

DOSH DIRECTIVE

Department of Labor and Industries
Division of Occupational Safety and Health

Keeping WA workers safe.

21.25 Personal Flotation Devices

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I. Purpose

This Directive provides direction and guidance on the selection, use, and maintenance of Personal Flotation Devices (PFDs) to protect workers when drowning hazards exist in the work place.

II. Background

Employees who are assigned work duties which place them above, alongside, or on the water are exposed to a danger of drowning. In accordance with the Washington Industrial Safety and Health Act (Chapter 49.17 RCW, WISHA), DOSH has adopted rules requiring employers to make sure employees are protected from drowning.

The core rule addressing PFDs is found in WAC 296-800-16070, which reads in part, *“provide and make sure your employees wear personal flotation devices (PFD): when they work in areas where the danger of drowning exists, such as on the water, over the water, alongside the water...”* In addition, other industry specific rules have been adopted that address the danger of drowning for those industries. The core rule and each of the industry specific rules generally require employers to provide employees protection against the drowning hazard, yet there is the appearance of a conflict between the rules. For example, WAC 296-56-60115 (2)(b)(iii) specifically prohibits the use of an inflatable PFD; WAC 296-800-16070 does not include this prohibition. Subsequently, DOSH has received questions about (A) what defines employee exposure to a drowning hazard and when is a PFD required, and (B) what type of PFD can be used. For example, employers often ask: Can I use a PFD that is approved for recreational purposes, or do I have to provide protection against drowning if the water is known to be only chest deep? This directive provides guidance regarding the appropriate application of these regulations.

III. Scope

This directive applies to all DOSH staff and operations statewide. It replaces WRD 21.25, issued on July 3, 2000 and any other previous directives, instructions and guidance on this issue, whether formal or informal. In the event any direction in this directive differs or conflicts with the DOSH Compliance Manual or any other DOSH directive, the instructions and guidance contained in this directive shall take precedence.

IV. References

Title 46 CFR 160. Coast Guard Lifesaving Equipment Specifications
33 CFR 175.23 Coast Guard Table of Devices Equivalent to Personal Flotation Devices
Chapter 49.17 RCW, Washington Industrial Safety & Health Act of 1973
Chapter 296-24 WAC, General Safety and Health Standards
Chapter 296-54 WAC, Safety Standards for Logging Operations
Chapter 296-56 WAC, Longshore, Stevedoring and Related Waterfront Operations
Chapter 296-78, WAC Sawmills and Wood Working Operations
Chapter 296-115 WAC Charter Boats
Chapter 296-155 WAC, Construction Safety Standards
Chapter 296-304 WAC Shipbuilding, Ship Repairing and Shipbreaking
Chapter 296-800 WAC, Safety & Health Core Rules

V. Interpretative Guidance

A. **Defining the Hazard of Drowning.**

Whenever employees are exposed to the hazard of drowning, employers are required to provide protection against drowning. The requirement for all employers to provide protection against drowning, WAC 296-800-16070, requires that employees wear personal flotation devices (PFDs) when they work in areas where the danger of drowning exists, such as on, over, or alongside the water.

The rule also specifies that: *“Employees are not exposed to the danger of drowning when:*

- *Employees are working behind standard height and strength guardrails.*
- *Employees are working inside operating cabs or stations that eliminate the possibility of accidentally falling into the water.*
- *Employees are wearing an approved safety belt with a lifeline attached that prevents the possibility of accidentally falling into the water.”*

However, there are situations other than those listed, where a “danger of drowning” may not exist. For example, walking on docks does not, by itself, represent employee exposure to a drowning hazard and, therefore, require the use of a PFD. If the employees are using a float, pier, or dock for the sole purpose of a passageway to another location, PFDs would not be required merely because they are walking on a dock in proximity to water. Other factors must be considered, such as: the size of the dock or float, the distance between the employee and the water, loads being carried by the employee, their weight and size, obstructions on the dock minimizing the space available for safe passage, tripping hazards, weather conditions, etc. The emphasis is on closely evaluating working conditions and employee activities to determine if the hazard of drowning exists. As a general principle, work that requires an employee’s concentrated attention, such as maintenance, repair, construction, material handling, etc., represents such a hazard when it is performed on, over or along the water and when the employee is not otherwise protected from falling into the water.

Some industry specific regulations have specification requirements based on unique pre-defined job tasks or conditions. For example, WAC 296-56-60115(2) pertains to drowning hazards for the Longshore, Stevedoring, and Related Waterfront Activities. The rule specifically requires the employer provide PFDs for employees such as line handlers who may fall into the water if they are working in isolation, the physical work space creates a hazard of falling into the water, or the work area is obstructed by cargo or other obstacles, preventing safe footing. However, this language does not state that all employees working near the water are presumed to be at a risk of drowning. With the exception of line handlers and comparable employees, the requirements of chapter 296-56 WAC are consistent with WAC 296-800-16070 and must be interpreted and applied in the same manner.

