

CHAPTER 45 -- LAKE SUPERIOR COMMERCIAL FISHING VESSEL SAFETY
REGULATIONS

45.1 SECTION 1 COMMERICAL FISHING
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REGULATIONS

45.1.00

Commercial Fishing Vessel Safety Regulations

- (a) Purpose and Applicability. The purpose of the Code is to protect members engaged in commercial fishing activities pursuant to the rights reserved by the Tribe in the Treaty of 1842, 7 Stat. 591, and the Treaty of 1854, 10 Stat. 1109. The provisions of this Code shall apply to any vessel engaged in commercial fishing activities in Lake Superior that is owned or operated by a Tribal member who possesses a commercial fishing license or permit from the Tribe. No member shall fail to comply with any requirement set forth in the Code.
- (b) Relationship to Agreement with Coast Guard. This Code shall be construed consistent with the purposes and provisions of the Memorandum of Understanding between the Tribe and the United States Coast Guard, as may be amended from time to time. This Memorandum of Understanding shall be incorporated by reference herein as is set forth in its entirety.
- (c) Definitions. For the purposes of this Code, the following terms mean:
- (1) "Commercial Fishing Vessel" or "Vessel" - A boat owned and operated by a Tribal member that is engaged in commercial fishing activities under tribal license or permit.
 - (2) "Commercial Fishing Activities" - Any activity undertaken while a Tribal member is operating a commercial fishing vessel for the purpose of harvesting fish under a tribal commercial fishing license or permit.

- (3) "Serviceable" - Any required equipment or device must be in good working order and ready for immediate use, and must have been inspected, cleaned, repaired and/or tested in accordance with manufacturer guidelines and Coast Guard rules.

45.1.01

Inspection. The Red Cliff Wardens are authorized to conduct commercial fishing vessel inspections as follows:

- (a) Who may conduct inspections. Only those persons who have been qualified by the United States Coast Guard may conduct inspections. The Red Cliff Wardens may authorize inspections by persons who are not department employees if they are Coast Guard qualified.
- (b) Purpose of Inspections. The purpose of the inspections is to ensure that commercial fishing vessels are in compliance with the requirements of this Code. The inspections may also ensure that vessels are in compliance with the requirements of Coast Guard regulations that go beyond the specific provisions of this Code. The Red Cliff Wardens shall develop an inspection form that is designed to obtain the information necessary to achieve these purposes.
- (c) Proof of Inspection. Proof of inspection shall be demonstrated by a completed inspection form that is retained by the Red Cliff Wardens and by a Coast Guard approved decal that is affixed to the vessel's outer hull. The decal may be the same decal that the Coast Guard uses. Any vessel for which an exemption has been requested pursuant to Subsection 45.1.02 shall not be issued a decal until the exemption has been acted upon. The decal must be removed upon transfer of the vessel's ownership.
- (d) Mandatory Dockside Inspections. A vessel must be inspected:
 - (1) Within the first 12 months after the effective date of this Code and at least

- every 24 months thereafter;
- (2) Any time the member wishes to seek an exemption from on to the requirements of this Code in accordance with the provisions of subsection 45.1.01;
 - (3) As requested by the Red Cliff Wardens, or as ordered by the Red Cliff Tribal Court; and
 - (4) Within 12 months after the Tribal member obtains ownership of a vessel or otherwise first uses it for commercial fishing activities.
- (e) Voluntary Dockside Inspections. A member may request a voluntary dockside inspection for the purpose of obtaining an inspection decal. No citation may be issued because a vessel fails to pass a voluntary inspection. However, citations may be issued for any non-complying vessel that detected during routine law enforcement activities.

45.1.02

Exemptions.

- (a) Exemption Request. During any inspection, a member may request an exemption of this Code. The inspection form shall indicate that an exemption request has been made and the inspector shall promptly notify the Red Cliff Wardens of the request.
- (b) Processing Exemption Requests. The Red Cliff Wardens, or other authorized person, shall submit the exemption request to the United States Coast Guard. The Red Cliff Wardens and the member shall provide the information requested by the Coast Guard that is necessary to respond to the request.
- (c) Issuing An Exemption. A Coast Guard exemption constitutes a tribal exemption. If the Coast Guard does not grant the requested exemption, there is no exemption from the requirements of this Code.

