



## USCG Office of Commercial Vessel Compliance (CG-CVC) Mission Management System (MMS) Work Instruction (WI)



Category	Domestic Inspection Program				
Title	Worksite Exception (WSE) Requests and Workboat Designation				
Serial	CVC-WI-001(1)	Orig. Date	27MAR23	Rev. Date	N/A
Disclaimer:	This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to, nor does it impose legally-binding requirements on any part. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, and the public, as well as other federal and state regulators, in applying statutory and regulatory requirements. You can use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) at <a href="mailto:CG-CVC@uscg.mil">CG-CVC@uscg.mil</a> who is responsible for implementing this guidance.				
References:	(a) 46 Code of Federal Regulations (CFR), chapter I, subchapter M – Towing Vessels (b) 46 CFR § 136.105(a)(3) (c) <a href="#">Marine Safety Manual (MSM), Volume III, COMDTINST M16000.7B, Ch. 7 B.2</a> (d) 46 CFR § 136.110 (e) 46 U.S.C. § 8904				

- A. Purpose. The purpose of this work instruction (WI) is to provide guidance for Officers in Charge, Marine Inspection (OCMI) and Marine Inspectors (MI) when reviewing applications for a worksite exception (WSE) to Subchapter M towing vessel regulations, under a workboat operating status within a worksite.
- B. Action. District Prevention Staff (dp), OCMI, and MI shall reference this guidance when determining worksite exception zones and designating vessels as workboats that will operate in the designated WSE. All local policies concerning WSE and workboats shall align with this guidance.
- C. Background. The Coast Guard and Maritime Transportation Act of 2004, Public Law 108-293, 118 Stat. 1028, amended 46 U.S.C. § 3101 to include “towing vessels” as a class of vessels that are subject to inspection. The term “towing vessel” is defined in 46 U.S.C. § 2101(50), and scope and standards of inspection are described in 46 U.S.C. § 3305. As of July 20, 2018, all towing vessels are required to comply with the requirements of reference (a). Reference (b), however, excepts U.S. flag towing vessels that are designated by the OCMI as a workboat “operating exclusively within a worksite and performing intermittent towing within the worksite” from the applicability of reference (a).

Historically, uninspected towing vessels (UTV) operating under these conditions were known by the Coast Guard marine safety term “worksite exclusion” (see reference (c)). The definition of a “workboat” appears only within the 46 CFR subchapter M – towing vessel regulations. With the implementation of 46 CFR subchapter M, this WI outlines the procedures for requesting a WSE and workboat designation for inspected towing vessels (ITV).

#### D. Definitions.

1. Commercial Service – “Includes any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.”<sup>1</sup>
2. Short distances – A limited geographic area within the confines of a worksite as designated by the OCMI.<sup>2</sup>
3. Towing vessel – “A *commercial* vessel engaged in or intending to engage in the service of pulling, pushing, or hauling alongside, or any combination of pulling, pushing, or hauling alongside.”<sup>3</sup>
4. Workboat – “A vessel that pushes, pulls, or hauls alongside within a worksite.”<sup>4</sup> A towing vessel is for commercial hire while a workboat working within a worksite is not towing specific loads for commercial hire (a not-for-hire towing vessel).<sup>5</sup> Therefore, any vessel that pushes, pulls or hauls alongside, for commercial hire, outside the worksite, cannot be designated a workboat.<sup>6</sup>
5. Worksite – “An area specified by the cognizant OCMI within which workboats are operated over short distances for moving equipment in support of dredging, construction, maintenance, or repair work. A worksite may include shipyards, owner’s yards, or lay-down areas used by marine construction projects. This definition does not include the movement of barges carrying oil or hazardous material in bulk.”<sup>7</sup> Additionally, “the OCMI may designate a pollution response area as a worksite which would afford a towing vessel the opportunity to be exempt from subchapter M while it is operating exclusively in the worksite if it qualifies as a workboat under § 136.105(a)(3).”<sup>8</sup>

#### E. Discussion.

1. Under reference (b), towing vessels operating exclusively in a worksite may receive a designation as a workboat operating within a worksite, if performing intermittent towing. If a vessel is excepted under reference (b) from regulations under subchapter M, it will remain subject to the Uninspected Vessel and Uninspected Towing Vessel regulations under 46 CFR subchapter C per

<sup>1</sup> 46 U.S.C. § 2101(4).

