

Division of Longshore and Harbor Workers' Compensation

Office of Workers' Compensation

U.S. Department of Labor, Room C-4315

200 Constitution Avenue, NW

Washington, D.C. 20210

Re: Response to Federal Register

Docket RIN 1240-AA02

To Whom it May Concern:

I am responding to the request for comments in the proposed rule, RIN 1240-AA02.

As the owner of _____ I currently employ ____ people in the marine service and repair industry and ____ carry Longshore Harbor Worker's Compensation Act (LHWCA) coverage. We also _____ ever had a LHCWCA claim. With our current coverage our employee's _____ receive assistance if injured under state workmans' compensation.

It is our understanding that if we have to change our current LHWCA coverage it will cost _____ and could cause us to cut staff or turn away commercial business.

We greatly appreciate the opportunity to present our ideas on the proposed rule and given these factors we highly encourage the Department to revise the proposed regulation in the following manner:

- Eliminate the ambiguity and confusion created by the Department's new proposed definition of recreational boat. The Department should remove the length limit for boat repair in the existing definition. Under the proposed definition the Department requires far too much investigation into the use of the vessel for its entire operation. Under the proposed rule, it would require coverage under the Longshore & Harbor Workers Compensation Act (LHWCA) for pleasure vessel charters where more than 12 people were allowed on board. This means a repairer will have to interrogate the vessel owner to determine all possible past uses of the vessel. When a vessel repairer encounters a vessel, and it is being operated primarily for pleasure, then it should be considered eligible for the exemption.

- The Department must remove the new walk in/walk out “classification” that would mean workers who perform both qualifying maritime employment and excluded work would be covered under the LHWCA even if hurt working on a recreational vessel.
- The vast majority of repair facilities are small businesses and do not have the luxury of segregating work forces. The Department should instead create a bright line text for a facility to determine if the employees at a facility are covered under LHWCA or state workers’ compensation laws.
- A facility that repairs vessels should have a clear threshold that they can stay under and remain a state workers’ compensation facility. No more than 20 per cent of work performed at a facility can be non-recreational work in order for that facility and all of its employees to be exempt from LHWCA and covered by state workers’ compensation. Employees should not be forever covered under LHWCA if they at some point in their duties work on non-recreational vessels. Clearly. If an employee is hurt on a recreational boat state workers’ compensation will apply.

The member of the marine service and repair industry, I look forward to working with you to help make your proposed rule work to help our small businesses and employees. Please contact me, if you have any questions or inquiries about the application of LHWCA to recreational vessel repair businesses.

Sincerely,