

**Priority Human Rights Topics for Fair and Equitable Labor Practices Onboard
Commercial Fishing Vessels in Alaska**

Comprehensive regulatory framework and fisheries management, required documentation and permits

Legislation:

American Fisheries Act (AFA), which tightens the U.S. ownership standards for U.S. fishing vessels under the Anti-Reflagging Act; Magnuson-Stevens Fisheries Conservation Act (MSA); Endangered Species Act (ESA); Marine Mammal Protection Act (MMA); U.S.-Canada Tuna Treaty; Commercial Fishing Industry Vessel Safety Act (CFIVSA); Alaska State Statute; the Jones Act.

Industry Practice:

Only U.S.-flagged fishing vessels are permitted to participate in the commercial fisheries in the U.S. EEZ. Every commercial fishing vessel in the Alaska fisheries is required to hold the appropriate state/federal permit or license which designates allowable gear types, target species and time and area of operation. Every U.S.-flagged Commercial fishing vessel operating within the US EEZ must adhere to the commercial fishing vessel regulations. All vessels over 5 GT must hold a Certificate of Documentation (COD), vessels under 5 GT must be registered with the with the Alaska Department of Motor Vehicles (DMV). Every crewmember engaged in commercial fishing must hold a crewmember license, regardless of age. Vessels over 50’ in length that operate beyond 3 nautical miles from shore must have a current and valid Certificate of Compliance (COC). All tender vessels and processing vessels must have a current and valid COC. There are additional licensing requirements for Masters, Mates and Engineers.

Enforcement/Oversight:

Alaska Department of Fish and Game (ADF&G), National Oceanic and Atmospheric Administration (NOAA), North Pacific Fisheries Management Council (NPFMC), National Marine Fisheries Service (NMFS), U.S. Coast Guard (USCG), DMV, Commercial Fishing Entry Commission (CFEC).

No slave/forced labor, immigration requirements

Legislation:

The Jones Act (46 U.S.C. 10601), Fair Labor Standards Act (FLSA), Minimum Wage and Overtime ((29 USC § 213(a)(5)) – fisheries exemptions), Equal Pay act of 1963 (EPA), Victims of Trafficking and Violence and Protection Act (TVPA), Alaska State Statute.

Industry Practice:

Fishermen in Alaska are often considered independent contractors who willfully and willingly sign up for the fishing trip(s) or fishing season(s). Hiring is mainly conducted via “word of mouth” or through the human resources departments of individual companies. Every vessel over 20 GT is required to have signed, agreed to and documented employment contract with each crewmember. Most vessels employ crew-share agreements offering deckhands and other crewmembers a share of the landed catch minus industry standard expense (i.e. food, fuel, etc.). It is industry standard that smaller vessels (under 20 GT) have either written or verbal crew contacts/agreements as well that are agreed to and understood. Every employee, whether in administration, processing or on deck is free to leave the vessel in port and terminate contracts. Owner-operated vessels employing friends and family often have pay agreements based on catch share as well. Family-owned and operated vessels adhere to the FLSA restrictions for minors employed in the commercial fisheries.

The TVPA clearly regards human trafficking as a serious crime with felony penalties. Alaska state statute defines the crime of human trafficking as “. . . labor by force or threat of force against any person, or by deception.” Forcing any person against their will to engage in any act that threatens the safety of themselves or others is considered a felony by both state and federal law. Vessels in Alaska’s commercial fisheries adhere to this standard.

