tested before initial use and prior to reuse after structural damage/repair by a Part 1919 “Accredited Person”; and, thereafter, inspected and tested every four years by a Part 1919 “Accredited Person” or “Designated Person.”
- B. Accredited Persons. 29 CFR Part 1919 provides procedures and standards governing the accreditation of persons by OSHA to certify a vessel’s cargo gear and shore-based material-handling devices. The standard also covers the manner in which such certifications will be performed. The nature of the accredited person’s services will sometimes require limited, controlled exposure to hazards when conducting required material handling device testing and certification pursuant to Part 1919. Citations will not be issued to the accrediting agency for such limited, controlled employee

exposures. However, if the omissions or failures of the accredited person result, or could potentially result, in an accident or injury to an employee, then the accredited agency may be cited in accordance with OSHA's multi-employer worksite policy. Citations proposed for an accredited agency performing Part 1919 duties require the review and approval of the Director of the Directorate of Enforcement Programs. When employees of an accredited agency are exposed or potentially exposed to safety and/or health hazards that are unrelated to their duties and service as an OSHA-accredited agent, then the accredited agency (employer) is subject to citation under the appropriate standards.

C. Special Shipboard Circumstances.

1. Public Vessels, 29 CFR 1918.11(b). Public vessels used regularly for merchant service and holding a valid Certificate of Inspection (COI) issued by the U.S. Coast Guard are deemed to meet the gear certification requirements. Material handling gear aboard vessels owned and operated by a government and not used regularly for merchant service (i.e., the transport of cargo or materials) do not have to be certificated.
2. Visibly Unsafe Gear, 29 CFR 1915.115(a)(1), 29 CFR 1918.11 and 29 CFR Part 1918, Subpart F. When employees of various employers subject to OSHA standards are exposed or potentially exposed to safety and/or health hazards from visibly unsafe cargo gear, cranes, and derricks, citations for violations will be issued to each employer, using the appropriate standard.
 - a. On Foreign flag vessels, citations for violations will be issued to each individual employer (covered by the Act) with exposed employees. CSHOs must examine the vessel's *Ship's Register* and supporting documents to establish that they are current and valid.
 - b. U.S. flag vessels (i.e., "inspected vessels") holding a current and valid Certificate of Inspection (COI) issued by the Coast Guard are deemed to meet the gear certification requirements. Citations for violations of 29 CFR 1915.115(a)(1), *Derrick and Crane Certification*, 29 CFR 1918.11, *Gear Certification*, and Subpart F of 1918, *Vessel's Cargo Handling Gear*, will be issued to each individual employer (covered by the Act) with employees exposed or potentially exposed to the hazards involved with two exceptions:
 - Citations for violations of 29 CFR 1915.115(a)(1) and 29 CFR 1918.11 will not be issued to the vessel owner and/or operator as those employees (i.e. "seamen") are covered by the U.S. Coast Guard Gear Certifications Requirements, 46 CFR 91.27. However, notification of any violations observed will be provided to the U.S. Coast Guard officer in charge of the

local Marine Safety Office (MSO) (See CPL 2-1.20, *OSHA/U.S. Coast Guard Authority Over Vessels*).