Some examples of employees comparable to line handlers might include employees engaged in connecting shore-based services to a vessel or connecting welding leads or gas lines in a ship repair facility. The working conditions, work practices and other related factors must be considered prior to assuming there is a danger of drowning for employees. Conditions and practices that increase the risk of drowning include, but are not limited to, proximity to the hazard, job task, divided attention, working with hands, and unprotected edges of the working surface.

B. Employers must provide approved PFDs.

WAC 296-800-16070 specifically states that all PFDs provided to employees must be “approved by the United States Coast Guard (USCG) for use on commercial or merchant vessels.” The USCG approves PFDs for “recreational” use, however, industry specific regulations do not allow these types of PFDs to be used in the workplace. In the absence of an industry specific rule allowing the use of recreational types of PFDs, the provisions of WAC 296-800-16070 apply to all industries.

The following are appropriate or allowable United States Coast Guard-approved commercial PFDs:

- **Type I:** Off-Shore Life Jacket-effective for all waters or where rescue may be delayed.
- **Type II:** Near-Shore Buoyant Vest- intended for calm, inland water or where there is a good chance of quick rescue.
- **Type III:** Flotation aid- good for calm, inland water, or where there is a good chance of rescue.
- **Type V:** Flotation aids such as boardsailing vests, deck suits, work vests and inflatable PFDs marked for commercial use.

PFDs must be used in accordance with their intended and approved use. For example, Type III PFDs that are not approved for use on personal watercraft may not be used for work duties on personal watercraft.

Some industry WISHA rules specifically prohibit the use of inflatable PFDs. More specifically, WAC 296-56-60115(2)(b)(iii) states, “*Ski belt or inflatable type personal flotation devices are specifically prohibited.*” At the time this rule was adopted, there were too many variables influencing the performance of inflatable PFDs, therefore DOSH prohibited the use of the inflatable PFDs. However, this issue has recently been reviewed by the Marine and Dock Section within DOSH. A determination has been made that since the adoption of that rule, significant technological advancement has occurred in the design, construction and reliability of inflatable PFDs that are rated for commercial use. DOSH intends to propose a rule change in the future to modify the prohibition of inflatable PFDs and allow inflatable PFDs that are USCG approved for commercial purposes. In the interim, DOSH will allow the use of inflatable PFDs as a means to protect employees from the danger of drowning, provided:

- They are rated by the USCG under 46 CFR 160 for commercial use;
- They are used and maintained in accordance with the manufacturer’s instructions;
- Inflatable PFDs are not used while performing any kind of hot work; and
- Special care is taken to ensure the continued integrity of the inflation bladders on inflatable PFDs due to their increased vulnerability to damage.

VI. Direction to DOSH Staff

- A.** DOSH enforcement and consultation staff are expected to clearly document all of the facts and circumstances that demonstrate a danger of drowning prior to issuance of a violation when it is determined that an employee is exposed to the danger of drowning.
- B.** If an employer is using an inflatable PFD, DOSH staff shall verify the PFD is USCG approved for commercial use and that the PFD is being used and maintained in accordance with manufacturer instructions. If the PFD is not rated for commercial usage, the employer shall be issued a citation under WAC 296-800-16070 or the applicable industry specific regulation.
- C.** If the PFD is not used in accordance with the manufacturer’s instructions and its USCG approval rating, DOSH staff shall cite WAC 296-800-16070 or applicable industry specific regulation. If the PFD is not being maintained in a clean and reliable condition and in accordance with the manufacturer’s instructions, DOSH staff shall cite WAC 296-800-16045 or the applicable industry specific regulation.
- D.** If DOSH staff believe the PFD is not being used and maintained in accordance with the manufacturer’s instructions, DOSH staff must specifically document what instructions are not followed and include a copy of the instructions in the inspection/consultation case file.

DOSH staff is directed to contact the DOSH Marine and Dock Compliance Supervisor with questions regarding this Directive or when unusual applications of the regulation arise.

VII. Enforcement and Consultation Policy

All DOSH consultation and enforcement staff shall follow this directive for the enforcement and implementation of rules related to PFDs. This directive shall remain in effect until superseded or cancelled.



Stephen M. Cant, CHH, Assistant Director

Approved:

Department of Labor and Industries
Division of Occupational Safety and Health

For further information about this or other DOSH Directives, you may contact the Division of Occupational Safety & Health at P.O. Box 44650, Olympia, WA 98504-4650 --or by telephone at (360) 902-5495. You also may review policy information on the DOSH website (<http://www.lni.wa.gov/Safety/>).