

HIOSH DIRECTIVE

DIRECTIVE NO. : CPL 03-00-020	EFFECTIVE DATE: March 28, 2016
SUBJECT: OSHA's National Emphasis Program (NEP) on Shipbreaking	

The attached CPL is adopted by HIOSH in its entirety.



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: [CPL 03-00-020] | **EFFECTIVE DATE:** [March 07, 2016]

SUBJECT: OSHA's National Emphasis Program (NEP) on Shipbreaking

ABSTRACT

- Purpose:** This instruction describes policies and procedures for continued implementation of a National Emphasis Program (NEP) to reduce and eliminate workplace hazards associated with shipbreaking operations.
- Scope:** OSHA-wide.
- References:** See paragraph V.
- Cancellations:** CPL 03-00-012, OSHA's National Emphasis Program (NEP) on Shipbreaking, November 4, 2010.
- State Impact:** Notice of Intent and Adoption Required.
- Action Offices:** National, Regional, Area, and State Plan Offices.
- Originating Office:** Directorate of Enforcement Programs (DEP).
- Contact:** Director, Office of Maritime Enforcement
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By and Under the Authority of

David Michaels, PhD, MPH
Assistant Secretary

Executive Summary

This instruction provides guidance to Occupational Safety and Health Administration (OSHA) national, regional, and area offices, state programs, and Federal agencies concerning OSHA's policy and procedures for implementing an NEP to reduce or eliminate workplace hazards associated with shipbreaking operations.

In 2015, OSHA renewed the Memorandum of Agreement (MOA) between the Department of Defense (DOD) [U.S. Navy (Navy)], Department of Transportation (DOT) [Maritime Administration (MARAD)], Department of Labor (DOL) [Occupational Safety and Health Administration (OSHA)], and Environmental Protection Agency (EPA) on Coordination and Information Sharing of Domestic Ship Recycling (i.e., shipbreaking). This MOA requires OSHA, as requested, to conduct safety and health inspections on all government vessels contracted to be recycled under contract with the Navy and MARAD. The Agency also has established a goal to reduce injuries and illnesses among Latino workers (a significant portion of the shipbreaking workforce) by enhancing knowledge of their workplace rights and improving their ability to exercise those rights. This instruction is issued in support of the Interagency MOA and OSHA's goal to reduce injuries and illnesses among Latino workers.

Significant Changes

This instruction continues implementation of an NEP for shipbreaking operations. Specifically, it:

- Supports the renewed 2015 MOA requiring OSHA interventions in the recycling of Navy and MARAD vessels under contract; provides a scheduling system for the inspection of Navy and MARAD shipbreaking operations for vessels covered by the Interagency MOA; reaffirms coordination between the Navy, MARAD, OSHA, and EPA for shipbreaking operations; and provides a national reporting system for all OSHA shipbreaking inspections, not just those involving Navy and MARAD vessels;
- Updates guidance pertaining to OIS recording of shipbreaking operations;
- Updates the contact information for the Navy and MARAD approved shipbreaking sites;
- Supports the Agency's goal to reduce injuries and illnesses among Latino workers;
- Provides further explanation of the exemption in 29 CFR 1915.73(a) concerning the guarding of deck openings and edges;
- Delivers available shipbreaking safety and health information in a web-based format with electronic links to noted references, particularly within the 21 identified inspection focus areas; and
- Adds Appendix A: Memorandum of Agreement between the DOD, DOT, DOL, and EPA on Coordination and Information Sharing of Domestic Ship Recycling Operations (i.e., shipbreaking).

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I. Purpose.

This instruction describes policies and procedures for continuing a National Emphasis Program (NEP) to reduce or eliminate workplace hazards associated with shipbreaking operations.

In 2015, OSHA renewed the [Memorandum of Agreement \(MOA\)](#) between DOD, DOT, DOL, and EPA on Coordination and Information Sharing of Domestic Ship Recycling Operations (i.e., shipbreaking). This MOA requires OSHA to conduct a comprehensive safety and health inspection on all government vessels to be recycled under contract with the Navy and MARAD.

OSHA has issued an [enforcement memorandum](#) directed at protecting Spanish - speaking and other non-English speaking workers from workplace hazards. It directs compliance officers to ensure they verify that workers are receiving OSHA-required training in a language they understand. In addition, the Agency has established a goal to reduce injuries and illnesses among Spanish-speaking workers, who make up a significant number of workers in the shipbreaking industry.

This instruction is issued in support of the Interagency MOA and OSHA's goal to reduce injuries and illnesses among Latino workers as discussed in the [Department of Labor 2014-2018 Strategic Plan](#).

II. Scope.

This instruction applies OSHA-wide to all programmed and unprogrammed enforcement inspections of shipbreaking operations. All inspections of shipbreaking operations (e.g., MOA programmed or unprogrammed, Local Emphasis Program (LEP) programmed, LEP unprogrammed related, and program related) will be reported pursuant to this NEP.

III. Cancellations.

CPL 03-00-012, OSHA's National Emphasis Program (NEP) on Shipbreaking, November 4, 2010.