- Citations for violations of 29 CFR Part 1918 Subpart F will not be issued to the vessel owner and/or operator where the U.S. Coast Guard has standards applicable to the working condition involved, but OSHA will notify the U.S. Coast Guard officer in charge of the local Marine Safety Office (MSO). However, citations for violations of Part 1918 Subpart F will be issued to any employer/contractor other than the vessel owner and/or operator since U.S. Coast Guard standards do not apply to these employers. CSHOs must be aware that an invalid Cargo Gear Register alone is not cause to issue a citation, unless covered employees are exposed or potentially exposed to hazards when cargo gear is in use.
- c. On vessels (including barges) not issued a Certificate of Inspection by the U.S. Coast Guard (e.g., “uninspected vessels” and “uninspected commercial fishing vessels”) and having cranes, derricks, or other cargo-handling devices aboard, such devices must be documented in a *Ship’s Register* or certificated with an OSHA Certificate (OSHA-71 form). CSHOs must examine the *Ship’s Register* and supporting documents, or the OSHA certification (OSHA-71 form), to establish that they are current and valid. Citations for violations will be issued to each individual employer having employees exposed or potentially exposed to the hazards involved, including the owner and/or operator.
- D. Change of Flag of Certificated Vessels (i.e., U.S. “Inspected vessels” and foreign flag vessels subject to ILO Convention No. 152).
1. A vessel's nationality is determined by the flag it flies. The flag represents the country in which the vessel is registered.
 2. A vessel's cargo gear certification is current when the criteria listed in Paragraph XIV.A.3 of this instruction is satisfied.
 3. A vessel's cargo gear certification is valid when it meets one of the following two conditions.
 - a. When the vessel has a current cargo gear *Ship’s Register* and supporting certificates issued by an international agency recognized by OSHA (e.g., International Cargo Gear Bureau, American Bureau of Shipping, Lloyds Register of Shipping, Bureau Veritas, Nippon Kaiji Kyokai, Det Norske Veritas).

- b. When the vessel has a current cargo gear *Ship's Register* and supporting certificates in accordance with ILO Convention No. 152 that are issued by a cargo gear certification agency recognized by the country in which the vessel is registered. Examples of the national laws regulating cargo gear certification agencies are: British Factories Act, Canadian Tackle Regulations, Israel Factories (Docks) Rules, U.S. Coast Guard Regulations and 29 CFR Part 1919 - Gear Certification.
4. When a vessel is certified initially under the rules of a national agency and flies the flag of that country, but then changes its flag, the original national certification becomes invalid under the new flag at the time the next survey or examination is due (since the original country loses authority over the certification). In this case, an employer that uses the gear is technically in violation of 29 CFR 1918.11. However, if the certification is otherwise current and the vessel's cargo gear appears to be visibly safe, the violation should be considered *de minimis*. The vessel's owner should be informed to either obtain a new national certification under the rules of the new country of registry (if any) or an internationally recognized certification at the next annual or five-year survey due date, whichever is sooner.

E. Documentation of Maritime Certifications.

1. Shore-Based Material Handling Devices. Documents attesting to shore-based cargo gear, crane, and derrick certification surveys and examinations performed must be issued by a person or agency accredited by OSHA for "Shore-Based Material Handling Devices" or "All Functions" (includes shore-based devices) on the following forms:

- OSHA-71 Form, "Certificate of Unit Test and/or Examination of Crane, Derrick or other Material-Handling Devices."

For shore-based crane and derrick certification an OSHA-71 form(s) is current when the employer provides either: (1) an OSHA-71 form for an examination and proof load test that was issued within the last year, or (2) an OSHA-71 form for an examination and proof load test that was issued within the past four years and an OSHA-71 form for an annual examination that was issued within the past year.

For shore-based bulk cargo spouts and suckers and vertical pocket or bucket conveyors an OSHA-71 form must have been issued within the last year. These devices are not required to be proof load tested, but are required by 29 CFR 1917.50(c)(2) and (3) to be thoroughly examined annually.

NOTE: 1917.46 may require load indicating devices (LIDs) for cranes used to move cargo at marine terminals, but LIDs are not required for derricks. Cranes can be certified under 29 CFR Part 1919 regardless of whether they have an LID because under some conditions of use, as delineated by 1917.46(a)(1)(viii), no LID is required. If no LID is fitted on the crane, the accredited person or agency can issue an OSHA-71 form, but must indicate in the appropriate box that an LID was “not fitted.” If an LID is fitted on the crane, the LID must be operational, and the accredited person or agency must indicate in the appropriate box on the OSHA-71 form that an LID was “fitted” and note the accuracy of the LID. While it is the responsibility of the owner/employer to comply with the requirements of 1917.46, OSHA recommends that the accredited person or agency advise the owner/employer of cranes without an LID of the requirements and exemptions contained in 1917.46. If an OSHA-71 form is issued for a crane with the LID marked “not fitted” and the crane is used by the owner in a manner that is not exempted by 1917.46(a)(1)(viii), the owner is subject to citation for lack of an LID when required.

