



16711/LIFTBOAT
19 November 1997

From: Commander, Eighth Coast Guard District
To: Distribution

Subj: APPLICABILITY OF 46 CFR SUBCHAPTER L TO EXISTING LIFTBOATS

Ref: (a) COMDT (G-MOC) ltr 16711/OSV-I to the Offshore Marine Service Association
dtd 24 July 1997
(b) Federal Register, Vol. 60, No. 221, pp. 57630-57674
(c) Federal Register, Vol. 62, No. 182, pp 49308-49356

1. Reference (a) is a 24 July 1997 letter regarding the applicability of 46 CFR, Subchapter "L". This letter includes a draft Marine Safety Manual change that provides detailed guidance on the applicability of Subchapter "L", including a discussion of the "grandfather" provisions for existing vessels. Reference (a) states that Navigation and Vessel Inspection Circular (NVIC) 8-91 will no longer be used for **INITIAL** inspection of "existing" vessels. Essentially, reference (a) states that a vessel must have been **previously inspected** as an offshore supply vessel (OSV) to qualify for the "grandfather" provisions allowing the vessel to be inspected under NVIC 8-91 and the applicable portions of 46 CFR, Subchapter "I" or "T". We have evaluated this policy and have reached a different conclusion with respect to the initial certification of existing liftboats. The discussion below applies only to the initial certification of existing liftboats.
2. Recently, the owners of several "stacked" liftboats contacted various Eighth District, Gulf Region Officers in Charge, Marine Inspection regarding **initial certification** of their vessels. Many of these relatively small vessels were removed from service in support of the oil and mineral industry after the Coast Guard published guidance in Change 1 to NVIC 8-81 (later refined in NVIC 9-91) requiring liftboats to be inspected and certificated as "OSVs". Some liftboat owners elected to have only a portion of their fleet certificated as OSVs and stacked the remaining vessels. In the current Gulf of Mexico market, day rates now make it economical to return selected stacked liftboats back into oil and mineral support service if they can be inspected under NVIC 8-91. It should be noted that many of these stacked liftboats have sister vessels currently operating as OSVs inspected under NVIC 8-91 and the applicable portions of 46 CFR, Subchapter "I" or "T". Most of the uninspected liftboats requesting initial certification would be unable to economically return to service if required to meet the higher structural strength and stability standards of 46 CFR, Subchapter "L". Using the guidance in reference (a), the OCMI's advised the liftboat owners that their vessels were not previously inspected, thus, would have to be inspected under the provisions of 46 CFR, Subchapter "L" to receive an initial Coast Guard certificate of inspection (COI).

3. We recently received letters from two liftboat owners appealing two different OCMIs' decisions to require initial certification of their existing stacked liftboats under 46 CFR, Subchapter "L". All of the vessels involved in the appeals were built prior to March 16, 1996, but none had been previously inspected. The appeals requested that the vessels be allowed to complete their initial inspections under NVIC 8-91 and the applicable portions of 46 CFR, Subchapters "I" or "T". We have granted these appeals, despite the guidance contained in reference (a). The paragraphs below describe our analysis of the applicable regulations and discuss our logic for granting these appeals.
4. Reference (b) published the Interim Rule for 46 CFR, Subchapter "L" on 16 November 1995. The preamble to the Interim Rule at page 57632 makes it clear that the Coast Guard's intent with respect to small existing liftboats is to allow these vessels to be certificated as "existing" vessels under NVIC 8-91. Under NVIC 8-91, smaller existing liftboats are limited in their areas and conditions of operation to ensure an adequate margin of safety is maintained. With respect to the initial certification of existing liftboats, the policy expressed in reference (a) conflicts with the expressed intent of the regulations published in the Interim Rule. In such cases, the regulations prevail.
5. Reference (c) published the Final Rule for 46 CFR, Subchapter "L" on 19 September 1997. Although the revision to 46 CFR 125.100 provides additional guidance on the applicability of 46 CFR, Subchapter "L", it does not address the issue of an "existing OSV" attempting to obtain an original certificate of inspection. Title 46, CFR 125.100 grandfathers certain "existing OSVs", provided construction is completed and the vessel has a certificate of inspection by March 16, 1998. The definition of "existing OSV" in 46 CFR, Subchapter L makes no reference to the prior inspection status of the vessel. Clearly, vessels permitted grandfathering under 46 CFR 125.100 may be inspected and certificated under the provisions of NVIC 8-91 and the applicable portions of 46 CFR, Subchapters "I" or "T".
6. The language in 46 CFR 125.100(e) defines the term "vessels contracted for" used earlier in that section. This language was newly added in the Final Rule and is briefly discussed in the preamble at page 49309. A vessel's status as either a "new" or "existing" OSV is based, in part, upon careful consideration of this regulation. This regulation states that the term "vessels contracted for" includes not only contracting for the initial construction of the vessel but also:
 - contracting for a major modification to the vessel,
 - contracting for the conversion of the vessel to an OSV or liftboat, and
 - changing the service or route of the vessel if the change increases or modifies the general requirements of the vessel or increases the hazards to which it might be subjected.