<sup>2</sup> The “Inspection of Towing Vessels” final rule did not include a mileage minimum or maximum associated with a worksite. See 46 Fed. Reg. 40004. Rather, the OCMI will make the determinations of the boundaries and limitations of worksites within the OCMI’s zone. *Id.* at 40020 (“it is appropriate for the cognizant OCMI to designate worksites based on the factors and activities listed [in the definition of “worksite”] and their possible impacts on other waterway users”). The OCMI may evaluate the unique operating conditions and hazards of the area and determine the risk and mitigating factors necessary to support such decisions.

<sup>3</sup> 46 U.S.C. § 2101(50); 46 CFR § 136.110.

<sup>4</sup> 46 CFR § 136.110.

<sup>5</sup> See [TOWING SAFETY ADVISORY COMMITTEE \(TSAC\) TASK STATEMENT #04-03 REPORT](#) [hereinafter TSAC STATEMENT REPORT], 6 (Sept. 29, 2005): Applicability of the New Inspection Regime (“The working group recommends that the requirements proposed in Appendices D and E apply to all towing vessels except those vessels that are excluded by 46 USC 8904 from the requirements to carry a licensed towing vessel operator. The working group understands the universe of such vessels to include . . . workboats and tenders that do not engage in *commercial towing for hire*.”) (emphasis added). See also [REPORT OF THE TOWING SAFETY ADVISORY COMMITTEE WORKING GROUP ON TOWING VESSEL INSPECTION TASK #04-03 INSPECTION OF TOWING VESSELS](#) [hereinafter TSAC REPORT], Appendix D (Sept. 7, 2006).

<sup>6</sup> Although a workboat within a worksite is performing “commercial service” as defined in 46 U.S.C. § 2101(4), the distinguishing factor between a “towing vessel” and a “workboat” is whether the vessel is towing for commercial hire (i.e., contracted or chartered to push, pull or haul alongside a barge(s) or other piece of equipment outside of the worksite). A designated workboat operating within a worksite is not considered a “workboat” if it is hired commercially to tow a barge(s) or other equipment outside of a worksite.

<sup>7</sup> 46 CFR § 136.110.

<sup>8</sup> See 46 CFR Subchapter M, Final Rule, page 40011.

46 CFR § 2.01-7(b)(2) as a vessel not covered by columns 2, 3, 4, and 6. The OCMI must scrutinize the facts of each case to determine whether the exception applies.

2. To be eligible for an exception from the towing vessel inspection regulations as a workboat, the vessel must:
  - (a) Operate **exclusively** within a “worksites,” and
  - (b) Perform **intermittent** towing within the worksite, as specified by the cognizant OCMI, and
  - (c) **Not** engage in commercial towing for hire.
3. A workboat is not defined in statute and is only defined in regulation under reference (d). To aide OCMI's in determining if a vessel qualifies as a workboat, based on operations and similarity to other vessel descriptions throughout other USCG documents, the following information has been provided.
  - (a) “The [Towing Safety Advisory Committee]<sup>9</sup> working group recommends that the requirements proposed in [Appendices D](#) and E apply to all towing vessels except those vessels that are excluded by 46 USC 8904 from the requirements to carry a licensed towing vessel operator. The working group understands the universe of such vessels to include: 1) towing vessels under 26 feet in length; 2) **workboats and tenders that do not engage in commercial towing for hire**, but may intermittently move a piece of equipment in a limited geographic area such as a dredging or construction jobsite or a vessel maintenance yard . . . .”<sup>10</sup> [This excerpt provides written understanding from the Federal Advisory Committee that workboats and tenders are vessels that do not engage in commercial towing for hire.]
  - (b) Workboats, tenders, and towing vessels are generally considered smaller vessels and are 20 to 50 feet in length. These vessels are operated by non-licensed operators in jobsites and limited geographic areas, such as bridge construction, and dredge tenders. Towing vessels less than 26 feet are exempt from carrying licensed operators.<sup>11</sup> [This excerpt provides background on the Federal Advisory Committee working group interpretation of the type of work done by smaller towing vessels (<26ft), tenders and workboats.]
  - (c) Work boat EPIRB Exemption: 46 CFR subchapter C (46 CFR § 25.26-60) Exemptions. “(a) A **skiff or work boat** is not required to carry an EPIRB if - (1) Its “mother ship” is required to carry an EPIRB under this subpart; and (2) When not in use, the skiff or work boat is carried on board the mother ship.” [This example equated a workboat to a skiff in size and proportion.]
  - (d) Workboat equivalency as a Rescue boat: (MSM Vol II, Section G: OCS, Chapter 6, A.10: “A motor-propelled **workboat or launch** may be used in place of the required rescue