- (d) Exemption Letter. The Exemption Letter issued by the Coast Guard constitutes proof of the exemption. A copy of the Exemption Letter must be carried on the vessel at all times.
- (e) Complying With An Exemption. A vessel must be operated in compliance with the requirements and conditions of an exemption. Any violation of an exemption is a violation of this Code.

45.1.03

Navigation Lights. A commercial fishing vessel must have navigation lights of the type and located on the vessel as specified in the Coast Guard navigation rules. The lights must be illuminated between sunset and sunrise and at other periods of reduced visibility (such as fog, rain, or haze) as the Coast Guard navigation rules require:

<u>Vessel</u>	<u>Side Lights</u>	<u>Masthead and/or Stern Lights</u>
39.4 feet and less	Red and green side-lights that are visible from dead ahead and 22 ½ degrees to either side of the vessel's beam	<u>Either:</u> All <u>Or:</u> Stern light and light that shows from dead ahead to 22 ½ degrees abaft the beam on either side
Longer than 39.4 Feet	Same as above	Stern Light and masthead light that shows from dead ahead to 22 ½ degrees abaft the beam on either side

41.04

Sound Signals. The following sound signals must be used as required by the Coast Guard navigation rules, such as when there is reduced visibility of to avoid a collision:

<u>All Vessels</u>	A horn (such as a hand held air horn), whistle, or similar sound producing device
<u>40 feet of longer</u>	All must carry a bell

45.1.05

Life Preservers/Immersion Suits.

- (a) Personal Flotation Devices (PFDs). Each vessel must carry at least one Coast Guard approved life preserver (Type I, II or III) of the proper size for each person on board. A Type V Hybrid life preserver may be substituted if it is worn when the vessel is underway and the wearer is not in an enclosed space.
- (b) Immersion Suits. Each vessel must carry at least one Coast Guard approved immersion suit of the proper size for each person on board.
- (c) Other Immersion Suit/PFD Requirements. Each immersion suit and wear-able PFD must:
 - (1) be in serviceable condition;
 - (2) have a personal floatation device light (Coast Guard approved series 161.012) attached to the front shoulder area;
 - (3) have Coast Guard approved Type I or II retro-reflective material attached as required by Coast Guard regulations;
 - (4) be marked with the name of the vessel, or the owner of the device, or the individual to whom it is assigned; and
 - (5) be stowed so that it is readily accessible to the individual for whom it is intended.

45.1.06

Ring Life Buoy. Each vessel must carry at least one (1) serviceable orange 24 inch ring life buoy (Type IV PFD) with 60 feet of line attached, except that a vessel that is at least 16 feet but less than 26 feet long may substitute one throwable cushion. Each ring life buoy must be marked with the name of the vessel and with Coast Guard Type II retro-reflective material.

45.1.07

Survival Craft Required For Certain Vessels.

(a) Required Floatation Equipment. Certain vessels must carry Coast Guard approved floatation equipment called a "survival craft" that can be used like a life raft if a vessel must be abandoned.

(1) Minimum Requirement.

Less Than 36 Feet Long

Buoyant Apparatus is required when:

- A crew of 4 or more persons
- anywhere on Lake Superior, or
- Crew of 3 or fewer persons and more than 12 miles from the shore of the mainland or an island.

36 Feet or Longer

Buoyant Apparatus is required when:

- Crew of 3 or fewer persons and less than 12 miles from the shore of the mainland or an island.

Inflatable Buoyant Apparatus is required when:

- A crew of 4 or more persons anywhere on Lake Superior, or
- Crew of 3 or fewer persons more than 12 miles from the shore of the mainland or an island.

"Buoyant Apparatus" means a Coast Guard approved floatation device (other than a lifeboat, life raft or personal floatation device) that is designed to support a specified number of persons in the water, and is constructed so that it retains its shape and

requires no adjustment of preparation for use. The types of buoyant apparatus generally in use are the box-float type and the peripheral-body type.