IV. Significant Changes.

This instruction supports intervention and inspection programs related to the implementation of an NEP for shipbreaking operations in a web-based interactive format. This instruction:

- Supports the renewed 2015 MOA requiring OSHA interventions in the recycling of Navy and MARAD vessels under contract; provides a scheduling system for the inspection of Navy and MARAD shipbreaking operations for vessels covered by the Interagency MOA; reaffirms coordination between the Navy, MARAD, EPA, and OSHA for shipbreaking operations; and provides a national reporting system for all OSHA shipbreaking inspections, not just those involving Navy and MARAD vessels;
- Updates guidance pertaining to OIS recording of shipbreaking operations;
- Updates the contact information for the Navy and MARAD approved shipbreaking sites;
- Supports the Agency's goal to reduce injuries and illnesses among Latino workers;
- Provides further explanation of the exemption in 29 CFR 1915.73(a) concerning the guarding of deck openings and edges;

- Delivers available shipbreaking safety and health information in a web-based format with electronic links to noted references, particularly within the 21 identified inspection focus areas; and
- Adds Appendix A: Memorandum of Agreement between the DOD, DOT, DOL, and EPA on Coordination and Information Sharing of Domestic Ship Recycling Operations (i.e., shipbreaking).

V. References.

- A. [29 CFR Part 1904](#), Recording and Reporting Occupational Injuries and Illnesses.
- B. [29 CFR Part 1910](#), General Industry Standards.
- C. [29 CFR Part 1915](#), Shipyard Employment Standards.
- D. [29 CFR Part 1960](#), Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters (and [Executive Order 12196](#), Section 1-201).
- E. [Department of Labor 2014-2018 Strategic Plan](#).
- F. [Memorandum](#) of Agreement between the DOD, DOT, DOL, and EPA on Coordination and Information Sharing of Domestic Ship Recycling Operations.
- G. [CPL 02-00-025](#), Scheduling System for Programmed Inspections, January 4, 1995.
- H. [CPL 02-00-135](#), Recordkeeping Policies and Procedures Manual (RKM), December 30, 2004.
- I. [CPL 02-00-157](#), Shipyard Employment “Tool Bag” Directive, April 1, 2014.
- J. [CPL 02-00-159](#), Field Operations Manual (FOM), October 1, 2015.
- K. [CPL 02-01-051](#), 29 CFR Part 1915, Subpart B, Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment, May 20, 2011.
- L. [CPL 02-01-047](#), OSHA Authority Over Vessels and Facilities on or Adjacent to U.S. Navigable Waters and the Outer Continental Shelf (OCS), February 22, 2010.
- M. [CPL 04-00-001](#), Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999.
- N. [CPL 02-01-049](#), 29 CFR Part 1915, Subpart I, Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment, November 4, 2010.
- O. [EPA 315-B-00-001](#), A Guide for Ship Scrappers: Tips for Regulatory Compliance, Summer 2000.
- P. [Safe Work Practices for Shipbreaking](#). OSHA Publication 3375-03 (April 2010).
- Q. [Shipbreaking Fact Sheet](#). Provides basic information regarding shipbreaking operations and a schematic of common hazards (2001). ([English](#) and [Spanish](#))
- R. [Shipyard Employment eTool](#). An eTool that is specific to the shipyard employment industry and describes common hazards and possible solutions for tasks performed during ship repair, shipbuilding, shipbreaking, and barge cleaning processes.
- S. [OSHA Examining Fatal Shipyard Accidents Videos](#). Presents 16 computer-generated animated scenarios based on actual shipyard fatalities. Each scenario includes a review of the factors that contributed to the accident and how to avoid them.

VI. Expiration Date.

This instruction will remain in effect until canceled or superseded by another instruction or notice.

VII. Federal Program Change – Notice of Intent and Adoption Required.

This instruction describes a federal program change which provides guidance concerning OSHA's policy and procedures on the continuation of a National Emphasis Program covering shipbreaking operations. States with OSHA-approved State Plans that cover private-sector maritime employment ([California](#), [Minnesota](#), [Vermont](#) and [Washington](#) - i.e., activities addressed in 29 CFR Part 1915 – Shipyard Employment and 29 CFR Part 1917 – Marine Terminals), as well as those with public-sector employees engaged in these activities, are expected to have enforcement policies and procedures in place for their maritime operations which are at least as effective as those in this instruction.

State Plans with private- or public-sector maritime employees within their jurisdiction are required to notify OSHA within 60 days whether they intend to adopt policies and procedures identical to those in this instruction or adopt or maintain different policies and procedures. States without any private- or public-sector maritime employment should so indicate in their response.

If a State Plan adopts or maintains policies and procedures that differ from federal policies and procedures, the State must identify the differences and may either post its policy on its website and provide the link to OSHA or submit an electronic copy to OSHA with information on how the public may obtain a copy. If the State adopts policies and procedures that are identical to federal policies and procedures, the State must provide the date of adoption to OSHA. State adoption must be accomplished within 6 months, with posting or submission of documentation within 60 days of adoption. OSHA will provide summary information on the State responses to this instruction on its website at: www.osha.gov/dcsp/osp/index.html.