<sup>9</sup> Notably, for purposes of this WI, the Coast Guard has evaluated and concurs with the specified recommendations from the Task #04-03 TSAC REPORT and the TSAC STATEMENT REPORT.

<sup>10</sup> [TSAC STATEMENT REPORT TASK #04-03 RECOMMENDATION 128](#), page 6: Applicability of the New Inspection Regime. This same statement can also be found in [TSAC TASK STATEMENT #04-03 RECOMMENDATION 133](#), page 12.

<sup>11</sup> [TSAC REPORT TASK#04-03 RECOMMENDATION 133, Appendix D](#) page 1. The mission of the TSAC Small Vessels Workgroup was “to develop a streamlined Safety Management System (SMS) and Inspection Process more appropriate for the type and operation of *smaller vessels found in the fleets of workboats, tenders and assistance towing vessels*. Our recommendations recognize that many covered companies are comprised of small operations, often owner/operator businesses, which have fewer than 5 vessels or operate workboats, tenders or towing vessels less than 26’ which primarily move private property within limited geographic areas as defined in 46 CFR 27.101.” *Id.* (emphasis added).

boat if the embarkation and recovery arrangements of 46 CFR 133.160 (a), (c), (d), (e) and (f) are met, if shown to be at least as effective.” [This example also compares a workboat to a launch in size and operation.]

- (e) Workboat required to carry licensed individuals: The statute addressing officers on towing vessels, 46 U.S.C. § 8904, requires a towing vessel that is at least 26 feet (7.9 meters) in length to be operated by a licensed individual. The U.S. Senate Committee on Commerce Report of June 27, 1972, however, described various situations in which the statute was not intended to apply. The following statement was included in the report:

“The licensing requirement will apply only to those vessels which are documented to perform commercial service as towing vessels and will not apply to those vessels which are documented solely for other services or are not required to be documented. **The vessels covered are those which perform towing services as a business and the bill does not cover vessels towing in an emergency or on an intermittent basis, not directly connected with the service for which the vessel may have been documented. Excluded from coverage would be, for instance, workboats** which are used to move dredging equipment for short distances at the dredging site.”<sup>12</sup> [The quoted text strongly suggests that workboats cannot perform commercial towing services, and that those services are reserved to towing vessels that are subject to statutory manning requirements.]

4. Typical operations of a workboat include, but are not limited to, operating short distances for supporting and moving within a worksite construction barges and related equipment, shipyards, moving equipment in support of dredging, construction, maintenance, or repair work; a worksite may also include owners’ yards, or lay-down areas used by marine construction projects.<sup>13</sup>
5. If a workboat pushes, pulls, or hauls alongside anything, including the company’s own or project equipment, outside of a worksite, the vessel is in violation of the issued WSE and Workboat Designation Letter. Vessels towing outside of a worksite are subject to subchapter M (references (a) and (d)) and must obtain a Certificate of Inspection (COI).
6. A workboat may need to transit from one worksite to another. In consultation with the local OCMI and depending on the route being travelled, they may do so without additional regulatory requirements if they do not conduct commercial services for hire (i.e., carry no cargo, additional personnel, or conduct towing operations of any kind).
7. Furthermore, a worksite exception **should not** be used for everyday towing within a worksite. Workboats that are engaged in towing on a near full-time basis, even though always at the worksite, are not engaged in intermittent<sup>14</sup> towing and **do not** qualify for a WSE and Workboat Designation Letter.