"Inflatable Buoyant Apparatus" means a Coast Guard approved buoyant apparatus that depends on inflated compartments for buoyancy and is designed to support a specified number of persons completely out of the water.

"Crew" includes the people engaged in the commercial fisheries activities and not biologists, enforcement personnel or others performing natural resource management or regulatory duties.

(2) Substitutions. Other Coast Guard approved survival craft may be used in place of a buoyant apparatus to satisfy this requirement. These are: lifeboats, inflatable life rafts, inflatable buoyant apparatus and life floats. In addition, a boat (such as a skiff or other small open vessel), called an "auxiliary craft," that is carried on board and that is integral to and necessary for normal fishing operations may be used instead of a survival craft.

(b) Other Requirements. A survival craft must be readily accessible during an emergency, capable of holding all crewmembers on board and stowed so as to float free if the vessel sinks. When an auxiliary craft that is substituted has a Coast Guard required capacity plate, it must not be loaded in excess of the rated capacity.

45.1.08

Visual Distress Signals. Each vessel must have the indicated distress signals (note: the numbers in parentheses indicate the Coast Guard approved devices that satisfy the requirement):

<u>More Than 3 Miles From Coastline</u>	3 parachute flares (160.136 or 160.036, 6 hand flares (160.121 or 160.021, and 3 smoke signals (160.122, 160.022 or 160.037)
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3 Miles or Less From Coastline

Night: 1 S.O.S. electric light (161.013) and
Day: 1 Flay (160.072) or
3 approved flares for both
night and day (such as hand flares or parachute flares)

45.1.09 **EPIRBS.** Vessels operating beyond 3 miles from the coastline must carry an emergency position-indicating radio beacon (EPIRB) properly licensed by the Federal Communication Commission as follows:

Less Than 36 Feet Long 406 MHz Category I or II

36 Feet or Longer 406 MHz Category I

The EPIRB must be tested at least once every month and registered with the National Oceanic and Atmospheric Administration (NOAA).

45.1.10 **Fire Extinguishers.** Required Coast Guard approved fire extinguishers that must be in serviceable condition are:

Less Than 26 Feet Long 1 B-I portable

Exception None required for vessels less than 26 feet long if flammable gases or vapors cannot be trapped in the boat (such as with an open boat and outboard motor)

26 Feet to Less Than 40 2 B-I portable or
1 B-II portable

40 Feet of Longer 3 B-I portable or
1 B-II portable and 1 B-I portable

45.1.11 **Backfire Flame Control.** Gasoline engines must have backfire flame control; exception: it is not necessary for outboard motors and for engines that are located where there is a free flowing exchange

of air (for example, where forced air is not necessary).

45.1.12 **Illegal to Dump Garbage.** Garbage may not be dumped into the water (note: fish entrails are not considered garbage).

45.1.13 **Jurisdiction, Enforcement and Penalties.**

(a) Tribal Court Jurisdiction. Jurisdiction over all matters arising under this Code shall be with the Red Cliff Tribal Court which shall adjudicate in accordance with the Red Cliff Tribal Code all questions, complaints and alleged violations involving the provisions of the Code.

(b) Enforcement. The Red Cliff Wardens and the Great Lakes Indian Fish and Wildlife Commission Wardens that are empowered to enforce the provisions of Chapter 7 of the Red Cliff Code of Laws shall have the authority to enforce the provisions of this Chapter. These Wardens shall have the authority to:

(1) Board a vessel for the purpose of determining its compliance with the requirements of this Code;

(2) Undertake investigations, gather evidence, and issue citations as provided by Red Cliff Tribal law; and

(3) Terminate the voyage of any vessel that is lacking required safety equipment or is otherwise being operated in an unsafe or illegal manner so as to present unreasonable risk to people or property.

(c) Penalties. The penalties for violating the provisions of this Code shall be:

(1) A civil forfeiture not to exceed \$10,000.

(2) Such other relief the Court deems just and proper, including but not limited to suspension or revocation of the commercial fishing license or permit,

performing of community service hours, or
confiscation of the commercial fishing
vessel.

- (d) Vessel Use Restriction. No vessel may be used
for commercial fishing activities that the
Court has found to violate this Code until
documentation has been provided to the Court
that the violation has been remedied.