

Occupational Safety and Health & Related Issues



An Overview and History for Port Industry Executives



Port Worker Dies From Fall

[By Hunter Sauls](#)

The Facts - Published October 18, 2007

FREEPORT — Port workers are mourning the death of a longshoreman working onboard a cargo ship at the Port of Freeport who port officials said accidentally fell to his death.

George Diaz, 54, of Freeport, a member of the International Longshoreman's Association union working for Ports America, was on the deck of the MV Green Music on Tuesday when he fell into a cargo hold, Ports America vice president Norman Lamb said. The distance of the fall through the cavernous cargo hold was enough to cause serious injury, he said.

"He's been involved in longshore work since 1972, and one of the more experienced and well-respected guys down there," Lamb said. "He's going to be missed. It's a tragedy."

Diaz suffered a head wound and was taken by ambulance to Brazosport Regional Health System. He was then taken by helicopter to Memorial Hermann Hospital, where he was pronounced dead upon arrival, Lamb said.

"We're investigating the accident, and we're in the middle of that process," Lamb said. "We don't have all the answers yet, because we haven't completed the interviews. But our thoughts and prayers go out to his family."

Diaz was married and the father of two girls, Lamb said.





Update: Oakland Port Closed Until Tomorrow

By William Brand, Francine Brevetti, Erik N. Nelson, Staff Writers

Article Last Updated: 09/25/2007 12:53:38 PM PDT

The entire Port of Oakland shipping operation remains shut down this afternoon, idling hundreds of port workers and truck drivers, while an investigation continues of the accidental death of an ILWU Longshoreman aboard a ship at the Port Monday afternoon.

Details remain sketchy, but the Alameda County Coroner's office said the worker was apparently struck by a shipping container as he worked aboard the Stutgard, a Hapag-Lloyd container ship. No one apparently witnessed the accident, which happened about 4:30 p.m., the coroner's office said. Coroners' deputies had to use a cargo lift to remove the body from the ship, a deputy said.

John Showalter of the ILWU said work was stopped immediately throughout the port pursuant to a contract provision. "It's standard for workers to stand down when there's a fatality," Showalter said. "The reasons are self-evident. If faulty equipment caused the death, it needs to be inspected," he said.

Diann Castleberry of the Port of Oakland said all operations are shut down and will remain shut down _ possibly until 8 a.m. Wednesday. The port was very quiet this morning. Every terminal was locked up and only a handful of trucks could be seen and none had containers on them.

Many customs and security offices were also closed. Outside the 7th Street terminal near Berth 40 there was a line of containers without cabs. Currently, there are seven container ships tied up at the port either in the process of loading or off-loading cargo, according to the Marine Exchange of the San Francisco Bay Region.



The Virginian-Pilot

Man Crushed to Death by Container at Portsmouth Terminal

By **JEN MCCAFFERY AND GREGORY RICHARDS**, The Virginian-Pilot © July 13, 2007 | Last updated 5:39 PM Jul. 13

A man was killed this afternoon at Portsmouth Marine Terminal when he was crushed by a truck-sized cargo container.

The victim was 42-year-old Vernon Leroy White, said Portsmouth Battalion Chief Ronnie Early. White lived in Norfolk, according to someone who answered the phone at his home this afternoon.

He had been working on the SCI Kiran, which was docked at the terminal, said Joe Harris, spokesman for the Virginia Port Authority.

Shortly before noon, White had walked down the ship's gangplank and onto the dock, Early said. White walked under a crane and was crushed by a container being lowered by the crane, Early said.

He yelled for help as the box was coming down, Early said, but his co-workers were not able to inform the crane operator in time. He was pronounced dead at 12:07 p.m.

From on-site investigators, The Blueoceans Company has learned that as Mr. White got to the bottom of the gangway (the workers were just knocking off for lunch) and proceeded forward his presence was hidden from on-the-ground spotters by a container that had been previously landed on dock. Moreover, it is likely that the container crane's sill beam blocked the crane operator's line of sight, contributing to this terrible accident. We understand that his Dad, Roy White, was working at a forward hatch at the time of this accident.



[Excerpted] Remarks at this Conference

Double Throughput Or Suffer, U.S. Ports Told

Journal of Commerce

Tuesday, October 16, 2007

By: Bill Mongelluzzo / The JOURNAL of COMMERCE ONLINE

LONG BEACH, Calif. -- If the U.S. container trade continues to increase about 7.5 percent per year, three-quarters of the country's major ports will experience significant capacity problems by 2010, according to a marine architect who has designed container terminals around the world.