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<sup>12</sup> S. REP. NO. 92-926, at 2 (1972) (Conf. Rep.). While Congressional Committee Reports are not binding legislative text, legislative history can be used as a secondary source, where appropriate, to interpret the meaning of the statute.

<sup>13</sup> Fleeting operations in a barge fleeting area are covered under the definitions in 46 CFR § 136.110 for “Fleeting area,” “Limited geographic area,” and the “Excepted vessel.” These vessels are subject to 46 CFR subchapter M and require a COI but may request to be excepted from certain, but not all, provisions of subchapter M.

<sup>14</sup> “Intermittent” is not defined in statute or regulation. However, OCMI’s may use ordinary definitions when determining whether a vessel performs “intermittent” towing. The Merriam Webster Dictionary (11 ed. 2019) defines “intermittent” as “coming and going at intervals,” “not continuous,” or “occasional.” The Oxford English Dictionary (2nd ed. 1989) defines “intermittent” as “occurring at irregular intervals; not continuous or steady.”

F. Procedure.

1. Upon receipt of a request from an owner or managing operator seeking exception from reference (a), the local OCMI should determine if the requested worksite meets applicable regulations and this Work Instruction and verify that the vessel's towing operations will be limited to the worksite(s). The issued WSE and Workboat Designation Letter should be reviewed and re-issued by the OCMI annually or more frequently if the worksite(s) changes.
2. OCMI should, at a minimum, gather the following information to help in making a determination on the request for the worksite exception:
  - (a) A detailed description of the location, such as latitude/longitude, body of water, and dimensions of the worksite requested;
  - (b) Duration of work within worksite(s);
  - (c) Description of work to be carried out within the worksite; and
  - (d) Number of vessel(s), requested workboat name(s), and Official Number(s) (O.N.) of requested workboat(s)
3. A copy of an approved WSE and Workboat Designation Letter shall be sent to the requestor. See Enclosure for an example WSE and Workboat Designation Letter template.
4. A MISLE Administrative activity shall be created. The MISLE Activity Title/Description should be: Worksite Exception. The original request and any amendments, approved WSE letter, all correspondence, and objective evidence shall be uploaded into MISLE.
5. When a vessel is issued a WSE and Workboat Designation Letter, the inspection subchapter is to be changed to Subchapter C. The Classification shall stay as a Towing Vessel. The type and subtype will be determined by the vessel's operation.
6. A Special Note shall be entered into MISLE with the Retention Date to match the WSE and Workboat Designation Letter.

“The Worksite Exception (WSE) and Workboat Designation Letter has been approved for the [Location Description] and the following vessel(s) [Name of Vessel(s)] are considered Workboats while operating within the designated WSE. This approval is valid until [Date Expires]. See activity [enter number] for more details.”

- G. Credentialing and Licensing. The subchapter M inspection laws and regulations are separate from the Manning requirements in reference (e) and 46 CFR part 15. The WSE and Workboat Designation Letter exempts the vessel from the inspection requirements of 46 CFR subchapter M. The manning requirements, however, **may** still be required.