- OSHA-72 Form, “Notice to Owner of Deficiencies Found on Certification Survey.”

In the event that a crane or derrick has deficiencies that remain uncorrected and certification is not issued, the accredited person must issue an OSHA-72 form prior to leaving the site where the crane is located. Also, the accredited person must immediately inform the OSHA Area Office with coverage over the location of the crane of the circumstances. A copy of the OSHA-72 form is sent to the covering Area Office and the National Office (OME). The issuing agent or agency also retains a copy.

When an owner receives an OSHA-72 form, correction of all deficiencies noted must be accomplished before a maritime certification (OSHA-71 form) can be issued (or reissued) and the equipment again put into maritime use.

It is the Area Director’s responsibility to take appropriate steps to ensure that cranes or derricks with an OSHA-71 form that is expired or an OSHA-72 form that has uncleared deficiencies are not being used in maritime operations.

2. Special Stevedoring Gear, Spreaders, Wire Rope and Loose Gear. Documents attesting to special stevedoring gear, intermodal container handling spreaders, and wire rope and loose gear examinations and testing performed must be issued as follows:

- For special stevedoring gear that has a SWL greater than 10,000 pounds, documentation is valid when the employer provides: (1) an OSHA-71 form for initial gear inspection and testing or retesting after structural damage/repair, and (2) a record of inspection and testing every four years after the most current OSHA-71 form issued.

NOTE: The OSHA-71 form must be issued by a person or agency accredited by OSHA for “Loose Gear and Wire Rope Testing,” “Shore-Based Material Handling Devices,” “Floating Cranes and Derricks,” “Full-Function Vessels,” or “All Functions.” The record of inspection and testing required every four years after the initial OSHA-71 form, can be issued by an OSHA “Accredited Person” or “Designated Person.”

- For special stevedoring gear that has a SWL of 10,000 pounds or less, documentation is valid when the employer provides any form or record issued before the gear’s initial use by an OSHA “Accredited Person” or “Designated Person.”

NOTE: The OSHA “Accredited Person” must be accredited for “Loose Gear and Wire Rope Testing,” “Shore-Based Material Handling Devices,” “Floating Cranes and Derricks,” “Full-Function Vessels,” or “All Functions.”

- For intermodal container handling spreaders, documentation is valid when the employer provides: (1) an OSHA-71 form for initial spreader inspection and testing or retesting after structural damage/repair, and (2) a record of inspection and testing every four years after the most current OSHA-71 form issued.

NOTE: The OSHA-71 form must be issued by a person or agency accredited by OSHA for “Loose Gear and Wire Rope Testing,” “Shore-Based Material Handling Devices,” “Floating Cranes and Derricks,” “Full-Function Vessels,” or “All Functions.” The record of inspection and testing required every four years after the initial OSHA-71 form, can be issued by an OSHA “Accredited Person” or “Designated Person.”

- Wire rope and loose gear obtained after October 3, 1983 and used at a marine terminal [29 CFR 1917.50(c)(6)] must be documented on a certificate issued by the manufacturer (i.e., wire rope test certificate), or on a certificate (not an OSHA-71 form) issued by an OSHA “Accredited Person.”

NOTE: The certificate must be issued by a person or agency accredited by OSHA for “Loose Gear and Wire Rope Testing,” “Shore-Based Material

Handling Devices,” “Floating Cranes and Derricks,” “Full-Function Vessels,”
or “All Functions.”

3. Vessel's Cargo Gear. Documents attesting to cargo gear, crane, and derrick certification surveys and examinations on vessels can be issued by persons or agencies accredited by OSHA, approved by the U.S. Coast Guard, or accepted by foreign countries, as appropriate. These persons or agencies must carry out their certification functions as required by 29 CFR Part 1919, other national/agency rules, or international rules that comply with the recommendations of ILO Convention No.152.
- a. Documents attesting to vessel cargo gear, crane, and derrick certification surveys and examinations performed by a 29 CFR Part 1919 OSHA-accredited person or agency are issued on the following forms:

- *Ship's Register* is issued and maintained for cargo gear, crane, and derrick certification on many vessels which are Full-Function (self-propelled) but classified by the U.S. Coast Guard as “uninspected vessels” or “commercial uninspected fishing vessels.”