Ports in the United States handle less than 5,000 TEUs per-acre, per-year, while Asian ports handle more than 16,000 TEUs per acre, Vickerman told a marine terminal management training program Monday sponsored by the American Association of Port Authorities.

Although Asian terminal operators have more flexibility in their use of labor and equipment, the main reason they are so productive is that they work three full shifts per day, Vickerman said. Distribution facilities likewise work around the clock, so containers incur very little dwell time at marine terminals. In the U.S., where dock labor is more expensive, most terminals work only one shift per day. This explains the low productivity figures of about 2,661 TEUs per acre at East Coast ports and 4,944 TEUs at West Coast ports. Los Angeles-Long Beach now runs five extra shifts per week, and this increases productivity by moving about 30 percent of the truck traffic to off-peak hours.



Potential Translation:

Work Harder, Faster, and Longer

Potential Result:

More Accidents; More Deaths

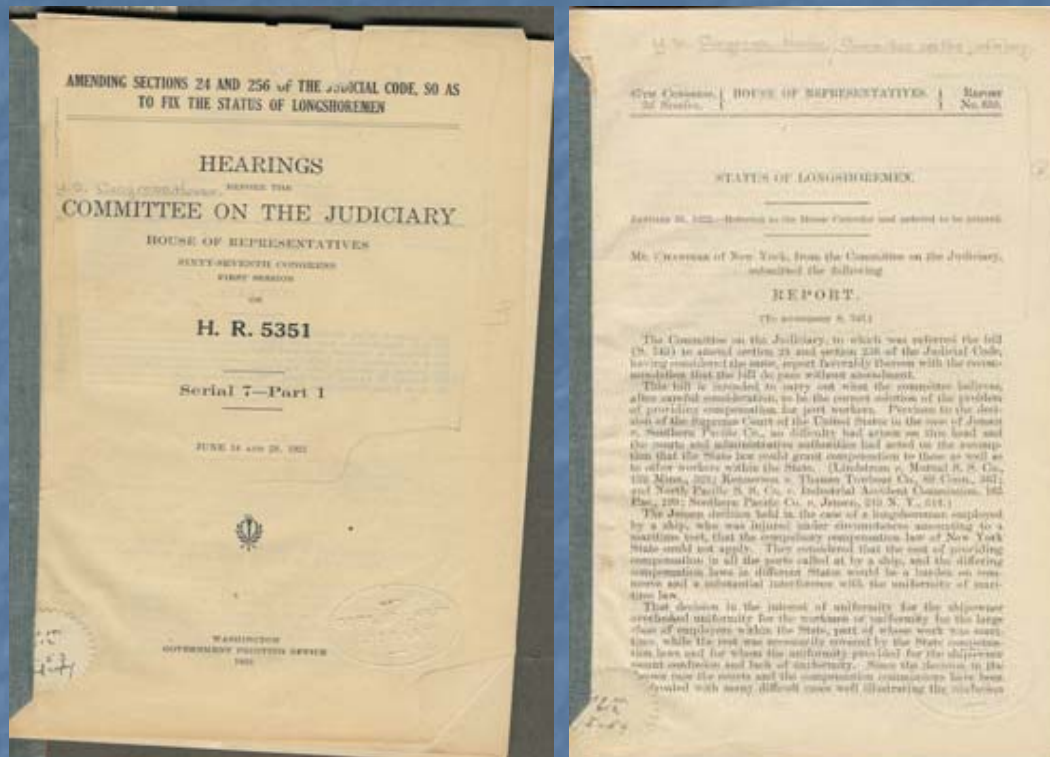
Potential Moderating Factors:

- **Terminal Operators/Ocean Carriers Working Smarter; With Compatible Priorities**
- **Port Authorities Acting As Independent Catalysts, By Requiring Adherence to Tariff-Established Operational Parameters that Better Define Priorities**