VIII. Action Information.

A. Responsible Office. Directorate of Enforcement Programs (DEP), Office of Maritime Enforcement (OME).

B. Action Offices. OSHA Regional Administrators, Area Directors, State Plan Designees, and National Office Directors must ensure that the policies and procedures set forth in this instruction are followed. The NEP created by this instruction requires, among other things, a comprehensive inspection of each Navy and MARAD vessel shipbreaking operation in support of the MOA.

Regional Administrators also must ensure that Consultation Program Managers in their regions are informed of the requirements of this instruction and encourage the involvement of On-site Consultation Projects in shipbreaking activities.

IX. 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](#) require federal agencies to comply with OSHA standards or alternate standards approved by OSHA.

X. Definitions.

- A. Days Away, Restricted or Transferred (DART) Rate: This includes cases involving days away from work, restricted work activity, and transfers to another job. The DART rate is calculated based on $(N/EH) \times (200,000)$ where N is the number of cases involving days away and/or job transfer or restriction, EH is the total number of hours worked by all employees during the calendar year, and 200,000 is the base for 100 full-time equivalent employees (2,000 hours per worker x 100 workers). The DART rate replaced the Lost Workday Injury and Illness (LWDII) rate effective January 1, 2002.
- B. Related Employment: 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 [[29 CFR 1915.4\(m\)](#)].
- C. Shipbreaking: Any breaking down of a vessel's structure for the purpose of scrapping the vessel, including the removal of gear, equipment, or any component of the vessel [[29 CFR 1915.4\(l\)](#)]. This term also is commonly referred to as: ship scrapping, ship disposal, or ship recycling.
- D. Shipyards Employment: This includes ship repairing, shipbuilding, shipbreaking and related employments. [[29 CFR 1915.4\(i\)](#)]
- E. 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 [[29 CFR 1915.4\(f\)](#)].

XI. Application.

This instruction applies OSHA-wide to all enforcement inspections of shipbreaking operations. Area offices must conduct programmed comprehensive enforcement inspections of known shipbreaking operations following either this NEP (for Navy or MARAD vessels covered by the MOA) or an approved LEP. Each Navy and MARAD vessel undergoing shipbreaking operations must be inspected in support of the MOA when a referral is initiated by the Navy or MARAD. When significant shipbreaking operations that are not covered by the Interagency MOA are conducted on or immediately adjacent to navigable waterways, consideration should be given to developing an LEP. The development of an LEP for shipbreaking operations is at the discretion of the Regional or Area Office. Inspections of shipbreaking operations not covered by this NEP (MOA), or an approved LEP, will be conducted in accordance with the FOM. The inspection focus for all shipbreaking inspections will be as specified in this instruction ([See Section XIII.D](#)).

The following Navy locations are covered by the MOA, but not limited to:

- Esco Marine, Inc., 16200 Jose Garza Road, Brownsville, TX 78521 (956-831-8300); and

- International Shipbreaking Limited, 18501 RL Ostos Road, Brownsville, TX 78521 (956-831-2299).

The following MARAD locations are covered by the MOA, but not limited to:

- Esco Marine, Inc., 16200 Jose Garza Road, Brownsville, TX 78521 (956-831-8300);
- International Shipbreaking Limited, 18501 RL Ostos Road, Brownsville, TX 78521 (956-831-2299);
- All Star Metals LLC, 101 Box Car Road, Brownsville, TX 78521 (956-838-2110);
- Marine Metals, 16901 R.L. Ostos Road., Brownsville, TX 78526 (956-831-4284);
- Bay Bridge Texas, 23501 RL Ostos Road, Brownsville , TX 78521 (956-838-1414);
- BB Metals, 600 Shipyard Road, Baltimore, MD 21219 (410-477-7603); and
- Southern Recycling, LLC/EMR:
 - ❖ 18501 RL Ostos Rd. Brownsville, TX 78521 (956-831-2299) (International Shipbreaking facility);
 - ❖ 8086 Global Drive, Sulpher, LA 70665 (Calcasieu facility);
 - ❖ 1061 Duhon Blvd. Bypass Road, Amelia, LA 70340 (985-384-1960) (Amelia facility); and
 - ❖ 4801 Florida Ave., New Orleans, LA 504-636-7200 (Florida Ave. facility).

The National Office (DEP) will notify Regional Administrators of other shipbreaking locations covered by the MOA as they are identified by the Navy and DOT-MARAD.

XII. Background.

OSHA has determined that this NEP is needed because of the continuing high incidence of injuries and illnesses related to shipbreaking operations. This instruction is issued in support of the Interagency Memorandum of Agreement (MOA) on Coordination and Information Sharing of Domestic Ship Recycling Operations (i.e., shipbreaking) and OSHA's goal to reduce injuries and illnesses among Latino workers.

Shipbreaking of obsolete vessels presents many challenges, including the structural complexity of the ships themselves and environmental, safety, and health issues. Although many recognized problems with past practices have been addressed, continued effort in this area is needed to further improve the process and ensure continued success.

In an effort to reduce work-related injuries and illnesses, along with the environmental hazards associated with shipbreaking operations of government-owned ships, OSHA has entered into an MOA with the DOD [Navy], DOT [MARAD], and EPA. This MOA was renewed on July 30, 2015, and provides for a coordinated effort between the Navy, MARAD, OSHA and EPA to use the resources of each Agency to more effectively identify and regulate environmental and hazardous working conditions associated with the recycling of government-owned ships.