Based upon the information presented in the two liftboat appeals, we concluded that none of the vessels qualified as a "vessel contracted for" after March 16, 1996. Accordingly, we granted each appeal and are allowing the involved liftboats to be certificated under the

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provisions of NVIC 8-91 and the applicable portions of 46 CFR, Subchapters "I" or "T". To qualify for this grandfathering provision, all of the vessels must complete their initial inspection for certification by 16 March 1998 as required by 46 CFR 125.100(c). Enclosure (1) is our response to the most recent appeal on initial certification of a small liftboat.

7. **After 16 March 1998, the INITIAL certification of all OSVs, including liftboats, will be conducted under the provisions of 46 CFR, Subchapter "L".**
8. Please contact Lieutenant Commander Bill Daughdrill if my staff at (504) 589-6271 should you have any questions or wish to discuss this matter further.


GUY A. TETREAU
By direction

Encl: (1) CCGD8(moc) ltr 16711/CHERYL LYNN dtd 19 November 1997

Dist: All Eighth District Gulf Region MSOs, MSU and MSDs

Copy: COMDT (G-MOC), (G-MSO)
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16711/CHERYL LYNN
November 19, 1997

Mr. James P. Crawford
Chief Executive Officer
Shoreline Liftboats, Inc.
815 Lakeside Drive
Channelview, TX 77530

Dear Mr. Crawford:

I have reviewed your October 13, 1997 letter requesting reconsideration of Officer in Charge, Marine Inspection Houston-Galveston's decision to require certification of the existing uncertificated liftboat CHERYL LYNN (O.N. D598130) under Title 46, Code of Federal Regulations (CFR), Subchapter "L". I have decided to treat your letter as a request for a regulatory clarification rather than as a formal appeal.

Based upon the information you submitted and an evaluation of the applicable regulations, I have concluded that the CHERYL LYNN is an "existing offshore supply vessel" within the meaning of 46 CFR 90.10-40(b) and 46 CFR 125.100(b)(1). Accordingly, the CHERYL LYNN is grandfathered as an "existing offshore supply vessel" and may be inspected and certificated under the provisions of Navigation and Vessel Inspection Circular (NVIC) 8-91 and the applicable portions of 46 CFR, Subchapters "I" or "T". **Should you fail to receive a certificate of inspection (COI) for the CHERYL LYNN by March 16, 1998, the vessel will be required to be inspected under the provisions of 46 CFR, Subchapter "L" as provided in 46 CFR 125.100(c).**

Please be aware that the route and operating conditions ultimately allowed on the CHERYL LYNN's COI will be dependent upon the vessel's hull, leg strength, and stability calculations as described in NVIC 8-91. The process of determining appropriate operating restrictions may be simplified by the fact that you describe the CHERYL LYNN as a sister vessel to the certificated liftboat C. D. LITTLE (O.N. D599907). Please contact Lieutenant Commander Bill Daughdrill of my staff at (504) 589-6271 should you have any questions or wish to discuss this matter further.

Sincerely,

GUY A. TETREAU

Commander, U.S. Coast Guard
Chief, Marine Safety Compliance Branch
By direction of the Commander
Eighth Coast Guard District

Copy: OCMI Houston-Galveston
Commandant (MOC), (MSO)

Enclosure (1)