A Little U.S. History

**[Comparable Circumstances at
AAPA Member Ports in
Canada, the Americas and the
Caribbean]**

The Jensen Era

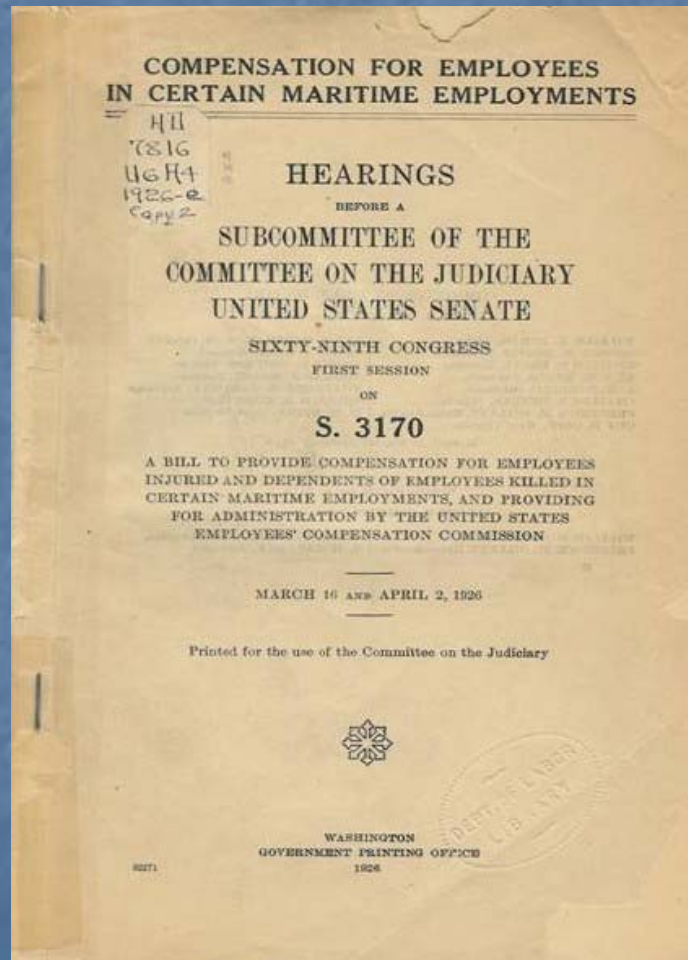


- *Southern Pacific v Jensen* (1917)
- *Knickerbocker v Stewart* (1920)
- *Washington v Dawson* (1924)

Memorializing an internecine turf fight between the U.S. Congress and the Supreme Court, in determining the method (or indeed the existence) of worker's compensation for injuries sustained "*on the navigable waters.*"



LHWCA of 1927



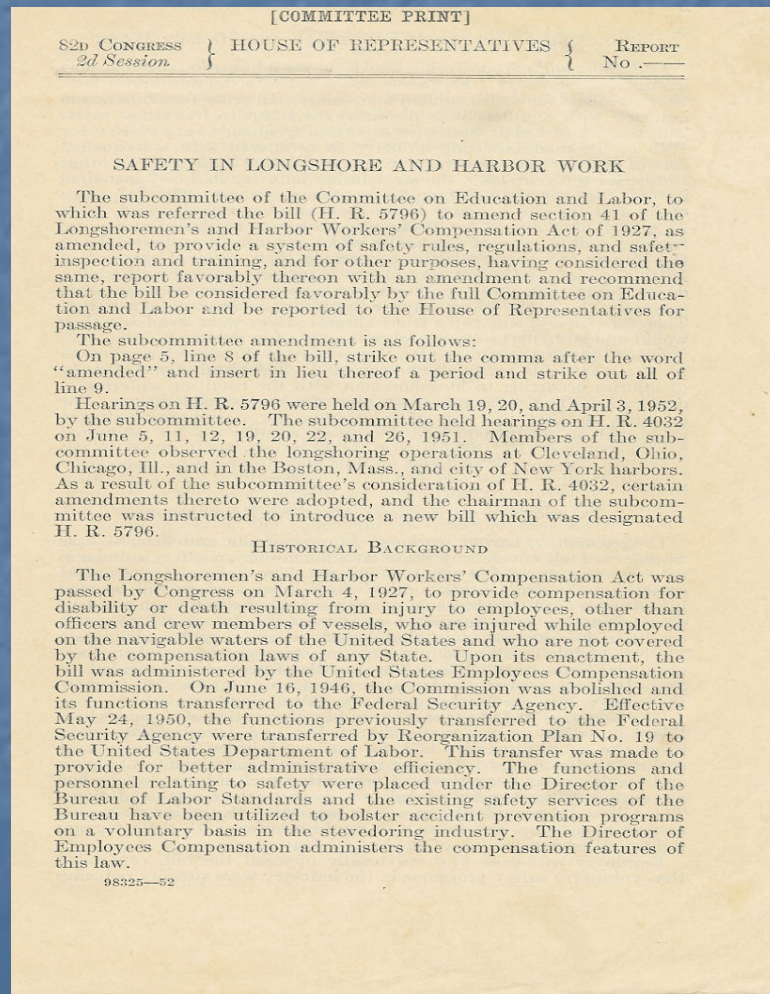
- Creates a Federal scheme for the payment of compensation to marine cargo handling and shipyard workers injured “*on the navigable waters.*”

- Clarified by the Supreme Court in:

- ✓ T. Smith & Son *v* Taylor (1928)
- ✓ Minnie *v* Port Huron Terminals (1935)