In support of the Interagency MOA, an environmental and worker protection document has been published by the EPA to provide guidance to supervisors at shipbreaking

facilities. This document, “[A Guide for Ship Scrappers: Tips for Regulatory Compliance](#),” is structured by specific processes (such as asbestos removal, metal cutting, and fuel and oil removal) that occur in shipbreaking operations. Employers conducting shipbreaking operations can review key environmental, safety and health requirements for each process and readily identify pertinent standards and regulations in the Code of Federal Regulations (CFR).

XIII. Program Procedures, Scheduling and Resource Allocation.

This NEP is directed to all worksites and vessels where shipbreaking operations are conducted; not just Navy and MARAD vessels subject to the MOA. Each vessel is a unique and individual worksite for inspection purposes. All inspections of shipbreaking operations (e.g., MOA programmed or unprogrammed, Local Emphasis Program (LEP) programmed, LEP unprogrammed related, and program related) will be reported pursuant to this NEP.

A. Resources.

Regional Administrators must ensure that adequate resources are designated for this NEP. The sharing of experienced field personnel between OSHA Regions is encouraged. In order to effectively communicate with the shipbreaking workforce, bilingual capability may be necessary.

B. Priority.

Inspections of Navy and MARAD vessels conducted pursuant to this NEP have priority over all programmed inspections.

C. Type of Inspections.

Programmed inspections conducted pursuant to this NEP for shipbreaking operations will be comprehensive with emphasis on the hazards and activities listed in [Section XIII.D](#). Unprogrammed inspections will be conducted in accordance with the requirements of an approved LEP or the FOM ([CPL 02-00-159](#)).

D. Inspection Focus.

Inspections of shipbreaking operations will focus on the identified hazards and workplace activities listed below. The applicable OSHA standards and Shipyard Employment eTool on [Shipbreaking](#) are referenced to assist the CSHO. In addition, CSHOs can use Appendix A, in the Shipyard “[Tool Bag](#)” directive, to cross-reference and apply a 29 CFR Part 1910 standard when a 29 CFR Part 1915 standard does not address a recognized hazard.

1. Asbestos exposure (e.g., permissible exposure limits, exposure assessments and monitoring, respiratory protection, communication of hazard to workers, methods of compliance, protective clothing, hygiene facilities and practices, medical surveillance, training for workers and supervisors, housekeeping and recordkeeping). [[29 CFR 1915.1001](#); eTools – [Typical Health Hazards](#) and [Inventory of Hazardous Materials](#); and [Shipbreaking Fact Sheet](#) in [English](#) and [Spanish](#)]
 - a. Asbestos hanger liners.
 - b. Asbestos mastic under insulation.

- c. Asbestos cloth over insulation.
 - d. Asbestos in cable.
 - e. Asbestos lagging and insulation on pipes and hull.
 - f. Asbestos adhesive.
 - g. Asbestos gaskets on piping connections.
 - h. Asbestos valve packing.
2. Polychlorinated biphenyls (PCBs) exposure (e.g., exposure limits, inhalation and dermal protection, training of workers and supervisors). [[29 CFR 1910.134](#); [29 CFR 1915.1000](#); eTools – [Typical Health Hazards](#) and [Inventory of Hazardous Materials](#); and [Shipbreaking Fact Sheet in English](#) and [Spanish](#)]
 - a. PCBs in rubber products such as hoses, gaskets, and machinery mounts.
 - b. PCBs in plastic foam insulation.
 - c. PCBs in cables.
 - d. PCBs in silver paint.
 - e. PCBs in habitability paint.
 - f. PCBs in felt gaskets and felt under septum plates (plates on top of hull bottom).
 - g. PCBs in primary paint on hull steel.
 3. Lead exposure (e.g., burning through lead-coated surfaces, permissible exposure limits, exposure assessments and monitoring, respiratory protection, protective clothing, hygiene facilities and practices, medical surveillance, and training for workers and supervisors). [[29 CFR 1915.1025](#), referencing [29 CFR 1910.1025](#); and eTools – [Typical Health Hazards](#) and [Inventory of Hazardous Materials](#)]
 - a. Lead/chromate paint.
 - b. Lead ballast.
 - c. Batteries.
 - d. Generators.
 - e. Motor components.
 4. Confined, enclosed and other dangerous atmospheres; space entry. [[29 CFR Part 1915, Subpart B](#); eTools – [Confined or Enclosed Spaces and Other Dangerous Atmospheres](#); and [Shipyard Fatality Videos](#)]
 5. Paint removal operations. [[29 CFR Part 1915, Subpart C](#) and eTool – [Surface Preparation for Removal of Hazardous Materials](#)]
 6. Metal cutting and disposal processes. [[29 CFR Part 1915, Subpart D](#); [29 CFR Part 1910, Subpart Q](#); and eTool – [Shipbreaking](#)]
 7. Hazard communication/hazardous materials and chemicals. [[29 CFR 1915.1200](#), referencing [29 CFR 1910.1200](#); eTools – [Typical Health Hazards](#); [Inventory of Hazardous Materials](#); and [Hazard Communication in the Maritime Industry Fact Sheet – OSHA FS 3694-2013](#)]
 - a. Resource Conservation and Recovery Act (RCRA) heavy metals (e.g., ship transducers, ballast, paint coatings). [[RCRA Quick Reference Guide, EPA](#)]
 - b. Mercury (e.g., fluorescent light tubes, thermometers, electrical switches, light fittings, fire detectors, tank level indicators). [[29 CFR 1915.1000](#)]