Enforcement/Oversight:

USCG, Alaska Department of Labor and Workforce Development (ADOLWD), Alaska Department of Human Rights, Alaska Department of Environmental Conservation (DEC), NOAA, United States Department of Homeland Security

<p>No Discrimination</p>	<p>Legislation: Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex or national origin; MSA, which, through observer rights and coverage, prohibits unsafe, unfair and discriminatory conditions onboard covered vessels. Equal Pay Act, which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; The Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older; Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), which prohibits employment discrimination against qualified individuals with disabilities who work in the private sector and in state and local governments; Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA), which prohibits employment discrimination based on genetic information about an applicant, employee or former employee; the Civil Rights Act of 1991, which among other things, provides monetary damages in cases of international employment discrimination.</p> <p>Industry Practice: The Alaska commercial fisheries hold a diverse workforce and, whether on a boat of 2 crewmembers or over 200, it is industry standard that there is a zero-tolerance for any discrimination based on sex, sexual preference, race, religion, age, genetic information or any other form of differentiation.</p> <p>In general, vessels over 40' in length operating in the Federal waters of the GOA and BSAI are required to have full or partial observer coverage (especially longline, pot and trawl vessels). Vessels that carry observers are required to have a valid USCG COC issued within the last two years, which ensures the vessel is compliant with USCG safety requirements and federal laws pertaining to discrimination.</p> <p>Enforcement/Oversight: The US Equal Employment Opportunity Commission (EEOC), ADOLWD), NOAA, NMFS, USCG</p>
<p>No Child Labor; exemption for fishing families</p>	<p>Legislation: FLSA, Alaska State Statute (see particularly hazardous occupations for children under 18); 29 US Code 203(l)(1); USDOLWD, Child Labor Laws in Net Fishing, Alaska Department of Labor, Labor Standards and Safety Division. These laws allow minors wo work onboard commercial fishing vessels through an industry exemption to the FLSA standards. The allowable duties of minors are prohibited and must not be deemed hazardous. Minors under the age of 16 may be employed onboard their parents' fishing vessel, given the presence of a parent during the operation (parental exemption). Minors age 16 and 17 may work on other fishing vessels if a work permit and parental consent are provided and approved by the ADOLWD. Allowable work hours are prescriptive. No minor may be employed on a processing vessel.</p> <p>Industry Practice: Children of vessel owners/operators often work alongside his/her parent(s) onboard commercial fishing vessels in Alaska via parental exemption. Minors ages 16 and 17 may work on ANY commercial fishing vessel (aside from processing vessels) if a work permit and parental consent (PC) are provided and approved by the ADOLWD. In both cases, allowable duties and work hours are strictly limited by law.</p> <p>Enforcement/Oversight: ADOLWD, USCG, DEC</p>
<p>Vessel Safety</p>	<p>Legislation: CFIVSA; Safety of Life at Sea (SOLAS); ILO C-188; OSHA 19.11; 46 U.S.C. Part 28; OSHA 1910.132(d)(2), which requires that a workplace safety and hazard assessment is conducted for all operations upon the vessel (hazardous machinery & workplace conditions); 46 CFR 28.140, which sets the vessel safety and lifesaving equipment requirements, MSA, which lays out observer reporting and vessel safety requirements for covered vessels, the FDA's Hazard Analysis Critical Control Point, "HACCP", which sets forth processing safety regulations; the Alaska DEC, which enforces and inspects processing operations and ensures a safe and sanitary working environment; the Jones Act, which sets forth engineering design and safety requirements during vessel construction; OSHA 1910.132(d)(2), which mandates an assessment of hazardous work conditions; (46 CFR 28.140), which mandates serviceable lifesaving equipment/radio equipment and more; 46 CFR 28.265, which outlines the requirements for emergency and stability instructions; Occupational Safety and Health Act; Coast Guard Authorization Act of 2010, 2015 & 2017; the Coast Guard and Maritime</p>