(1951) Organized Labor Initiates Attempts to “Perfect” the LHWCA



- ILA/ILWU
- Boilermakers
- Steelworkers

- Higher than usual number of explosions in shipyards.
- Increased trade volumes w/more cargo gear failures.
- Political incentives to reseat a Democratic president



The Political Landscape

COMMITTEE ON EDUCATION AND LABOR

GRAHAM A. BARDEN, North Carolina, *Chairman*

AUGUSTINE B. KELLEY, Pennsylvania	SAMUEL K. McCONNELL, Jr., Pennsylvania
ADAM C. POWELL, Jr., New York	RALPH W. GWINN, New York
JOHN S. WOOD, Georgia	WALTER E. BREHM, Ohio
JOHN F. KENNEDY, Massachusetts	WINT SMITH, Kansas
WINGATE H. LUCAS, Texas	CARROLL D. KEARNS, Pennsylvania
CLEVELAND M. BAILEY, West Virginia	THRUSTON BALLARD MORTON, Kentucky
LEONARD IRVING, Missouri	THOMAS H. WERDEL, California
CARL D. PERKINS, Kentucky	HAROLD H. VELDE, Illinois
CHARLES R. HOWELL, New Jersey	CHARLES E. POTTER, Michigan
TOM STEED, Oklahoma	RICHARD B. VAIL, Illinois
ROY W. WIER, Minnesota	E. Y. BERRY, South Dakota
BOYD TACKETT, Arkansas	
ERNEST GREENWOOD, New York	

FRED G. HUSSEY, *Chief Clerk*

JOHN O. GRAHAM, *Minority Clerk*

JOHN S. FORSYTHE, *General Counsel*

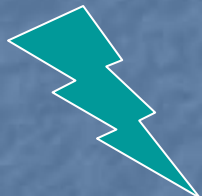
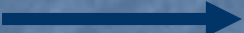
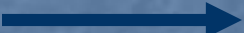
DAVID N. HENDERSON, *Assistant General Counsel*

RUSSELL C. DERRICKSON, *Investigator*

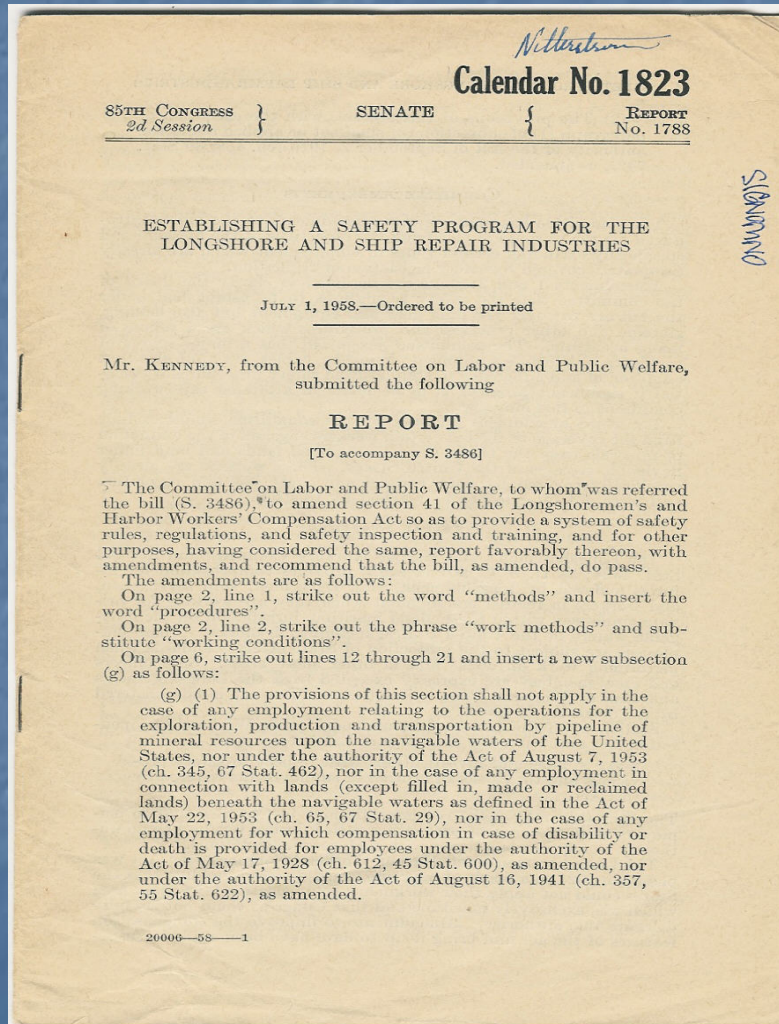
SUBCOMMITTEE ON SAFETY IN LONGSHORE AND HARBOR WORK

JOHN F. KENNEDY, Massachusetts, *Chairman*

CLEVELAND M. BAILEY, West Virginia CARROLL D. KEARNS, Pennsylvania



The 85th Congress



- Sustained organized labor efforts to widen LHWCA coverage and increase safety protection.
- Political impetus now gradually translated into labor support for one prospective Democratic presidential candidate.



