

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