	<p>Transportation Act of 2012, which gives the USCG the authority to inspect and enforce federal regulations pertaining to vessel/crew safety and documentation for commercial fishing vessels operating in the Alaska commercial fisheries.</p> <p>Industry Practice: It is in the interest of the skipper and crew to have a successful and safe fishing voyage. All requirements for lifesaving equipment (immersion suits, PFDs, survival crafts, etc.) are adhered to and enforced by the USCG via at-sea and dockside inspections. There are required safety inspections of commercial fishing vessels in Alaska based on type of vessel and area of operation (i.e. COC requirements). It is the duty of the owner/skipper to provide stability instructions, emergency instructions and a safety check of all machinery and lifesaving equipment for the vessel prior to disembarking on a fishing voyage. Crewmembers, specifically the chief engineer, conduct assessments of the vessel’s machine tools and equipment prior to disembarking on the fishing voyage and periodically throughout the fishing voyage, logging an instance of repair or alteration. It is an industry standard to service and/or drydock vessels every 1 to 3 years. Fishing vessel insurance is widespread and with it comes a marine survey of vessel stability and safety conditions. Classed vessels (ABS/DNV) have more stringent marine survey requirements due to their size and fishing operations.</p> <p>Enforcement/Oversight: NOAA, USCG, OSHA, FDA, DEC, ABS, DNV, insurance agencies</p>
<p>Immigration Requirements</p>	<p>Legislation: The Jones Act; Victims of Human Trafficking and Violence Protection Act; Immigration and Nationality Act.</p> <p>Industry Practice: The demographics and nationalities of crewmembers and vessel workers are extremely diverse in the industry. All commercial crewmembers must have a social security number, whether or not they are a US citizen. US Maritime law requires that at least 75 percent of workers on board US-flagged commercial fishing vessels be US citizens or non-citizens granted permanent US resident status via approved visas. Up to 25 percent of unlicensed fishermen (including fish processors) can be any other nationality allowed to be employed with H-2B Work Visa.</p> <p>Enforcement/Oversight: USCG, ADOLWD, U.S. Department of Homeland Security.</p>
<p>Working hours/rest period</p>	<p>Legislation: FLSA, 46 CFR 15.820, which sets watch/manning requirement for licensed engineers; 46 U.S.C. 8104(b), which requires that licensed individuals on oceangoing vessels “may not be required” to work more than 12 hours in a 24-hour period while at sea; 46 CFR 15.1111, 46 CFR 15.601 and 15.705, which set the adequate watch and manning requirements for certain commercial fishing vessels – if not adhered to, these regulations may require immediate termination of the fishing voyage by OSHA and/or the USCG.</p> <p>Industry Practice: It is industry practice and incentivized to ensure a safe fishing voyage for each vessel. A safe return home is the priority and appropriate rest is both mandated by the USCG and the skipper through manning standards (licensed crewmembers). If unsafe conditions are created via fatigue and lack of watch, a hazardous condition is created, and the vessel is subject to immediate termination of the fishing voyage by the USCG and OSHA.</p> <p>Enforcement/Oversight: DOLWD, USCG, OSHA.</p>
<p>Safety, health and welfare of the crew</p>	<p>Legislation: National Labor Relations Act, which gives employees the right to collective bargaining; 46 CFR 26.03.2, which requires serviceable and accessible personal floatation devices for all persons onboard the vessel; 46 CFR 28.265, which sets induction safety and emergency training for all persons onboard a vessel; 46 CFR 28.270, 46 CFR 28.275 and 46 CFR 28.65, which set forth the basic safety training required for all crewmembers (conducted monthly); ADOLWD’s Fishermen’s fund, which offers worker’s compensation to fishermen who have been injured while at sea; the Jones Act, which gives a crewmembers the right to claim damages against his employer in the event of injury caused by the employer’s negligence or a ship owner’s failure to ensure the seaworthiness of a vessel.</p> <p>Industry Practice:</p>

Safety training for crewmembers and induction training for visitors aboard commercial fishing vessels is mandated for all vessels. Safety and emergency training must be conducted at least once per month for crewmembers and induction training must be conducted for all persons onboard prior to embarking on a fishing voyage. Additional training requirements are mandated for Masters, Mates, Engineers and other and licensed individuals. Commercial fishing vessel insurance is industry standard and often ports and municipalities will have minimum coverage requirements for vessels delivering to port. Protection and Indemnity (P&I) insurance, which is industry standard and gives crewmembers coverage off lost wages, medical costs, disability and more in the event of an injury or illness while onboard a commercial fishing vessel.

Enforcement/Oversight:

USCG, OSHA, DEC, FDA, ADOLWD.