- c. Chlorofluorocarbons (CFCs) (e.g., self-contained refrigeration devices, including watercoolers and small freezer units).
 - d. Cadmium (e.g., nickel-cadmium batteries, cadmium coated base metals, cadmium bearing filler materials). [[29 CFR 1915.1027](#), referencing [29 CFR 1910.1027](#)]
 - e. Chromium (VI) (e.g., chromates in paints and varnishes). [[29 CFR 1915.1026](#) and [Hexavalent Chromium Hazard Recognition](#)]
8. Powered industrial truck (PIT) operations. [[29 CFR 1910.178](#) and eTool – [Powered Industrial Trucks](#)]
 9. Guarding of deck openings and edges/fall protection. [[29 CFR 1915.73](#); [29 CFR 1915.152](#); [29 CFR 1915.159](#); [29 CFR 1915.160](#); eTools – [Fall Protection](#); and [Shipyard Fatality Videos](#)]
- NOTE: Although the requirements in 29 CFR 1915.73 (Guarding of deck openings and edges) do not apply to shipbreaking, it is recommended that barriers be placed around or near deck edges and openings whenever feasible. A temporary rail system or bulkheads cut to railing height could serve as guards against openings and edges (see [29 CFR 1915.71\(j\)](#)). Also, workers exposed to fall hazards from unguarded deck openings/edges must be protected in accordance with 29 CFR 1915.152 with lifesaving equipment (29 CFR 1915.158), personal fall arrest systems ([29 CFR 1915.159](#)) or personal fall restraint systems ([29 CFR 1915.160](#)).
10. Hearing conservation (i.e., noise exposure). [[29 CFR 1910.95](#); and eTools – [Hearing Protection](#) and [Noise and Hearing Conservation](#)]
 11. Bilge and ballast water removal. [eTools – [Cleaning and Other Cold Work](#) and [Barge Cleaning](#)]
 12. Oil/fuel removal and tank cleaning. [eTools – [Cleaning and Other Cold Work](#) and [Barge Cleaning](#)]
 13. Removal and disposal of ship’s machinery. [eTool – [Shipbreaking](#)]
 14. Cranes, gear and equipment for material handling. [[29 CFR Part 1915, Subpart G](#); eTools – [Gear and Equipment for Material Handling](#); and [Shipyard Fatality Videos](#)]
 15. Cutting and welding, compressed gas. [[29 CFR Part 1915, Subpart D](#); eTools – [Shipbreaking](#); [Shipyard Fatality Videos](#); and [Hot Work Safety on Hollow or Enclosed Structures in Shipyards](#) in [English](#) and [Spanish](#)]
 16. Fire prevention. [[29 CFR Part 1915, Subpart P](#); eTools – [Fire Protection](#); [Fire Protection in Shipyard Employment](#); [Shipyard Fire Protection Frequently Asked Questions](#); and [Fire Watch Safety during Hot Work in Shipyards](#) in [English](#) and [Spanish](#)]
 17. Personal protective equipment (PPE). [[29 CFR Part 1915, Subpart I](#) and eTool – [Personal Protective Equipment](#)]
 18. Emergency response, rescue, and first aid. [[29 CFR 1915.87](#); [29 CFR 1915.505](#); and eTools – [First Aid](#) and [Fire Response](#)]

19. Scaffolds, ladders and working surfaces. [[29 CFR Part 1915, Subpart E](#); eTools – [Scaffolds \(Staging\)](#) and [Ladders](#); and [Shipyard Fatality Videos](#)]
20. Illumination of work areas. [[29 CFR 1915.82](#) and eTool – [Illumination](#)]
21. Other recognized hazards causing or likely to cause death or serious physical harm. [Section 5(a)(1) of the OSH Act, 29 U.S.C. 654(a)(1)]

XIV. Coordination.

A. National Office (DEP/OME).

This NEP will be coordinated by the Directorate of Enforcement Programs, Office of Maritime Enforcement (OME). Questions and comments should be directed to [OME](#) at 202-693-2399.

B. Navy/MARAD.

Where a referral inspection is initiated by Navy or MARAD, a copy of the OSHA referral form will be provided to the originating Navy or MARAD contracting office. Upon arrival at the vessel, if right of entry is an issue, the Navy and MARAD Administering Contracting Officer will be notified immediately. Such notification will be accomplished by the most expeditious method available, including, but not limited to, telephone, fax, or e-mail.

The Navy or MARAD Administering Contracting Officer, or designated representative, will be invited to the closing conference with the employer at the completion of any inspection covered by the MOA. Following completion of inspections initiated under the provisions of the MOA, the respective OSHA Area Office will transmit copies of any citations issued to the employer to the Navy or MARAD Administering Contracting Officer, as well as to the National Office, Directorate of Enforcement Programs (DEP).