1. Reference (c) includes information on Uninspected Towing Vessel Worksite Exclusions that uses a 1972 U.S. Senate Committee on Commerce Report describing various situations in which reference (e), which requires a towing vessel to be under the control of a licensed master, was intended to apply to documented towing vessels.<sup>15</sup> When the subchapter M final rule was

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<sup>15</sup> The Senate Committee report is not a law or regulation and as such is not mandatory authority. Rather, it merely describes the internal deliberative thoughts at the time of promulgation (in this case 1972), and those thoughts and interpretations are subject to change as laws are amended and regulations are updated. The comments in the 1972 report, therefore, do not take

published, 46 CFR part 15 was updated to require a credentialed master to operate both an ITV and a UTV. While 46 CFR § 15.535 applies to towing vessels inspected under subchapter M, 46 CFR § 15.610(b) requires UTVs 26 feet and greater to have a credentialed master.<sup>16</sup> However, neither reference (e) nor part 15 require a “workboat” to be under the direction and control of a credentialed master.

2. Therefore, the OCMI may consider a workboat operating within a worksite to not have a credentialed master if:

- (a) The vessel is engaged in only intermittent<sup>17</sup> or emergency towing;<sup>18</sup> and
- (b) The vessel is not engaged in commercial towing for hire; and
- (c) The vessel is NOT engaged in pushing, pulling, or hauling alongside hazmat.

H. Appeals. Appeals of decisions made regarding specific design requirements or equivalency requests should follow the appeal procedure outlined in 46 CFR § 1.03.

I. Questions. For questions regarding this work instruction, please contact the Office of Commercial Vessel Compliance at [CGCVVC@uscg.mil](mailto:CGCVVC@uscg.mil).

M. R. Neeland  
Captain, U.S. Coast Guard  
Chief, Office of Commercial Vessel Compliance  
By direction

Enclosure: Worksite Exception Request and Workboat Designation Letter Template

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precedence over the statutory requirement in 46 U.S.C. § 8904 and the regulations promulgated thereunder in 46 CFR §§ 15.535 and 15.610 that require a licensed master for ITVs and UTVs.

<sup>16</sup> See 46 CFR §§ 15.535 and 15.610 for specific applicability and for additional requirements for a credentialed master and a credentialed mate when operating more than 12 hours within a 24-hour period.

<sup>17</sup> See footnote 14.

<sup>18</sup> This is not “assistance towing” as defined in 46 CFR 136.110.

**Enclosure: Worksite Exception Request and Workboat Designation Letter Template**

**U.S. Department of  
Homeland Security**

**United States  
Coast Guard**



Commander  
United States Coast Guard  
Unit Name

Address  
City, State and Zip Code  
Staff Symbol:  
Phone:  
Fax:  
Email:  
16712/WSE-SME  
<DATE HERE>

Addressee Line 1  
Addressee Line 2  
Addressee Line 3

**WORKSITE EXCEPTION AND WORKBOAT DESIGNATION LETTER**

Dear Sir or Madam:

Your request for a Work Site Exception (WSE), and Workboat Designation for <VESSEL NAME (OFFICIAL NUMBER)> at <DESCRIBE WORK SITE HERE>, is **approved**. The following restrictions apply:

- The workboat(s) operate(s) exclusively within the worksite and perform(s) intermittent towing within the worksite.
- The vessel(s) is/are prohibited from moving barges carrying oil or hazardous materials in bulk.
- Any time the vessel(s) are transiting outside a designated worksite, the vessel(s) are prohibited from commercial operations or assist towing including pushing, pulling, or hauling alongside, to include your own and or project equipment.
- As a *workboat*, your vessel(s) shall meet the provisions of 46 CFR subchapter C, including Part 27 for towing vessels, at all times.
- Conducting work outside a designated worksite will invalidate this letter and require full compliance with 46 CFR subchapter M.
- Copy of this letter must remain on board the vessel(s) listed above.

This WSE-letter expires on <DATE HERE + 1 YEAR or LENGTH OF WORK IF MORE or LESS>. It may be renewed for the work site, or another work site, by making a written request to our office at least 30 days before the expiration date.

Should you have any questions regarding this letter, please to contact <NAME> at <PHONE NUMBER> or at <EMAIL>.

Sincerely,

<NAME>  
<RANK>, U. S. Coast Guard  
Captain of the Port  
<UNIT NAME >