The 1958 LHWCA Amendments

[Public Law 85-742]



- Political compromise brokered by Lyndon Johnson, with JFK as strongest proponent.
- Resisted by Ike; needed by Richard Nixon in his (1960) bid for Presidency.
- Expanded §41 of LHWCA, to provide for safety standards, enforcement and training.
- Put in the enforcement hands of DOL (LSB).



The Longshoring Industry Safety Regulations

DESK COPY

EARL J. KROTZER

(Reprinted from Federal Register, February 20, 1960)

Safety and Health Regulations for . . . LONGSHORING

U.S. DEPARTMENT OF LABOR
James P. Mitchell, Secretary

BUREAU OF LABOR STANDARDS
Arthur W. Motley, Director

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 9—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

On September 18, 1959, notice was published in the Federal Register (24 F.R. 7531) that the Secretary of Labor proposed to amend Subtitle A, 29 Code of Federal Regulations by adding thereto a new Part 9 promulgating safety and health regulations for longshoring pursuant to amended section 41 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, 33 U.S.C. 941).

In order that interested persons have opportunity to participate in the rule making process by submission of oral and written data, views and arguments, public hearings for this purpose were held on the proposed regulations at Chicago, Illinois; San Francisco, California; New Orleans, Louisiana; and New York, New York on October 8, October 13, October 26, and November 2, 1959, respectively. After each such hearing, interested parties were afforded copies of the transcript of each hearing and afforded opportunity for the submission of written comments. The time for filing such comments expired December 1, 1959, and the transcripts of each hearing, exhibits, written submissions and posthearing proposals and supporting reasons were duly certified by the hearing examiners to the Secretary of Labor on December 8, 1959.

Representatives of 29 employers in the industry, 18 trade associations, 7 labor organizations and the Department of the Navy and the United States Coast Guard participating in the proceedings submitted data, views and arguments. After consideration of all relevant matter submitted, and other information and materials within my official cognizance, I conclude that the proposed regulations, as hereinafter amended, should be adopted.

The basis and purpose of these regulations is that stated in § 9.1 of Subpart A of the regulations which follow.

Therefore, pursuant to section 4 of the Administrative Procedure Act (60

Stat. 238, 5 U.S.C. 1005), and under authority of Public Law 85-742 (72 Stat. 855), amending section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 144; 33 U.S.C. 941), and P.S. 181 (5 U.S.C. 27), Subtitle A of 29 Code of Federal Regulations, is hereby amended by adding thereto a new Part 9 to read as follows:

<p>Subpart A—General Provisions</p> <p>§ 9.1 Purpose and authority.</p> <p>§ 9.2 Scope and responsibility.</p> <p>§ 9.3 Definitions.</p> <p>§ 9.4 Penalty.</p> <p>§ 9.5 Variation from the regulations of this part.</p> <p>§ 9.6 Balance specifications, standards, and codes.</p> <p>§ 9.7 Abolishment of this part.</p> <p>Subpart B—Gangways and Gear Certification</p> <p>§ 9.8 Gangways.</p> <p>§ 9.12 Gear certification.</p> <p>Subpart C—Means of Access</p> <p>§ 9.21 Gangways and other means of access.</p> <p>§ 9.22 Jack's ladders.</p> <p>§ 9.23 Access to barges and river towboats.</p> <p>§ 9.24 Bridge plates and ramps.</p> <p>§ 9.25 Ladders in cargo spaces.</p> <p>Subpart D—Working Surfaces</p> <p>§ 9.26 Hatch coverings.</p> <p>§ 9.27 Stowed cargo and temporary landing platforms.</p> <p>§ 9.28 Deck loads.</p> <p>§ 9.29 Staircase decks.</p> <p>§ 9.30 Open hatches.</p> <p>§ 9.31 Weather deck rails.</p> <p>§ 9.32 Slips of barges.</p> <p>§ 9.33 Freshly oiled decks.</p> <p>Subpart E—Opening and Closing Matches</p> <p>§ 9.41 Closing clearances.</p> <p>§ 9.42 Beam and posthole brises.</p> <p>§ 9.43 Handline beams and covers.</p> <p>Subpart F—Ship's Cargo Handling Gear</p> <p>§ 9.51 General requirements.</p> <p>§ 9.52 Spindle requirements.</p> <p>§ 9.53 Winches.</p> <p>§ 9.54 Rigging gear.</p> <p>Subpart G—Cargo Handling Gear and Equipment Other Than Ship's Gear</p> <p>§ 9.61 General.</p> <p>§ 9.62 Manila rope and manila rope slings.</p> <p>§ 9.63 Wire rope and wire rope slings.</p> <p>§ 9.64 Chains and chain slings.</p> <p>§ 9.65 Shackles.</p> <p>§ 9.66 Hooks other than hand hooks.</p>	<p>§ 9.67 Pallets.</p> <p>§ 9.68 Chutes, gravity conveyors and rollers.</p> <p>§ 9.69 Powered conveyors.</p> <p>§ 9.70 Portable elevating winches.</p> <p>§ 9.71 Rain teals.</p> <p>§ 9.72 Tools.</p> <p>§ 9.73 Mechanically powered vehicles.</p> <p>§ 9.74 Nostrifying ship's officers before using certain equipment.</p> <p>Subpart H—Handling Cargo</p> <p>§ 9.81 Slings.</p> <p>§ 9.82 Bulging drafts.</p> <p>§ 9.83 Taring and breaking down.</p> <p>§ 9.84 Bulging cargo.</p> <p>Subpart I—General Working Conditions</p> <p>§ 9.91 Housekeeping.</p> <p>§ 9.92 Illumination.</p> <p>§ 9.93 Ventilation and atmospheric conditions.</p> <p>§ 9.94 Sanitation and drinking water.</p> <p>§ 9.95 Longshoring operations in the vicinity of repair and maintenance work.</p> <p>§ 9.96 First aid and life saving equipment.</p> <p>§ 9.97 Qualifications of machinery operators.</p> <p>Subpart J—Personal Protective Equipment</p> <p>§ 101 Eye protection.</p> <p>§ 102 Respiratory protection.</p> <p>§ 103 Protective clothing.</p> <p>§ 104 Foot protection.</p> <p>§ 105 Head protection.</p> <p>Appendix I—Cargo Gear Register and Certificates</p> <p>ARTICLE I § 9.1 to § 9.105 and Appendix I, based under Public Law 85-742, 72 Stat. 855 (amending 46 Stat. 1444, 33 U.S.C. 941), and 33 Stat. 181, 5 U.S.C. 27.</p> <p>Subpart A—General Provisions</p> <p>§ 9.1 Basis and authority.</p> <p>(a) The Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444; 33 U.S.C. 941 et seq.) provides compensation for injuries suffered by employees when they are working for private employers within the Federal maritime jurisdiction on the navigable waters of the United States, including dry docks. Public Law 85-742, 72 Stat. 855, approved August 23, 1959, which amends section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 1444; 33 U.S.C. 941) requires, among other things, that every employer of the aforementioned employees "shall install, furnish, maintain, and use such devices and safeguards with particular reference to equipment</p>
---	---

- Published in the Federal Register - February 20, 1960

- Applicability tracked the jurisdiction of enabling legislation (LHWCA), i.e., to work "on the navigable waters"

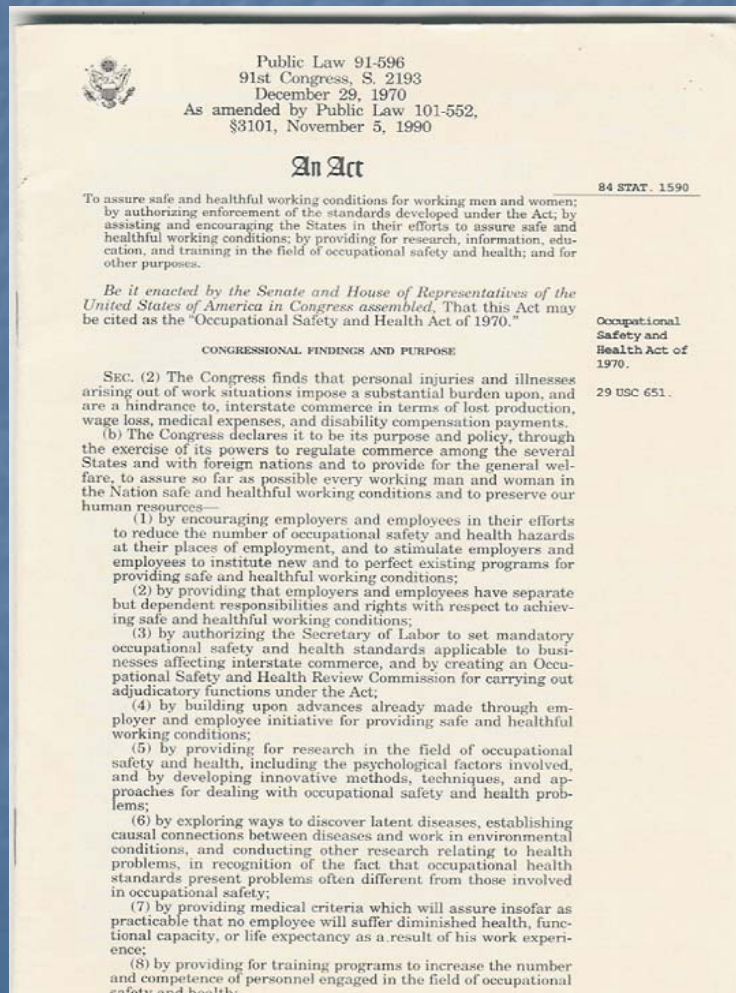
- Work on terminals therefore, not covered