NOTE: A *Ship's Register* for vessel cargo gear, crane, and derrick certification must be issued by a person or agency accredited by OSHA for “Full-Function Vessels” or “All Functions” (which includes Full-Function vessels).

- OSHA-71 Form, “Certificate of Unit Test and/or Examination of Crane, Derrick or other Material-Handling Devices.” The certification forms are current when the employer provides either: (1) an OSHA-71 form for an examination and proof load test that was issued within the last year, or (2) an OSHA-71 form for an examination and proof load test that was issued within the past four years, and an OSHA-71 form for an annual examination that was issued within the past year.

NOTE: OSHA-71 forms for vessel cargo gear, crane, and derrick certification must be issued by a person or agency accredited by OSHA for “Full-Function Vessels,” “Floating Cranes and Derricks,” or “All Functions” (which includes Full-Function vessels and floating cranes and derricks).

NOTE: 1918.66(f) requires load indicating devices (LIDs) for cranes used in longshoring operations, but LIDs are not required for derricks. Cranes can be certified under 29 CFR Part 1919 regardless of whether they have an LID because under some conditions of use, as delineated by

1918.66(f)(1)(viii), no LID is required. If no LID is fitted on the crane, the accredited person or agency can issue an OSHA-71 form, but must indicate in the appropriate box that an LID was “not fitted.” If an LID is fitted on the crane, the LID must be operational, and the accredited person or agency must indicate in the appropriate box on the OSHA-71 form that an LID was “fitted” and note the accuracy of the LID. While it is the responsibility of the owner/employer to comply with the requirements of 1918.66(f), OSHA recommends that the accredited person or agency advise the owner/employer of cranes without an LID of the requirements and exemptions contained in 1918.66(f). If an OSHA-71 form is issued for a crane with the LID marked “not fitted” and the crane is used by the owner in a manner that is not exempted by 1918.66(f)(1)(viii), then the owner is subject to citation for lack of an LID when required.

- OSHA-72 Form, “Notice to Owner of Deficiencies Found on Certification Survey.”

In the event that a crane or derrick has deficiencies that remain uncorrected and certification is not issued, the accredited person must issue an OSHA-72 form prior to leaving the site where the crane is located. Also, the accredited person must immediately inform the OSHA Area Office with coverage over the location of the crane of the circumstances. A copy of the OSHA-72 form is sent to the covering Area Office and the National Office (OME). The issuing agent or agency also retains a copy.

When an owner receives an OSHA-72 form, correction of all deficiencies noted must be accomplished before a maritime certification (OSHA-71 form) can be issued (or reissued) and the equipment again put into maritime use.

It is the Area Director’s responsibility to take appropriate steps to ensure that cranes or derricks with an OSHA-71 form that is expired or an OSHA-72 form that has uncleared deficiencies are not being used in maritime operations.

- b. Documents attesting to vessel cargo gear, crane, and derrick certification surveys and examinations for U.S. vessels (i.e., “inspected vessels”) performed by the U.S. Coast Guard are issued as follows:
 - Certificate of Inspection (COI). U.S. Coast Guard inspection does not mean that gear certificates will be issued or that they will be aboard the vessel. The regular U.S. Coast Guard inspection is to determine that the vessel is “in all respects in conformity with the vessel inspection laws” and

includes the cargo gear. Therefore, as far as U.S. Coast Guard documentation is concerned, the vessel's COI (which should be aboard the vessel) is evidence of the suitability and condition of the cargo gear. If a U.S. Coast Guard authorized agency (e.g., American Bureau of Shipping, International Cargo Gear Bureau) performed the certification rather than the U.S. Coast Guard, then a *Ship's Register* (ILO Form 1) and supporting certificates would be issued and should be aboard the vessel in addition to the COI.