C. EPA.

For inspections conducted pursuant to the MOA, where appropriate, OSHA has agreed to conduct joint coordinated inspections with the EPA. Such coordinated inspections should provide a more comprehensive and efficient approach to monitoring compliance with all applicable occupational safety and health, as well as environmental requirements.

XV. Program Evaluation.

During interventions and inspections, OSHA area offices will continue to collect data and information such as OSHA 300 Log entries and calculate reductions in Days Away, Restricted, or Transferred (DART) rates to measure the effectiveness of OSHA's initiatives to improve shipbreaking safety and health. At the end of each fiscal year, the National Office will summarize the OIS data and information and provide a consolidated report to DEP, DTE, and Regional Offices to evaluate and review in an effort to identify best practices in the ship recycling industry. Data on effectiveness include, but are not limited to:

- The number of employees covered
- Reduction in the number of injuries and illnesses
- The number of workers removed from hazards

- Reductions in employee exposures
- Abatement measures implemented
- Number of violations related to specific targeted hazards.

NOTE: For further guidance, see Appendix A in CPL 04-00-001, Procedures for Approval of Local Emphasis Programs (LEPs), November 10, 1999.

XVI. OIS Coding.

A. Enforcement – Inspections Covered by MOA.

1. The OIS Inspection Record for any programmed inspection covered by the MOA for shipbreaking operations must be marked “**Program Planned**” as the Initiating Type and “**BreakMOA**” as the “**National Emphasis Program**”.
2. The OIS Inspection Record for any unprogrammed inspection covered by the MOA for shipbreaking operations must be marked with the applicable **Unprogrammed** inspection type. In addition, “**BreakMOA**” as the “**National Emphasis Program**”.
3. Whenever an Unprogrammed Activity (UPA) Complaint is completed by a Federal office, and the applicable complaint involves shipbreaking operations covered by the MOA, complete the UPA Complaint in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.
4. Whenever a UPA FAT/CAT is completed by a Federal office, and the fatality/catastrophe site is a shipbreaking operation covered by the MOA, complete the Fatality Catastrophe Report in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.
5. Whenever a UPA Referral is completed by a Federal office and the applicable referral case involved shipbreaking operations covered by the MOA, complete the UPA Referral in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.

B. Enforcement – All Other Inspections (Those not covered by the MOA).

1. The OIS Inspection Record for any programmed LEP inspection of shipbreaking operations not covered by the MOA must be marked “**Program Planned**” as the Initiating Type. Record the appropriate LEP in the “**Local Emphasis Program**” section and record “**BreakSHP**” as the “**National Emphasis Program**”.
2. The OIS Inspection Record for any unprogrammed inspection of shipbreaking operations not covered by the MOA must be marked with the applicable **Unprogrammed** inspection type.
3. If the unprogrammed inspection is covered by an LEP, record the appropriate LEP in the “**Local Emphasis Program**” section and record “**BreakSHP**” as the “**National Emphasis Program**”.
4. Whenever a UPA Complaint is completed by a Federal office and the applicable complaint involves shipbreaking operations not covered by the MOA, complete the UPA Complaint in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.

5. Whenever a UPA FAT/CAT is completed by a Federal office and the fatality/catastrophe site is a shipbreaking operation not covered by the MOA, complete the Fatality Catastrophe Report in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.
 6. Whenever a UPA Referral is completed by a Federal office and the applicable referral case involves shipbreaking operations not covered by the MOA, complete the Referral Report in the usual manner and record “**BreakMOA**” as the “**National Emphasis Program**” on the “**Program Info**” tab.
- C. Consultation.
- Whenever a visit is made which involves shipbreaking operations, the OIS Consultation Module must be completed as follows:
1. At the **Request Level** and the **Visit Level**, on the Emphasis tab select the appropriate code from the drop-down menu under National Emphasis Program: Record “**BreakMOA**” for activities covered by the MOA, and record “**BreakSHP**” for activities not covered by the MOA.

Appendix A

MEMORANDUM OF AGREEMENT

between

THE DEPARTMENT OF DEFENSE

Department of the Navy

and

THE DEPARTMENT OF TRANSPORTATION

US Maritime Administration

and

THE DEPARTMENT OF LABOR

Occupational Safety and Health Administration

and

THE ENVIRONMENTAL PROTECTION AGENCY

Office of Enforcement and Compliance Assurance

ON COORDINATION AND INFORMATION SHARING OF DOMESTIC SHIP RECYCLING OPERATIONS

I. PURPOSE AND SCOPE

A. The recycling of obsolete vessels presents many challenges. These include the structural complexity of the ships themselves, as well as environmental and safety issues. The Department of the Navy (Navy), the US Maritime Administration (MARAD), the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) recognized the problems with early ship recycling practices. Since 1999, interagency coordination and information sharing have resulted in improvements to the recycling and oversight process, worker occupational safety and health, and reduced environmental hazards.

