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## OFFICE OF THE STATE FIRE MARSHAL

## NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION  
CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

## PART 149

## PERMANENTLY MOORED CRAFT FIRE PREVENTION AND SAFETY

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AUTHORITY: Implementing and authorized by Section 9 of the Fire Investigation Act [425 ILCS 25].

SOURCE: Adopted at 43 Ill. Reg. 10033, effective January 1, 2020.

**Section 149.10 Introduction**

Pursuant to authority conferred upon the Office of the State Fire Marshal (OSFM) by Section 9 of the Fire Investigation Act [425 ILCS 25/9], this Part governs the investigation and prevention of fire and dangerous conditions in, on and near permanently moored craft located within the State of Illinois.

**Section 149.20 Definitions**

"Act" means the Fire Investigation Act [425 ILCS 25].

"Assembly Occupancy" means an occupancy used:

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for a gathering of 50 or more persons for deliberation, worship, entertainment, eating, drinking, amusement, awaiting transportation or similar uses; or

as a special amusement building, regardless of occupant load.

"Authority Having Jurisdiction" or "AHJ" means OSFM and local government authorities.

"Fire Safety Evaluation System" means a fire risk indexing approach to determining equivalencies to NFPA 101 for certain occupancies.

"Local Government Authorities" means those organizations that are the political governing unit of a county, district or municipality that enforce laws, regulations or ordinances within their specific geographical area.

"NFPA" means the National Fire Protection Association.

"OSFM" means the Office of the State Fire Marshal.

"Permanently Moored Craft" or "PMC" (formerly referred to in OSFM rules as permanently moored vessel or PMV) means any ship, barge or other craft permanently fixed to a foundation or mooring that, by virtue of its design and mooring arrangement, lacks the practical capability of being used as transportation on the water. By definition, as a matter of federal law (1 USC 3), these craft are not vessels for purposes of admiralty jurisdiction and are, thus, not directly subject to Coast Guard regulation or inspection. (See: *Stewart v. Dutra Construction Co.*; 543 U.S. 481, 494 (2005); U.S. Department of Homeland Security, Coast Guard, Notice of Policy on Craft Routinely Operated Dockside; 74 Fed. Reg. 21814 (May 11, 2009).)

"State Fire Marshal" means the Illinois State Fire Marshal and his or her deputies, inspectors or designees.

"Third-Party Examiner" means an independent third-party individual who meets the qualifications set forth in Section 149.80 and 46 CFR 71.50-1.

**Section 149.30 Jurisdiction, Powers, Penalties, and Right of Entry**

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- a) Jurisdiction
  - 1) This Part applies to localities and PMCs located within the State of Illinois, pursuant to State and federal law.
  - 2) *All local officers charged with the duty of investigating fires shall enforce this Part, under the direction of OSFM, except in those localities that have adopted fire prevention and safety standards equal to or higher than the standards in this Part [425 ILCS 25/9].*
- b) Powers
  - 1) OSFM is authorized and directed to enforce this Part.
  - 2) OSFM may make, or cause to be made, inspections of PMCs based upon:
    - A) OSFM's own initiative;
    - B) Requests from agencies of the State and local government;
    - C) Complaints from the public;
    - D) Known or observed violations;
    - E) Known or observed potential for loss of lives or damage to property from fire;
    - F) Prevention of fire; or
    - G) Ensuring the safety of life during any emergency requiring evacuation.
  - 3) Under the direction of OSFM, the chief of the local fire department is empowered and directed to make inspections in the geographical area of that chief's responsibility.
  - 4) The inspections will be conducted in accordance with this Part, subject to available resources.

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- 5) When any inspection discloses a violation of this Part, OSFM or the local fire chief shall notify the owner, occupant or other interested party, as provided in Section 9 of the Act, to correct the violation. Violations shall be corrected within the time limit stated by OSFM or the local fire chief.
- c) Penalties  
The penalties for violation of this Part shall be those stated in the Act.
- d) Right of Entry  
OSFM, and the officers of cities, villages, towns and fire protection districts charged with the duty of investigating fire by the Act, shall, under the direction of OSFM, inspect and examine, at reasonable hours, any PMC located within the State of Illinois to determine whether there are any violations of this Part or the local ordinances for the protection of life and property from fire or other emergency. Local officials having jurisdiction are empowered and directed to invoke any provisions of this Part to enforce correction of any condition hazardous to life and property from fire or other emergency.

**Section 149.40 Adoption and Incorporation of Nationally-Recognized Standards**

- a) OSFM incorporates by reference the following nationally-recognized standards:
  - 1) National Fire Protection Association  
1 Batterymarch Park  
Quincy MA 02169-7471  
  
NFPA 101: Life Safety Code (Edition currently incorporated by OSFM at 41 Ill. Adm. Code 100)  
  
NFPA 101A: Guide on Alternative Approaches to Life Safety  
(Edition currently incorporated by OSFM at 41 Ill. Adm. Code 100)  
  
NFPA 307: Standard for the Construction and Fire Protection of Marine Terminals, Piers and Wharves (2016)
  - 2) American Welding Society  
8669 Doral Boulevard, Suite 130  
Doral, Florida 33166

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## D3.6M: Underwater Welding Code (2017)

- b) OSFM hereby incorporates by reference the following United States Coast Guard regulations and related notices:

46 CFR 71.50: Drydocking

46 CFR 170: Stability Requirements for All Inspected Vessels

46 CFR 171: Special Rules Pertaining to Vessels Carrying Passengers

74 Fed. Reg. 21814: Notice of Policy on Craft Routinely Operated Dockside

- c) The materials incorporated by reference in this Section are incorporated as of the date specified, for the limited purposes explicitly cited elsewhere in this Part, and include no later amendments or editions. The federal regulations incorporated by reference in subsection (b) apply notwithstanding the Coast Guard's lack of direct regulatory and inspection authority over PMCs. These materials are on file with OSFM at the following locations:

1035 Stevenson Drive  
Springfield IL 62703-4259

100 W. Randolph Street, Suite 4-600  
Chicago IL 60601

**Section 149.50 Applicability to New and Existing Permanently Moored Craft**

All PMCs located within the State of Illinois shall be required to comply with this Part. This Part shall apply to both new and existing PMCs, except as otherwise provided by statute or modifications within this Part.

**Section 149.60 Requirements**

- a) PMCs shall comply with the requirements of NFPA 101 and NFPA 307.

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- b) The intact and damage stability characteristics for each PMC shall comply with the applicable provisions of:
  - 1) 46 CFR 170; and
  - 2) 46 CFR 171, except that all PMCs shall only be required to comply with a one-compartment standard of flooding, as outlined in that regulation, regardless of the passenger capacity of the PMC.
- c) If a PMC does not meet the prescriptive code requirements of NFPA 101, the owner may elect to prove that equivalent or higher safety is being achieved through a fire safety evaluation system using NFPA 101A, if an evaluation is available for that occupancy.

**Section 149.70 Inspections and Examinations**

The following inspections and examinations shall be performed in accordance with the applicable code or standard by a third-party examiner who meets the requirements of Section 149.80:

- a) An annual inspection shall be conducted of PMCs to determine if structural changes exist that may affect the stability of the PMC. The inspection shall consist of the following:
  - 1) General inspection of the superstructure and layout of outfitting to ensure there are no changes to the approved arrangement that may affect the stability of the PMC;
  - 2) Inspection of the underdock spaces to ensure watertight integrity of the PMC is maintained;
  - 3) Inspection of the condition of the hull and watertight bulkheads;
  - 4) Inspection of the condition of watertight doors and watertight bulkhead penetration; and
  - 5) Inspection of the condition of ventilator, hatch covers and manhole covers.

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- b) PMCs shall undergo dry dock and internal structural examinations at intervals in accordance with 46 CFR 71 or present evidence of compliance with alternative methods of hull examination as prescribed in that regulation.
- c) All repair work shall comply with Illinois law effective on the completion date of the work.
- d) Written documentation of compliance with the requirements of this Section and Section 149.80 shall be maintained until the next inspection. A copy shall be furnished to OSFM by the owner of the PMC. The documentation shall be certified by a third-party examiner meeting the qualifications set forth in Section 149.80.
- e) Hull inspection results, including comparison of results from the subject PMC's previous inspections, must be maintained in a format that will allow for examination by OSFM representatives.
- f) Repairs using underwater welding shall be subject to periodic reevaluation at subsequent inspections. Repairs shall be completed in accordance with the American Welding Society's Underwater Welding Code, incorporated by reference in Section 149.40.

**Section 149.80 Qualifications for Third-Party Examiners**

Third-party examiners are individuals who meet the minimum requirements to adequately advise OSFM as to the conformance of a PMC with the conditions set forth in this Part.

- a) The required knowledge base and/or certifications for a third-party examiner to perform the inspections and examinations set forth in Section 149.70 are provided in 46 CFR 71.50-1.
- b) All third-party examiners must annually provide to OSFM evidence in writing of financial responsibility in the amount of \$1 million in general insurance, workers' compensation and longshoreman's insurance, hull and protection and indemnity insurance, and environmental insurance.

**Section 149.90 Permanently Moored Craft Used as Assembly Occupancies**

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PMCs defined as assembly occupancies in accordance with NFPA 101 shall comply with all of the following:

- a) Be equipped with an on-board electrical generator, sized and installed to be capable of supplying emergency back-up power to any required fire alarm systems, fire suppression equipment, emergency lighting circuits, communication equipment, bilge pumps, or craft propulsion equipment (if the propulsion system is used for control should the PMC be set adrift);
- b) Be staffed by personnel trained to initiate shipboard/craft firefighting and evacuation duties;
- c) Provide a method of controlling the PMC in the event of an emergency that causes the PMC to be set adrift; and
- d) Have fire alarm systems interconnected with the fire alarm system of adjacent occupancies if any of the required paths of egress from the adjacent occupancy traverse the PMC or if the paths of egress from the system cause the other occupancy's fire alarm system to activate.

**Section 149.100 Responsibility of Owners**

It is the responsibility of the owner of a PMC to comply with this Part.

**Section 149.110 Appeal of an Administrative Action**

- a) Any person aggrieved by a decision or order of OSFM may, as a matter of right, appeal that action.
- b) Appeals from a decision or order of OSFM shall be instituted by filing a written request for a hearing, in the format required by 41 Ill. Adm. Code 210, no later than 10 days following receipt of the decision or order. Requests will be deemed to be timely if they are postmarked no later than the time period allowed.
- c) All appeal requests pursuant to this Part shall be mailed to:

Office of the State Fire Marshal  
Division of Fire Prevention  
1035 Stevenson Drive

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Springfield IL 62703

**Section 149.120 Severability**

If any provision or Section of this Part shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions and Sections shall not in any way be affected or impaired.