NOTE: Barges constructed with permanently installed cranes or derricks may or may not be issued a Certificate of Inspection (COI) by the U.S. Coast Guard. If issued, the COI may pertain to all conditions of use, or may be limited to periods of vessel transit beyond the U.S. Coast Guard's established boundary lines. If the COI pertains to all conditions of use, then the barge will be treated as an "inspected vessel." If the COI pertains only to vessel transits beyond the boundary lines, then the barge will be treated as an "uninspected vessel" when operating within the limits of the boundary lines and the barge cranes and/or derricks must be certificated subject to the provisions of 29 CFR 1915.115(a) or 1918.11. The local U.S. Coast Guard Marine Safety Office (MSO) can provide assistance in making such determinations.

- c. Documents attesting to vessel cargo gear, crane, and derrick certification surveys and examinations for foreign vessels are issued as follows:
- The cargo gear documentation will consist of a booklet called a "Ship's Register" (ILO Form 1) that is supported by other certificates (e.g., ILO Form 2, ILO Form 3, ILO Form 4). Examples of a Cargo Gear Register and Certificates can be found in Appendix I to Part 1918. The results of the tests and examinations must be recorded in a cargo gear register. The types of entries depend upon how the vessel is equipped. Additional entries may be made with respect to certain items or equipment, such as validation of performance of a repair, or replacement, of a component. The register also contains instructions outlining the applicable requirements and a notation as to who may conduct the surveys. Entries are made in the register and cover the initial survey, annual examination, and five year surveys of the assembled gear and its components.
 - The CSHO will find that the documentation used by most maritime nations is similar to the examples in Appendix I of Part 1918 and should indicate that the documents are in accordance with ILO Convention No. 152. Foreign documentation generally is printed in English, or English and the language of the issuing authority. The CSHO should accept vessel

entries in the *Ship's Register* (ILO Form 1) for an annual examination within the previous 12 months, and entries for thorough examination and proof load testing within the past five years (per ILO Convention No. 152).

The CSHO is cautioned that some nations may grant an extension of time in connection with these surveys (usually up to six months); if so, this should be verified by documentation aboard the vessel.

- CSHOs conducting maritime inspections of foreign vessels must be familiar with ILO Convention No. 152 minimum standards for vessel's gear certification (see Appendix I of 29 CFR Part 1918). They also must know how to determine if the cargo handling gear register is current and valid. When the vessel's gear is required to be certified and it is not, or the certificate is not current and valid, a citation must be issued citing 29 CFR 1918.11 when employees (other than "seamen") are exposed or potentially exposed to a hazard(s) associated with the vessel's gear. No citations are to be issued under 29 CFR Part 1919. The Part 1919 standards provide procedures and requirements governing the accreditation of persons by OSHA for the purpose of certifying vessel's cargo gear and the manner in which these persons must perform certifications. These are not standards that can be cited as the basis for an OSHA violation.

APPENDIX A: Countries Signatory to ILO Convention No. 152

<u>Country</u>	<u>Ratification Date</u>	<u>Status</u>
Brazil	May 18, 1990	Ratified
Congo	June 24, 1986	Ratified
Cuba	October 15, 1982	Ratified
Cyprus	November 13, 1987	Ratified
Denmark	December 22, 1989	Ratified
Ecuador	May 20, 1988	Ratified
Egypt	August 3, 1988	Ratified
Finland	July 3, 1981	Ratified
France	July 30, 1985	Ratified
Germany	December 17, 1982	Ratified
Guinea	June 8, 1982	Ratified
Iraq	April 17, 1985	Ratified
Italy	June 7, 2000	Ratified
Mexico	February 10, 1982	Ratified
Netherlands	May 13, 1998	Ratified
Norway	December 5, 1980	Ratified
Peru	April 19, 1988	Ratified
Spain	March 3, 1982	Ratified
Sweden	June 13, 1980	Ratified
Tanzania	May 30, 1983	Ratified

To review ILO Convention No. 152 requirements (Article 23 for Cargo Gear) or to verify the current status of countries that are signatory to ILO 152 the following link is provided:

<http://www.ilo.org/ilolex/english/newratframeE.htm>

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