The Occupational Safety and Health Act of 1970

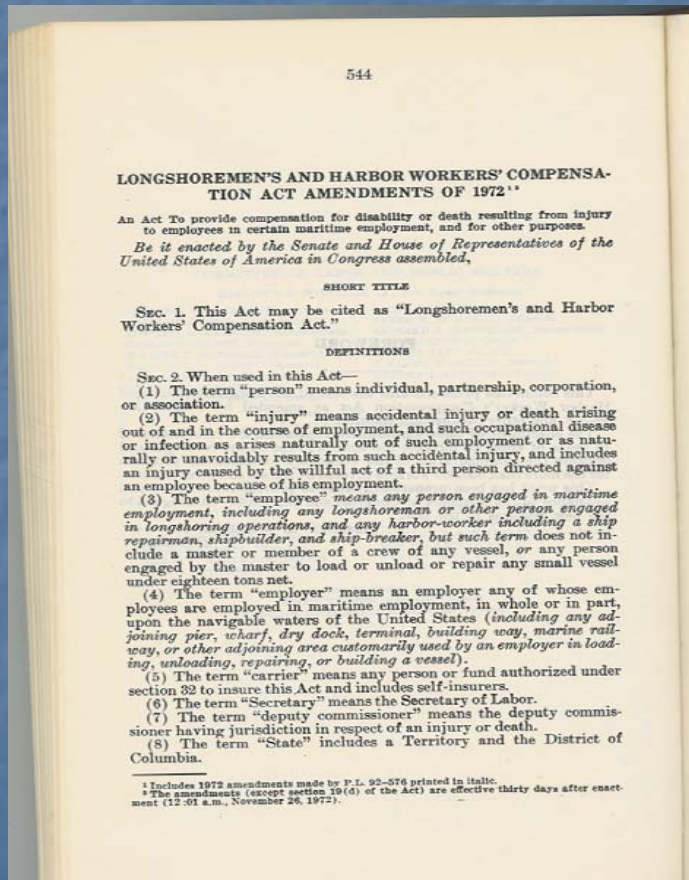
[Public Law 91-596]



- Signed into law by Richard Nixon, December 29, 1970
- Extended to all workplaces
- Adopted all existing Federal Safety Standards (including the Longshoring safety regulations)
- "on the navigable waters" limitations of LHWCA (for safety/health) no longer apply



LHWCA Extensions of 1972



- Brings Federal program of compensation ashore
- Now additionally covers "related employments"
- Substantially boosts amount of compensation paid to recipients (66 2/3% of average wkly wage)



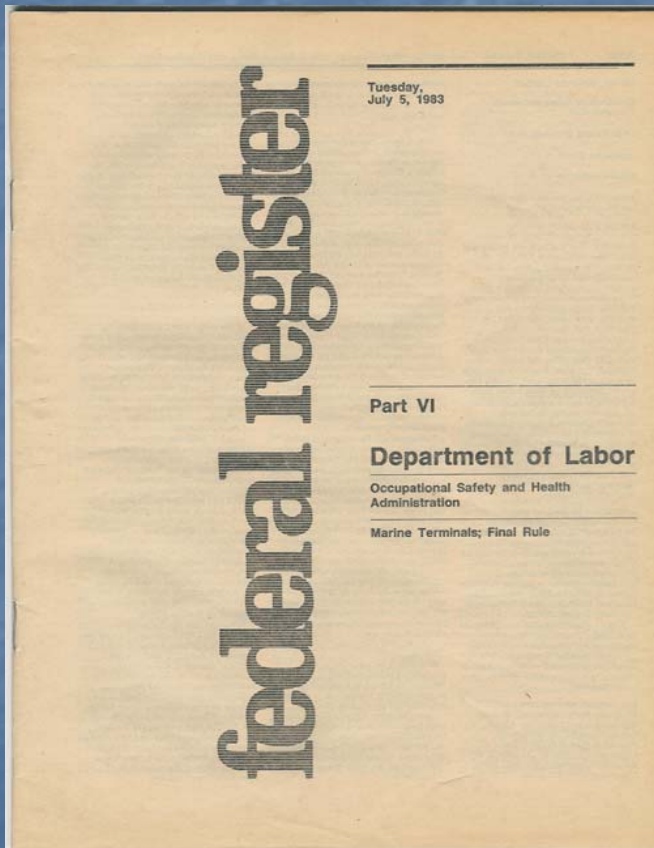
Applicability of OSHA Regulations to Marine Cargo Handling Operations