B. The purpose of this Memorandum of Agreement (MOA) is to (1) reaffirm the agency commitments contained in the November 16, 1999 memorandum of agreement entitled "Implementation of the Recommendations on Coordination and Information Sharing of the Report of the Interagency Panel on Ship Scrapping," and (2) document responsibilities and procedures for continued cooperation and coordination among the Navy, MARAD, OSHA, and EPA in an effort to reduce work-related injuries and illnesses and environmental hazards associated with ship recycling operations in the United States.

C. This MOA contains provisions that:

1. Require the Navy and/or MARAD to notify OSHA and EPA that a solicitation has been issued, the initial step in soliciting bids or offers for recycling of government vessels;

2. Establish procedures for the Navy and MARAD to provide OSHA and EPA with the identity of entities that have contracted for the recycling of their vessels;
3. Establish procedures to be used by OSHA and EPA to provide the Navy and MARAD with the compliance history of bidders or offerors on government vessels to be recycled;
4. Establish procedures for the Navy and MARAD to notify OSHA and EPA of dates and locations of post-award/pre-performance conferences and for OSHA and EPA to coordinate with the appropriate headquarters and regional offices within their agencies as well as with any involved state agencies regarding the opportunity to participate in the post-award/pre-performance conferences;
5. Explain OSHA and EPA compliance activities, including comprehensive inspections of ship recycling operations, and provide that OSHA and EPA will make every effort to coordinate inspections of ship recycling operations in appropriate circumstances, to facilitate the occurrence of joint visits when possible;
6. Outline compliance response and inspections at on-going ship recycling sites; and
7. Coordinate efforts between the Navy, MARAD, OSHA, and EPA to utilize the resources of each Agency, alone and in combination, to more effectively identify and regulate environmental and hazardous working conditions associated with the ship recycling industry.

II. BACKGROUND

In the 1990s, the Department of Defense (DoD) and MARAD became concerned that some contractors participating in their ship recycling and disposal programs were violating or potentially violating environmental and worker safety and health laws. DoD officials created a process to evaluate the program by convening a Panel that included federal environmental, safety, and occupational health experts to review the situation. The Panel issued a report in April 1998 that contained, among other things, an assessment of the contracting and oversight process, which resulted in the November 1999 “Memorandum of Agreement on Implementation of the Recommendations on Coordination and Information Sharing of the Report of the Interagency Panel on Ship Scrapping” (1999 MOA). This MOA reaffirms the commitments and coordination mechanisms contained in the 1999 MOA.

III. GENERAL PROCEDURES

A. Notification of Contract Award

Once a contract is awarded to recycle a vessel, the Navy or MARAD will provide written or electronic notice to OSHA and EPA of the following information:

1. Date of Contract Award;

2. The name, corporate offices/ mailing address/ phone number of the contractor/ ship recycler;
3. Notification of plans to move each vessel from its point of storage to the recycling location;
4. Location of the proposed recycling operation and any change in location for recycling;
5. The Navy or MARAD Contracting Officer with address, phone number, etc.;
6. Projected completion date of contract;
7. A copy of the contract provisions which address occupational safety and health, as well as environmental compliance requirements; and
8. Prior to a vessel moving from its point of storage to where it will be recycled, the Navy or MARAD will provide to OSHA and EPA, upon request, a set of available general arrangement drawings (which are blueprints of the floor plans of the vessel).

B. Notification of Non-Compliance/Violation

OSHA and EPA agree to provide non-compliance/violation notification regarding recyclers to the Navy and MARAD within 15 working days of an inspection which results in a non-compliance/violation finding or citation. This information will typically include:

1. The name of the contractor/subcontractor;
2. Contractor/subcontractor addresses at which inspections occurred;
3. Dates of inspections;
4. The number and nature of specific standards violated (OSHA) or indication that Notice of Violation was issued (EPA);
5. Corrective action to be taken to abate violations; and
6. Penalties associated with citations or violations issued by OSHA or EPA.

C. Compliance History

OSHA and EPA agree to provide compliance history information regarding a recycler to the Navy or MARAD within 15 working days of receiving a request. This information will typically include:

1. The name of the contractor/subcontractor;
2. Contractor/subcontractor addresses at which inspections occurred;

3. Dates of inspections;

4. The number and nature of completed inspections and specific standards violated (OSHA) or indication that Notice of Violation was issued (EPA);

5. Evidence of corrective action taken or failure to abate violations, if available. OSHA will further provide the employer's (contractor's) history of willful/repeated violations and identify whether OSHA's investigation was the result of an accident that caused a fatality; and

6. Penalties associated with OSHA citations and EPA violations issued.

D. Notification of Post-Award/Pre-Performance Conferences

The Navy and MARAD will advise OSHA and EPA, upon request, of dates and locations of post-award/pre-performance conferences. OSHA and EPA will independently determine whether, based on the compliance history of the contractor or other relevant factors, they will send representatives to the post-award/pre-performance conference. OSHA and EPA shall be responsible for coordination with appropriate headquarters and regional offices within their agencies as well as with any involved state agencies. The parties agree that all such representatives may choose to attend post-award/pre-performance conferences. OSHA and EPA will identify such representatives to the Navy or MARAD Contracting Officer.