Vertical Rules: Designed specifically for application to a given industry. Applies in lieu of any other rule. In the case of marine terminal operations, 29 CFR Part 1917. In the case of longshoring operations (aboard vessels), 29 CFR Part 1918.

Horizontal Rules: All regulations contained in 29 CFR Part 1910, OSHA's Rules for General Industry.



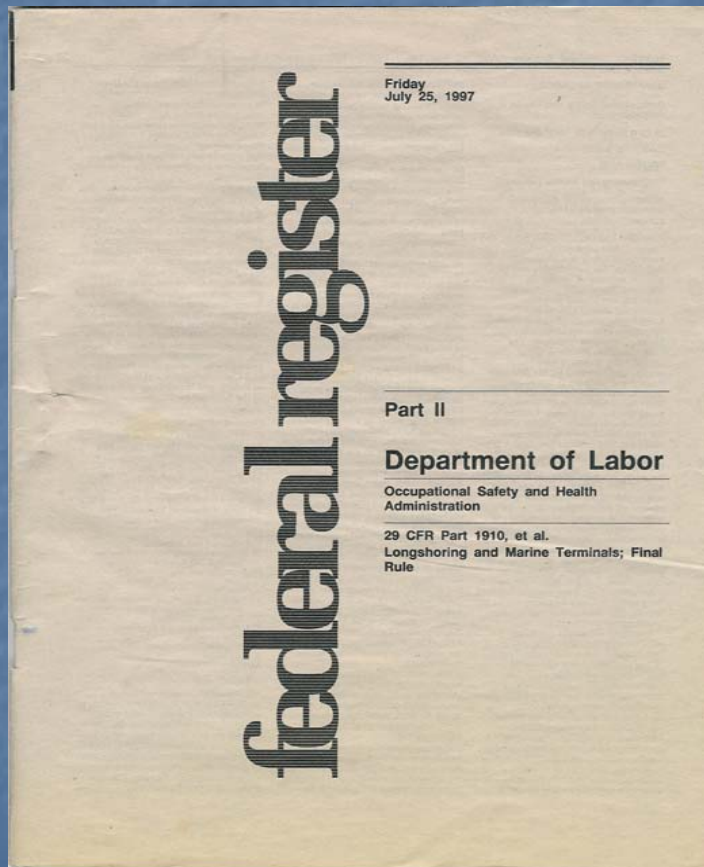
The Marine Terminals Standard



- 29 CFR Part 1917 reduced the volume of applicable regulations by 75%
- Custom tailored in unison with labor & management interests
- Included criteria for safely conducting modern cargo handling operations
- Applies from gate to gangway



Modernizing Part 1918 Standards



- Afloat marine cargo handling rules had very little change since the 1960's
- Needed to subjectively track, without any variance, the shoreside (Part 1917) rules



Human Suffering



Financial Loss (With Loss Of Life)

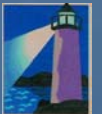


Greater Financial Loss



Accidents: Direct/Indirect Costs

- Worker's Comp: "The Manual Rate"
- All In Costs: 4-15 Percent of Total Payroll
- Therein lies the difference between profit and loss in an industry with razor thin profit margins



Labor Relations

ILA Seeks Safety Talks

Journal of Commerce

Wednesday, December 01, 2004

By: The JOURNAL of COMMERCE ONLINE

The president of the International Longshoremen's Association has called for port safety meetings with employers and federal agencies following recent accidents that killed a union dockworker in New Jersey and injured three others in South Carolina.

"Safety remains a top priority with the ILA as it is with our employers," said ILA President John Bowers. "However, something is wrong when ILA members are killed or critically injured at the work sites. We need to address this problem immediately."



www.blueoceana.com