E. Compliance Response and Inspections

1. OSHA Compliance

a. Inspection Scheduling: OSHA and its field offices will develop appropriate procedures under national or local emphasis programs for scheduling inspections of ship breaking/recycling operations, which will be based upon a referral by the Navy or MARAD. The referral will include solicitation and contract information and other available information. Each vessel is a unique and individual worksite for inspection purposes. Upon receipt of a referral, OSHA will initiate an inspection and provide a copy of the OSHA Referral Report to the originating Navy or MARAD Contracting Officer.

b. Inspection Procedures: If, upon arrival at the site, right of entry is denied, the Navy or MARAD Contracting Officer will be notified immediately. Such notification shall be accomplished by the most expeditious method available, including, but not limited to, telephone or email.

c. During the opening conference with the employer (contractor), the OSHA Compliance Officer will inform the employer that the inspection was initiated as a result of a referral. The employer will be provided with a copy of the referral. The Navy or MARAD Contracting Officer shall be invited to the closing conference with the employer at the completion of the inspection. The

Navy or MARAD Contracting Officer may designate a representative to attend in the Contracting Officer's stead.

d. The inspection procedures will be in accordance with OSHA's Field Operations Manual (FOM) (a document that prescribes inspection procedures for all types of OSHA inspections).

e. Post Inspection Procedures: Following completion of an inspection covered by this MOA, the respective OSHA Area Office will transmit to the Navy or MARAD Contracting Officer copies of citations issued.

2. EPA Inspection Procedures

a. EPA agrees to conduct, at a minimum, one compliance inspection annually at all Navy and MARAD qualified ship recycling facilities/operations. Such inspections will be made by staff in the appropriate EPA regional office in consultation with EPA's Federal Facilities Enforcement Office. EPA does not necessarily give advance notice of inspections. If advance notice is given to a ship recycling contractor or subcontractor, the same advance notice will also be given to the Government Administering Contracting Officer. Any information shared with a ship recycling contractor or subcontractor in the close-out interview following an inspection will also be shared with the Navy or MARAD, as appropriate.

b. Because of the number of statutes applicable to the ship recycling industry, EPA generally will conduct comprehensive multimedia environmental inspections of ship recycling operations. However, individual media inspections may be conducted as appropriate.

c. A typical investigation of a ship recycling facility would generally include: a pre-inspection review of EPA and state regulatory databases and files, an on-site inspection of the recycling facility, exit conferences between regulatory and contractor and/or subcontractor personnel after the on-site inspection to discuss preliminary inspection findings, report preparation and enforcement case development if appropriate. Inspections would be conducted consistent with EPA's Multimedia Compliance Monitoring Investigation Protocol for the Ship Recycling Industry, February 1999.

3. Joint Coordinated Inspections

EPA and OSHA agree to conduct, where appropriate, joint coordinated inspections of ship recycling operations to provide a more comprehensive and efficient approach to maintaining compliance with all applicable environmental and occupational safety and health requirements.

F. No Private Right of Action

Nothing in this agreement is intended to diminish or otherwise affect the authority of any agency to carry out its statutory, regulatory or other official functions, nor is it intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its departments, agencies, officers, or employees, state agencies or officers carrying out

programs authorized under federal, state or local law, or any other person. Navy and MARAD personnel are not agents of OSHA or EPA and their presence in no way relieves ship recycling employers/contractors or employees of their responsibilities under the OSH Act or federal, state, and local environmental laws.

G. Personnel

Each party is responsible for all costs of its personnel, including pay and benefits, support, and travel. Each party is responsible for supervising and managing its personnel.

IV. INTERAGENCY COMMUNICATIONS

To provide for consistent effective communications among the signatories to this MOA, the points of contact in the Navy, MARAD, OSHA and EPA shall be:

NAVY:

Director, Inactive Ships Office (SEA 21I)
Naval Sea Systems Command
1333 Isaac Hull Avenue, SE
Washington Navy Yard, DC 20376

MARAD:

Director, Office of Ship Disposal Programs (MAR-640)
1200 New Jersey Avenue, SE
West Building, 2nd floor
Washington, DC 20590-0001

OSHA:

Director of Directorate of Enforcement Programs
U.S. Department of Labor
Occupational Safety and Health Administration
Room N-3119
200 Constitution Avenue, NW
Washington, DC 20210

EPA:

Director, Federal Facilities Enforcement Office (2261A)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

In addition, these points of contact shall be responsible for coordination with appropriate headquarters and regional offices within their respective agencies, as well as with state agencies.

V. EFFECTIVE DATE, AMENDMENT AND TERMINATION

A. This MOA is effective upon the date of the last signature by the parties and shall remain in effect for a period of 9 years, unless and until modified in writing by mutual consent of all parties or terminated in writing by any party upon 30 days advance notice to the other signatories. The parties agree to meet every three years after the date of last signature to assess the effectiveness of this MOA.

B. This MOA does not preclude any of the parties from entering into separate agreements setting forth procedures for other programs which may be addressed more effectively and expeditiously by special agreement.

VI. CANCELLATION OF PREVIOUS AGREEMENT

This MOA supersedes the previously signed agreement between the same parties with the subject "Implementation of the Recommendations on Coordination and Information Sharing of the Report of the Interagency Panel on Ship Scrapping," dated 16 Nov 1999.